

Legislative Assembly

Thursday, 10 September 1981

The SPEAKER (Mr Thompson) took the Chair at 10.45 a.m., and read prayers.

LOCAL GOVERNMENT AMENDMENT BILL (No. 3)

Introduction and First Reading

Bill introduced, on motion by Mr Hassell (Chief Secretary), and read a first time,

ARCHITECTS AMENDMENT BILL

Second Reading

MR MENSAROS (Floreat—Minister for Works) [10.44 a.m.]: I move—

That the Bill be now read a second time.

Members will be aware that the regulation of architectural practice in Western Australia is carried out under the Architects Act by the Architects' Board.

The board put forward three main amendments to the Act and these have been considered, examined, and accepted by the Government, and are detailed in the measure.

The Bill includes provisions allowing the formation of a corporate body by a sole practitioner.

Under the existing legislation this is not possible because the Companies Act requires a minimum of two directors in order that a corporate body might be eligible for registration.

The existing provisions of the Architects Act require a corporate body to have a minimum of two architect directors who must hold a three-fifths majority of the voting power of the company.

The amendments will permit a sole practitioner to form a corporate body with the appointment of one other director acceptable to the board, but who is not necessarily a registered architect.

This then overcomes the restrictions which would have applied previously by virtue of the provisions of the Companies Act.

In order, however, to ensure that the control of the company's activities remain with the registered architect director, the amendments provide for such director to hold all the issued shares carrying a right to vote at a general meeting and to have a casting vote in other instances. Further, the Bill provides that no

directors' meeting can take place without the presence of the registered architect director.

Secondly, the Bill provides for control by the Architects' Board over the formation of beneficial trusts and the distribution of income.

The board is responsible for ensuring that the standards of practice of registered architectural corporations are monitored, and, therefore, should have statutory authority to control the formation of trusts and to be in a position to approve of the suitability of the beneficiaries of such trusts.

The control will help overcome any possibilities of the exercise of undue influence on the practice by persons in receipt of trust income.

It has been necessary to make a consequential amendment to section 22A(1) to permit the distribution of professional income from a practising corporation to persons who are acceptable to the board.

In order that the board may be better informed on corporate practices the Bill provides for the lodgment of and acceptance by the board of articles of association. This is in addition to the existing requirement for lodging of the memorandum of incorporation.

Articles of association supply more detail on the rules and regulations used in conducting the day-to-day affairs of a company and therefore are appropriate in assisting the board to control the activities of architectural companies in accordance with the Act and to carry out its obligations of ensuring a high standard of architectural practice.

The Bill also deletes the references to "practising architects" in certain sections of the Act and substitutes "registered architects". This amendment was considered desirable in order to avoid any confusion between practising corporations and natural persons.

Finally, the amendments set out in the Bill will in no way diminish or affect the personal professional responsibilities of registered architects.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Jamieson.

ABATTOIRS AMENDMENT BILL

Second Reading

MR O'CONNOR (Mt. Lawley—Deputy Premier) [10.55 a.m.]: I move—

That the Bill be now read a second time.

The purpose of the Bill is to amend the Abattoirs Act 1909-1975 to provide for a retirement age of 70 years for members of the

Western Australian Meat Commission in accordance with general Government policy.

At present the Act provides that a member of the commission shall retire when he attains the age of 65 years. Unless the Act is amended to provide for a retirement age of 70 years it will not be possible to appoint valuable members to the commission or to retain experienced members. In particular a recently-appointed member will reach the age of 65 in March 1982.

I commend the Bill to the House.

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

PERTH THEATRE TRUST AMENDMENT BILL

Second Reading

MR GRAYDEN (South Perth—Minister for Cultural Affairs) [10.56 a.m.]: I move—

That the Bill be now read a second time.

It has been found that the current title of "Manager" as used by the chief executive officer of the trust is confusing as the title is used also by persons controlling the other venues under the trust's control.

As a result an amendment to the appropriate section of the Act is proposed by describing the position as that of "General Manager". A further amendment clarifying the appointment date of the general manager as a result of this change is required.

During discussions prior to the establishment of the trust it was agreed that any employees of the Perth City Council would not be disadvantaged in any way in their change of employment from the council to the State Government.

To facilitate this, an amendment to the Act is required to give recognition to trust employees for the years of membership with the Perth City Council superannuation scheme and recognition of medical certification for the council scheme as a satisfactory entry to the Government scheme.

A requirement of the current Act is that every person employed by the trust must be screened by the Public Service Board and approved by the Minister.

Whilst this is necessary for senior appointments it is not required for the appointment of temporary and casual staff, who are often required at short notice and are subject to a continual change-over.

An amendment is proposed to allow such appointments at the discretion of the trust.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Pearce.

BILLS (2): MESSAGES

Appropriations

Messages from the Lieutenant-Governor received and read recommending appropriations for the purposes of the following Bills—

1. Perth Theatre Trust Amendment Bill.
2. Liquor Amendment Bill.

MISUSE OF DRUGS BILL

In Committee

Resumed from 9 September. The Chairman of Committees (Mr Clarko) in the Chair; Mr Hassell (Minister for Police and Traffic) in charge of the Bill.

Clause 6: Offences concerned with prohibited drugs generally—

Progress was reported after the clause had been partly considered.

Clause put and passed.

Clause 7: Offences concerned with prohibited plants generally—

Mr T. H. JONES: The Opposition wishes to have its point of view recorded; such an offence should not attract an increased penalty. The penalty has been increased and although we do not wish to make an issue of this matter, we just wish to make our attitude known.

Clause put and passed.

Clauses 8 to 10 put and passed.

Clause 11: Presumption of intent to sell or supply—

Mr T. H. JONES: This clause contains the deeming clause and is part of the existing legislation. We know that this is in the present Act and is nothing new; however, we do not support the provision of the deeming clause for obvious reasons.

The Opposition does not agree with the deeming provisions.

Clause put and passed.

Clause 12 put and passed.

Clause 13: Powers of police officers when property suspected of being connected property—

Mr HASSELL: I move an amendment—

Page 12, line 18—Delete the word "If" and substitute the passage "(1) Subject to this section, if".

The purpose of this amendment is to allow the insertion of a subclause. At this stage it is a

technical amendment to subsequently insert subclause (2). The essential purpose of this is to make it clear that a person who is subject to search may be searched only by a person of the same sex or, alternatively, by a medical practitioner. The amendment also seeks to make it clear that a person who is detained for the purposes of a search should be dealt with expeditiously.

We have considered this matter in the light of our overall concern to ensure that the Bill properly balances the rights of the citizen against the powers which are necessary for the police to carry out their duties.

Mr T. H. JONES: We appreciate the reason for the amendment, and have no argument with it. However, we will have some argument to present about the new clause. I am simply making our position clear at this stage.

Amendment put and passed.

Mr T. H. JONES: I would like to refer members to clause 13 of the Bill. It is to be appreciated the Minister did not fully explain the very stringent words in the Bill which are, "using such force and with such assistance as he considers necessary".

Of course we all know what happens in the drug game. As I mentioned in the second reading debate water treatment is often used. We all know what that is. I had a person visit me at my office who had some experience with the use of the water treatment and he alleged that members of the drug squad forced him to drink excessive amounts of water in an attempt to extract the information they required. I have spoken to others involved and I think it is known that these types of practices unfortunately do take place. I am acting only on the information given to me. If this practice is dealt out to people allegedly involved in drugs of course it is of concern. One has only to read the Bill to ascertain what it says.

What is force and what amount of force can be used? Will bashing take place until the information is extracted from a person? Will those involved take hold of the person's legs and twist them or bend his arms or inject other utensils into his body? The position is not clear and there is a broad meaning to this clause, to say the least. It gives a police officer involved open slather to deal with a person. If one refers to the Minister's second reading speech when he introduced the Bill one finds he did not refer to this matter.

It would be appreciated if, perhaps by interjection, Government supporters could tell me what they think this clause means. The

Opposition does not know to what length this clause will allow police officers to go. I think this position should be made clear. The Opposition is not at all happy with the terminology contained in clause 13 and other clauses of the Bill. Members will note from the notice paper that I will be dealing with the terminology used in other provisions of the Bill. We are asking what "force" means. Does it mean a person is confined to a room with a dozen men around him who pound him for information?

Mr Sibson: You know the police would not do that.

Mr T. H. JONES: The police would not do it; is that so?

Mr Sibson: Unless there was a very good reason.

Mr T. H. JONES: I have some information that I can give to the member for Bunbury. I know one policeman who is at present a sergeant in the force and he did not receive promotion because it was alleged he was involved in this kind of practice on the goldfields, so this type of thing does go on. The two members of the Police Force in the precincts of this place will know the sergeant to whom I refer because he was dealt with severely. The sergeant told me he was sorry for his actions. I suggest that there are circumstances when blows are struck and members of the force have to defend themselves, I am not denying that. We are hoping—and I say this for the edification of the member for Bunbury—that it is not going on in this State. Surely Parliament has the right to know the meaning of this clause, because the Minister did not give the meaning in his second reading speech.

For these reasons I move an amendment—

Page 12, lines 21 and 22—Delete the words "he considers necessary" with a view to substituting the words "is reasonably necessary in the circumstances".

In support of my attempts to have this clause amended I say it is a question of interpretation—a question of objective judgment. The matter is too serious to let go in its present form and without labouring the point, I think I have made my position clear.

Mr HASSELL: I want to say firstly that the member for Collie has repeated a number of allegations about policemen and I want to make this point clear. If there are allegations made about the misconduct of police, there are no two people who are more interested in getting those allegations properly documented and dealt with than the Commissioner of Police and I. The last thing one wants is a Police Force with anyone in it who does not adhere to the very high standards

which are required of policemen because they have a sacred responsibility to the community to uphold the law and they cannot do this unless their standards are, at least, equal to, and probably above those, of the community. Why do we keep hearing in this place these allegations against them instead of the allegations being brought to the proper authorities? It is always these sorts of things which grab the headlines and not the fact that the policemen are dealt with severely. I also make the point that some policemen are being dealt with severely at the moment. It was only yesterday in this place that the member for Collie was raising implications about those policemen and was questioning the way they were being dealt with. So it is hard for the commissioner to win in these matters.

Returning to the clause, and to the amendment moved by the member for Collie, I intimate to him that I have given most careful consideration to his amendment and have discussed it with Crown Law officers and the Attorney General. I am not able to accept the amendment as proposed because of the breadth of its application to clause 13. I draw the attention of members to the wording of the clause. The member for Collie's amendment seeks to delete the words "using such force and with such assistance as he considers necessary" and substitute the words "is reasonably necessary in the circumstances".

The way the amendment is drafted, the limitation proposed will apply both to the words "the use of force" and to the word "assistance". The basic proposition which I am prepared to accept in this clause and in the other clauses is that the limitation to force which is reasonably necessary in the circumstances should apply. We accept the objective of the honourable member that we should place a limitation on the use of force.

I repeat the point that, in drafting this legislation, we have never been in the business of taking away proper protections. The police do not want us to take away proper protections, although they need power to act effectively. However, we do not agree to apply the proposed limitation to "assistance" because it is very much a matter for the policeman on the spot as to how much assistance he requires. It makes no difference to the person subject to arrest or detention because only "reasonable force" may apply to what is done to him.

The basic intention of what is proposed by the member for Collie will be accepted by the Government both in relation to this clause and to clauses 14, 23, and 24. However, the member for Collie placed his amendments on the notice paper

only last Tuesday and the matter has been under consideration only since the conclusion of the debate on Tuesday night. I simply have not had the capacity to have the matter drafted in proper form and finalised. The member for Collie may wish to reply to my remarks, after which I intend to seek leave of the Committee to postpone consideration of clause 13 and the other relevant clauses until all clauses in the Bill have been dealt with. This will enable the amendments to be properly drafted and presented to the Committee.

I wish to say only one other thing. Generally, it is very difficult to win with these things. If we refuse to accept amendments, the Opposition says we are grossly unreasonable, but if we do accept amendments the Opposition says we have presented legislation containing sloppy drafting. I hope members opposite will not do that on this occasion. This Bill has been carefully drafted over a long period. We have seriously considered the matter raised by the member for Collie and, to make it quite clear we do not intend to do the diabolical things members opposite seem to expect of us; we intend to accept the principle embodied in the honourable member's amendment. I hope he will accept it in the proper spirit.

Mr T. H. JONES: People approach me in my capacity as shadow Minister. They have made other approaches and in some instances, their cases are not taken up. I am not criticising the police; I am only recounting the instances referred to me in my capacity as spokesman for the Opposition in this area. The great problem in our system is that appeals go from Caesar to Caesar. The Opposition has always held that appeals should be heard by an independent board or authority, and if the Minister were to appoint such a body it would be acceptable to the Opposition. Accusations and complaints made against members of the Police Force should not be heard within the force itself, but by an independent body. This would give more credibility to the Police Force in Western Australia.

I note the Minister's objection to the wording of my amendment. However, I point out to members that the Minister himself used the same phraseology in his amendment to clause 13. New subclause (4) contains the phrase "for longer than is reasonably necessary under the circumstances". Therefore, I cannot understand the Minister's objection.

I apologise for my amendments appearing on the notice paper only last Tuesday; time did not permit me to make them available at an earlier stage. The Minister now intends to have the amendment redrafted. He has his department

working on the matter, and can draw on the expertise of his officers. However, the Opposition must carry out its own research. I hope the Minister will do me the courtesy of allowing me time to consider the redrafted amendments and that they are not simply thrown on my lap this afternoon with a request that the legislation proceed today. I would need at least until next Tuesday to examine the matter before we could proceed to discuss the postponed clauses. Perhaps the Minister could adjourn debate on the Bill until the matter has been examined over the weekend.

Mr HASSELL: The Government does not accept what the member for Collie said about the method of investigating complaints and allegations against the police. We believe the most effective method is to handle it within the Police Force itself; it has shown itself to be a very powerful method. I do not want to go into that debate. It is not relevant to the Bill.

I seek leave to postpone further consideration of clause 13, as amended so far—there will be further amendments—until we have dealt with other clauses.

Point of Order

Mr PEARCE: I seek a ruling on procedure. I intended to speak to this clause. If the matter is deferred as the Minister seeks, when debate on the clause is resumed will the right to speak be preserved, with the assumption that the Minister already has spoken once, and the member for Collie once? Will we pick up the position from there?

The CHAIRMAN: That is right, with the exception that, factually, you are wrong. The Minister can speak as many times as he wishes; and the member for Collie has spoken twice. Everything else will be exactly the same as before.

Committee Resumed

The CHAIRMAN: Is leave granted to postpone further consideration of clause 13, as amended?

Leave granted.

Clause 14: Granting of search warrants in respect of property suspected of being connected property—

Mr HASSELL: We have a common amendment running through a number of clauses. On my understanding, the amendment we have just discussed runs through clauses 13, 14, 23, and 24.

The CHAIRMAN: If the Minister is about to seek the approval of the Committee to defer consideration of clause 14 also, it would be desirable to do so with the minimum of debate, except to explain why he seeks to do so.

Mr HASSELL: A number of clauses are involved. Rather than postpone each clause individually, do you want me to do them together?

The CHAIRMAN: You should seek to postpone clause 14 at this stage.

Mr HASSELL: Do I seek leave, or do I move?

The CHAIRMAN: You move, as the clause has not been dealt with so far.

Mr HASSELL: I move—

That the clause be postponed.

Motion put and passed.

Clause 15: Powers ancillary to power of search—

Mr HASSELL: Similarly I move—

That the clause be postponed.

The CHAIRMAN: Are there many consecutive clauses that you seek to postpone?

Mr HASSELL: That is what I was going to ask. I thought we might move them all in one motion.

The CHAIRMAN: Only if they are consecutive.

Mr HASSELL: There are no other consecutive clauses.

Motion put and passed.

Clauses 16 and 17 put and passed.

Clause 18: Provisions relating to embargo notices—

Mr HASSELL: There is a printing or typographical error in this clause. Therefore I move an amendment—

Page 15, line 5—Delete the word "until" and substitute the word "before".

Amendment put and passed.

Mr HASSELL: I have a further amendment to this clause. We were concerned that the strict prohibition on moving property which is the subject of an embargo notice would be too wide. There may be circumstances in which a person who has possession of property has to move it for its own protection.

The point that sprang to mind in particular was in relation to an aircraft found in a remote place. If the aircraft was the subject of an embargo notice because of suspicion that it had been involved in the drug trade, the person who had it

might have to move it for its own preservation. Therefore, we propose to make it clear that a person who moves such property, with the proper authority, should not be in a position of having committed an indictable offence technically. He would be unlikely to be prosecuted in these circumstances. Of course, we would not want to see that occur.

I move an amendment—

Page 15—Delete subclause (5) and substitute the following—

(5) A person—

- (a) to whom leave has been given under subsection (4) and who sells, leases, moves, transfers or otherwise deals with all or any of the property to which that leave relates in accordance with any conditions attached to that leave; or
- (b) who, being the possessor of the property to which an embargo notice relates, moves all or any of that property for the purpose of protecting and preserving the same within the period referred to in subsection (2) or before the application referred to in that subsection is finally disposed of, as the case requires, with the prior consent of the police officer to whom the embargo notice was granted in accordance with any conditions attached to that consent,

does not commit an indictable offence under subsection (2).

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19 put and passed.

Clause 20: Hindering police officers in exercise of powers conferred by or under this Part—

Mr T. H. JONES: Although the Minister did not agree yesterday, we maintain that the words "a person" require definition. This clause refers to "a person assisting a police officer". There is no definition of such person. It would be a simple matter, in our view, to have a definition at the beginning of the Bill, to spell out whom this person is intended to be. By doing so, it would clear up any misunderstandings that could occur.

No doubt the Minister would agree that definitions are open to argument with changes in administration. While he is the Minister, he accepts one point of view. Perhaps the next Minister might have another point of view. So there is no doubt what the legislation intends, there should be a definition of "a person".

Mr HASSELL: I had difficulty with the member's problems about this yesterday. I must

say I have even greater difficulty today. This is a general offence provision aimed at any person who wilfully delays or obstructs, or does not act in accordance with the law when a policeman is exercising his powers under the proposed Act. The clause is intended to apply to any person who does not do what he is required to do under the Bill.

If we are to trace the property connected with drug dealing, if we are to have that property forfeited, and if we are to succeed in taking away the profitability and the benefits of drug dealing, we must have the power and the capacity conferred on our police to trace that property.

This clause is wide and it is meant to be thus. It is unrelated to any issue of defendants' rights or procedures to be followed.

Mr T. H. JONES: It is quite clear we will not agree on this matter. As a layman I have obtained legal advice on this subject. Obviously any layman would have to do so in a situation like this. My advice is that the matter does require some clarification.

Clause put and a division taken with the following result—

Ayes 24

Mr Blaikie	Mr Mensaros
Sir Charles Court	Mr Nanovich
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Spriggs
Mr Grewar	Mr Stephens
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Shalders

(Teller)

Noes 16

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr McIver
Mr Brian Burke	Mr Pearce
Mr Terry Burke	Mr I. F. Taylor
Mr Carr	Mr Tonkin
Mr Evans	Mr Wilson
Mr Hodge	Mr Bateman

(Teller)

Pairs

Ayes

Noes

Mr Old	Mr Skidmore
Mrs Craig	Mr Grill
Mr Young	Mr Parker
Dr Dadour	Mr Harman
Mr Sodeman	Mr Bridge

Clause thus passed.

Clause 21 put and passed.

Clause 22: Powers of police officers and approved persons in relation to manufacturers, sellers and suppliers of prohibited drugs and

cultivators, sellers and suppliers of prohibited plants—

Mr T. H. JONES: The wording of this clause begs the commission of an offence because it presupposes, without need of proof, that an offence is being committed. The Minister cannot argue that this is not so. Although I have no amendment on the notice paper, I believe there should be a provision in the clause to provide that someone should be suspected of an offence. This would make the clause much clearer.

Again I ask: Who is the approved person? Is it anyone to whom the police can give powers or will it be someone associated with the Police Force? It certainly allows for someone to act with police powers who does not have any training or qualification to do so. A definition of an "approved person" is more important than ever when we consider this clause. The Minister in his second reading speech did not explain who an approved person will be.

The clause would be more clearly understood if it contained verbiage to explain that someone must be suspected of an offence before action is taken.

Mr PEARCE: I support the argument put forward by the member for Collie. It seems to me that paragraph (a) deals with facts which have to be proved. It indicates that if a person is carrying on the business of manufacturing prohibited drugs or cultivating prohibited plants, he is committing an offence. In fact a police officer would not know that was the case until such time as he had entered the premises and established that the business was being carried on.

Suppose the policeman or an authorised person were to knock on the door of the member for Vasse's home—it is widely believed that prohibited plants are cultivated in his electorate—and enter so as to search the premises, and it turned out that the member was not in that particular line of business—what is then the situation of the police officer? He has entered the house without a warrant and established that these activities were not being carried on; therefore, he never had the ability to enter in the first place, because the member for Vasse was not doing those things. It would seem the police officer would be in the invidious position of being liable to action by an aggrieved party.

The suggestion put forward by the member for Collie would provide the police officer with protection because a police officer could enter the premises of a person reasonably suspected of carrying on these things. He would therefore have

the protection of being able to enter on suspicion without having to establish that fact. The person involved also would be protected because the suspicion would have to be of a reasonable nature. We should provide that there is need for reasonable suspicion before the police can take action to enter and search a house.

It seems to me that the clause states that a case has to be proved before action can take place and this will tie the hands of police officers so that they will not be game to enter people's homes. The suggestion of the member for Collie would prevent police officers from barging in, willy-nilly, and then being open to action by an aggrieved citizen.

Despite the Minister's assurance that this Bill had been drafted very carefully, it is hard not to leap to the conclusion that, in some areas with regard to police powers, the drafting is really quite draconian and places a wide range of powers on the police, but in other places like this it puts the police at a disadvantage. As the member for Collie has said already, I hope the Minister will look at the proposition of inserting the words "reasonably suspected" somewhere in clause 22(a), because that may overcome the sorts of difficulties the Opposition sees.

Mr HASSELL: This clause has been misunderstood. Two points have been raised and the matter referred to by the member for Gosnells is quite separate from that raised by the member for Collie.

The purpose of the clause is to empower the police to inspect and enter premises which are being used lawfully for the manufacture of unlawful drugs. It refers to drug wholesalers, pharmaceutical chemists, drug manufacturers, and so on, who are conducting a lawful activity. Members will notice clause 22 does not create any sort of offence. It is merely an empowering clause to enable the police to enter those premises to ensure they are not being subverted to an illegal use. It does not represent the kind of problem to which the member for Gosnells referred.

The member for Collie asked who was an "approved person". I draw the member's attention to the fact that a definition of an "approved person" is contained in clause 21 and that definition applies to clause 22.

Mr T. J. Jones: Clause 21 refers to a person "approved by the Minister".

Mr HASSELL: It refers to a person approved by the Minister under section 30. This is a machinery provision to enable the Minister to approve people who are not members of the Police

Force to carry out these activities in aid of the police work.

Up to the present time one of the deficiencies experienced by the police when dealing with drug problems has been their lack of ability to call on outside expert assistance to aid in their investigations. The kinds of people who will be approved under clause 30 of the Bill are analytical chemists, analysts, and other people who are not policemen, but who are involved in the work contemplated in this particular part of the Bill. The police would enter the premises of a drug wholesaler, but they would not be able to tell whether lawful drugs were being manufactured in accordance with the business's normal activities. Therefore, the police may wish to take along an approved person such as an analytical chemist, a botanist, or someone who falls into those categories of experts, to do the job.

It should be borne in mind that, in clause 22, we are not dealing with an illegal situation. Basically we are dealing with investigations to ensure a legal operation, not an illegal operation, is still being conducted.

Mr T. H. JONES: The Minister referred to clause 21 of which I was aware, but that clause refers only to a person approved by the Minister. Until the Minister explained the nature of a person approved by the Minister, we had no idea who the person would be. Why did not the Minister spell out clearly previously that the person he referred to as an "approved person" was an analyst or similar person? Had this been done earlier, there would have been no argument with the matter. However, the Minister did not refer to it in his second reading speech.

Clause 21 refers to an "approved person" as "a class of persons which is approved, by the Minister . . .". In a clause with which we will deal later, the Minister indicates he can appoint one person and the Commissioner of Police may appoint another person. Therefore, it appears these powers are vested partially in the Minister and partially in the Commissioner of Police.

It is all very well for the Minister to say he will appoint a particular type of person, but he will not always be the Minister. A future Minister may appoint a different type of person, because nothing in clause 21 prevents him from doing so.

Mr Hassell: That is true; but what damage would it do anyway?

Mr T. H. JONES: It appears the Minister now supports my contention that it would be fairer to spell out in the clause that an "approved person" is an analytical chemist or similar type of person.

Were that done, there would be no argument. We would all know the mind of the Minister.

Mr Hassell: You could not have anything better than that, could you?

Mr T. H. JONES: On occasions I would hate to have the Minister's mind. On my way to Parliament House this morning I listened to a programme on 6KY and it was clear from the number of people phoning in that many people do not agree with the Minister's point of view on a matter different from that with which we are dealing at the moment.

The Opposition believes the clause leaves the position wide open. I accept the Minister's comments about the intention of clause 22; but he must agree that, with the expenditure of very little effort, the whole position could have been much clearer. It is for that reason the Opposition opposes the clause.

Mr PEARCE: I am partly pacified by the Minister's explanation about people carrying on lawful activities, but it seems to me this clause would be clarified if the word "lawful" were inserted somewhere. The Minister is a lawyer and I am not. I appreciate some words carry legal meanings, qualifications or restrictions of which judges would be aware, but which would not be immediately apparent to others not involved in the legal process.

I should like the Minister's comment on the following proposition: If a police officer proceeded into the house of someone who was an illegal supplier of prohibited plants or the manufacturer of prohibited drugs, would he be retrospectively protected by the clause in the event that he was taken to court? I put forward that hypothesis bearing in mind the interpretation placed on the clause by the Minister. Other clauses in the Bill may allow a police officer to do that in any event, but it seems to me the wording may be a trifle broad and will not in fact achieve the Minister's implied meaning.

I have no intention to move an amendment, but would it not be better if the word "lawful" were inserted in paragraph (a)? Perhaps the clause should read, "enter the premises of a person lawfully carrying on the business of—" or some other wording could be used which would clarify the clause.

The member for Collie has made it clear that the Opposition is not opposed to the principle contained in the clause, but we point out it appears the drafting of the clause may not do exactly what the Minister requires it to do.

Mr HASSELL: I do not believe the sort of amendment referred to by the member for

Gosnells is really necessary. This Bill draws together provisions of both the Police Act and the Poisons Act. It is not entirely a criminal law Bill, although it relates to an area of criminality. We have done this deliberately and have explained fully the reasons for it.

If people use premises for manufacturing or dealing in drugs, very wide powers in other parts of the legislation are available to deal with that situation. This proposed new section clearly is directed to the purpose for which it is there; it is to allow police to check upon people lawfully engaged in a lawful business to ensure that those people do not allow their businesses to be subverted for any of the unlawful purposes with which this legislation is concerned.

I do not think we would do any good at all by amending this proposed new section to include the word "lawfully".

Clause put and a division taken with the following result—

Ayes 24

Mr Blaikie	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Rushton
Mr Coyne	Mr Sibson
Mr Crane	Mr Sodeman
Mr Grayden	Mr Spriggs
Mr Grewar	Mr Stephens
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Williams
Mr Mensaros	Mr Shalders

(Teller)

Noes 18

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr McIver
Mr Brian Burke	Mr Pearce
Mr Terry Burke	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mr Wilson
Mr Hodge	Mr Bateman

(Teller)

Pairs

Ayes	Noes
Mr Old	Mr Skidmore
Mrs Craig	Mr Grill
Mr Young	Mr Parker
Dr Dadour	Mr Harman
Mr MacKinnon	Mr Bridge

Clause thus passed.

Clauses 23 to 25 postponed, on motion by Mr Hassell (Minister for Police and Traffic).

Clause 26: Powers of police officers and others when things suspected of being used in commission of offences found, received or acquired—

Mr T. H. JONES: I refer to the definitions of the terms "authorized person" and "undercover officer" under proposed new section 31. Those definitions are not at all clear. If we look at clause 31 we see that it refers to the two persons I have mentioned. The clause states, "The Commissioner of Police may authorise in writing a person to act as an undercover officer and may in writing revoke that authority". I will further mention this matter when we reach clause 31; however, the terms to which I have referred are mentioned in clause 26, and I must say that the Opposition puts forward the same argument in relation to those terms in this clause as it did previously to the appointment of authorised persons referred to during the debate of clause 22.

Clause put and passed.

Clause 27: Disposal of prohibited drugs and prohibited plants—

Mr T. H. JONES: Paragraph (a)(i) gives the Opposition some concern.

The word "cause" requires explanation and, possibly again, definition by the Minister. No penalty is provided for a police officer who does not cause a prohibited drug or plant to be destroyed. No reference at all is made to any such penalty.

Is it intended to introduce regulations directed to the destruction of prohibited drugs or plants? The Minister has not advocated such regulations, but he has a responsibility under this clause to do so. The Parliament should know what the situation will be in relation to a police officer's responsibility to destroy a prohibited drug or plant.

We ask: What is intended by the word "cause"? The relevant part of the clause reads—

(a) no person is tried with the commission of an offence in relation thereto, a police officer shall—

(i) cause that prohibited drug or prohibited plant to be destroyed in accordance with the regulations;

What form will the regulations take? The Opposition has a certain view towards regulations. We are being asked by the Minister to approve this clause, but we had no indication at all in his second reading speech as to what we might expect to have included in regulations covering this matter or any other. Virtually the Minister will have an open book. I would like to hear him define the word "cause" and relate it to the prohibited drugs or plants in question.

Mr HASSELL: The question asked by the member for Collie is most reasonable and

appropriate. The importance of the procedures police adopt to destroy prohibited drugs in their possession is very great. I can assure the member that under the present procedures—they are not regulatory procedures; they are practices—we have what is acknowledged to be the best system in Australia for dealing with drugs in police possession.

In the routine orders it is provided that drugs seized in country areas may be destroyed locally or, alternatively, they may be conveyed to the CIB, Perth, for this purpose. However, drugs are to be destroyed only in a way in which it can be assured that the material is completely destroyed. At Perth destruction will be arranged by the detective sergeant in charge of the police room, and supervised by two officers not below the rank of assistant commissioner and by a clerk of courts.

In country areas this supervision will be performed by no fewer than one commissioned officer of the region, the local clerk of courts, and one other local person of repute. I can assure the member for Collie that no such safeguard procedures are followed in other places with the same rigour as they are here, and I am referring of the involvement of the clerk of local courts. As I say, it is not a regulatory or statutory requirement now. We are upgrading that to put it into the regulations and the standard will be at least as high or higher than it is now.

Mr PEARCE: One accepts that that is a fine procedure that the Minister has just outlined. If I heard my colleague, the member for Collie, correctly, he was suggesting that, instead of putting these things in the regulations, they should be in the Act. The reason for that legislation comes before Parliament. If it is in the Act it is not so easily changed, though regulations, if promulgated in the way the Minister has said, are fine. I am sure there is no dispute about that. It is a matter of record that, questions have been raised over what has happened to drugs in the possession of the police. Certainly this has happened outside Australia. Members will be aware of the "French Connection".

So there is nothing new about questions of this sort, but they are particularly destructive in terms of police credibility. Even if there is no truth in the suggestion that drugs disappear from drug squad safes, the fact that some people spread rumours to this effect and such rumours are believed in the community, of course, operates to the detriment of the Police Force.

We know that the Parliament has some power with regard to disallowing regulations or

amendments to regulations that come before it. I do not know, for example, if we could disallow the rescission of regulations. If the regulations were promulgated in the sense that the Minister has just outlined, then the Parliament, no doubt, would be only too happy to accept that, but suppose, at some subsequent time, the regulations were to be rescinded, the Parliament would not have the power to prevent the rescission of those regulations, nor would it have any power to prevent them from being changed unless we were to disallow proposed changes. It seems to me that for everybody's sake procedures, as outlined by the Minister—and which I accept are very good—ought to be enshrined in the legislation and not in regulations.

It is well known to everybody that the regulation-making power is one which is passed by the Minister to the department concerned, so that the regulations are to some extent in the hands of the police. However, if those same procedures were put in the Act they would be outside the scope of the police to change or alter in any way. They would be in fact solely in the hands of the Parliament. It seems to me that it is in the best interests of the Police Force if that were to be the case.

I ask the Minister now: Will he consider in fact taking those procedures—which I accept are reasonably good—and instead of promulgating the subsequent regulations, add them into the Bill? There seems to be no difficulty in that because the Minister has checked them and knows what they are to be; presumably, they could go into a subclause subsequent to the one we are discussing.

Mr HASSELL: I will respond briefly to the member for Gosnells, and I will make the point I have made before; if there is corruption of the kind he and I are concerned about in the Police Force—no law is going to stop it, because the law cannot of itself prevent it. All we can do with the law is make sure that it does not promote or facilitate corruption in any way. This provision does not do that.

I have explained to the Chamber that the matter is covered presently by a procedure as distinct from a statutory or regulatory requirement. We are upgrading it to be a regulatory requirement. Those regulations will be laid on the Table of this Chamber. I have said they will be at least of the same standard or perhaps a higher one than those at present followed. It is not proposed to put them in the Act. I am not generally opposed to having important matters in legislation as distinct from regulations but, on the other hand, in this case I

do not see that we need to make that move. There is room for parliamentary scrutiny. If there was ever any diminution of the standards, then Parliament necessarily would know about it—it would be drawn to its attention. I cannot imagine that we would be reducing those standards. It could be in the Bill but the decision was made for it not to be included at this stage. I really do not think we have any weakness as a result of not doing that.

Mr T. H. JONES: Whilst I accept the word of the present Minister, Ministers do change. It is very difficult to have the regulations disallowed by Parliament. He knows that. It is a very difficult job because it becomes a numbers game. We think it should be spelt out in the Bill. There is nothing much involved in it.

I agree with the point of view of the member for Gosnells. We do not support government by regulation because there are a lot of weaknesses in that proposition, as members would know. Regulations can be introduced and be in operation although they must lay on the Table for some 15 sitting days. After they become effective, the Opposition has the job of moving to have them disallowed. This is not an easy practice. I have been in this place almost 14 years and to my knowledge have not disallowed any regulation. It is not the way the Opposition considers that legislation like this should be treated.

The Minister indicated this is hard legislation. He said he intended it to be hard. He made no secret of the fact. He intended the legislation to be hard, primarily to get at the drug peddler. If this matter is of so much concern and is consolidating a number of existing Acts into a new Misuse of Drugs Bill, surely, it is reasonable for the Opposition to suggest that the points of view that the member for Gosnells and I have raised should at least be clarified? This is one of the most important Bills that has come before Parliament for a number of years in relation to penalties and the police operation generally.

For those reasons, we oppose government by regulation. We feel that the Minister has a responsibility to define the procedures clearly. He will be defining the procedures in the regulation when this Bill has been passed in this place and in another place and then the Opposition will have to wait to see what the position will be. This is a fair attitude.

The Opposition today has demonstrated clearly its point of view on a number of the clauses of the Bill which we disagree with. The Opposition thinks it would have been preferable for the measure itself to spell out what is included rather

than for us to have to wait to see what is in the regulations.

Mr Hassell: Could I just say, before the member for Collie sits down: Let us be realistic. I have told the member what is going to be in the regulations. If any Government tried to lower that standard, what kind of a political field day would the Opposition of the day have? Be realistic about it. The Government could not undertake such a move because it could not get away with it.

Mr T. H. JONES: What is to stop the Government getting away with it? The Minister could give an assurance—I do not doubt the Minister's word—but then the Minister could go away and come back with a different set of regulations in a month's time. There is nothing to stop it. I cannot do anything about it; the Opposition cannot do anything about it. All the Opposition can do, if the regulations are laid on the Table for 15 sitting days, is move for them to be disallowed.

Mr Hassell: The member for Collie does not realise how effective he is.

Mr T. H. JONES: I did not convince the Minister today of my effectiveness.

A Government member: You are a great orator.

Mr T. H. JONES: The Opposition has to wait until after lunch to see what the Minister's new amendments are, to discover whether I am ineffective or effective.

Mr Laurance: Hope springs eternal in the human breast!

Mr T. H. JONES: At least I have achieved something on many occasions. At least the Minister is now looking at some of the amendments on the notice paper. I suppose there must be some merit at least in some of the things we express from this side of the Chamber.

To get back to the point that the Minister raised by way of interjection, I accept his word and the sincerity with which he made the comment. However, I will just point out, in conclusion, opinions change, as Ministers and Governments change. For those reasons, we would prefer to see the definition spelt out clearly in the measure rather than by way of regulation.

Mr PEARCE: It seems to me that the Minister was not keen to put these things into the regulations and into the legislation. He seems to say that it could have been done the other way. It is not good enough because we need to look at the reason we have regulations and Acts in the first place. The main difference is that regulations can be changed more easily. However, if the points of

procedure which are to be followed are enshrined in the legislation, it is difficult to change them.

Many other matters are administrative procedures and the like. They are regulated at departmental level and can be changed at that level. The Parliament has an overview only if the Minister is seeking to abuse those rights to enact legislation.

As the member for Collie said, the right of power to disallow regulations is one which Parliament has, theoretically, but does not exercise. Only last year the legislative review tribunal came down with a serious recommendation that certain regulations were undemocratic and an infringement of civil liberties. Despite the fact that that was a scathing indictment neither this Chamber nor the other place took the opportunity offered to it by the Opposition to disallow those regulations.

With this set of regulations—which will not be promulgated—if the Minister were to say in a month's time that he had a different set of propositions from those he presented today—that is, if the regulations were gazetted—the Parliament could not change the regulations. I believe that would not be a very effective way to deal with this matter.

The destruction of drugs in police custody is a serious matter and one on which the community needs to be assured that proper procedures are being followed. These procedures should be in the legislation and not covered in the regulations. I feel the Minister has not given sufficient consideration to the points I raised previously.

It is not the objective truth of the fact that the police are disposing properly of drugs, it is the interpretation that people can make about the approach of the police to disposing of these drugs.

If there are rumours in the community that the police are lax in the disposal of drugs, or selling them to drug rings—and there have been rumours of this nature even in this community—then the police deserve every protection possible.

By and large, the public is cynical about the way authorities operate and do not accept that kind of assurance. The Minister is quite correct when he said that placing this in the legislation will not cure the situation completely; if people are inclined to believe there is corruption, they will believe it exists despite the most stringent safeguards in the legislation.

Nevertheless, the Minister should appreciate the point that it would be better if he can say the procedure by which drugs are disposed of is settled by the Parliament and it is difficult for the Commissioner of Police or the Police Department

to amend that procedure. If this is enshrined in the regulation then the Commissioner of Police can make amendments with only the saving grace that the Parliament may disallow those regulations.

Legislation is difficult to change and the only people who can do that are members in this Chamber and members in another place. The regulations for departments can be changed easily and the only safeguard with that is that the Parliament can disallow the proposed changes.

The Minister should give more thought to this matter. The police would be far better protected if the procedure were placed in the legislation. The community would have more confidence that proper procedures are being followed if they are laid down in the legislation and not by way of regulation. Also, there would be a better legal comeback in taking action against police officers with regard to the disposal of drugs. So, a whole range of reasons exist for the Minister to adopt an even-handed attitude with regard to the procedures which ought to be included in the legislation.

Clause put and a division taken with the following result—

Ayes 23

Mr Blaikie	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Sibson
Mr Coyne	Mr Sodeman
Mr Crane	Mr Spriggs
Mr Grayden	Mr Stephens
Mr Grewar	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Herzfeld	Mr Watt
Mr P. V. Jones	Mr Williams
Mr Laurance	Mr Shalders
Mr Mensaros	

(Teller)

Noes 16

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr McIver
Mr Brian Burke	Mr Pearce
Mr Terry Burke	Mr I. F. Taylor
Mr Carr	Mr Tonkin
Mr Davies	Mr Wilson
Mr Evans	Mr Bateman

(Teller)

Pairs

Ayes	Noes
Mr Old	Mr Skidmore
Mrs Craig	Mr Grill
Mr Young	Mr Parker
Dr Dadour	Mr Harman
Mr MacKinnon	Mr Bridge
Mr Rushton	Mr Hodge

Clause thus passed.

Clauses 28 and 29 put and passed.

Clause 30: Approved persons—

Mr T. H. JONES: This clause states that the Minister may approve a person or class of person by notice published in the *Gazette* and may, by notice published in the *Gazette*, revoke that approval. I believe the same argument applies in this case as it did previously: We maintain the view that there is no right for Parliament to have any say as to the type of person to be appointed. The Minister could change his attitude quite easily. Perhaps if there was a change in the Ministry the new Minister for Police and Traffic may have a different attitude and may decide to appoint other persons. I canvassed this point at length earlier when I was referring to this matter. The Opposition still maintains its firm attitude in relation to the appointment of persons to certain positions being published in the *Government Gazette*.

I would like to draw the attention of the Minister to clause 30 which states that the Minister can authorise a person or class of persons, and yet under clause 31 it says the Commissioner of Police may authorise the appointment of an undercover officer. I appreciate the fact that we are not discussing undercover agents at the moment. However, one wonders why in one instance an appointment is made by the Minister and in the other instance the appointment is made by the Commissioner of Police. The Opposition queries that point in relation to the provisions contained in clause 30.

Mr HASSELL: I think that question can be answered briefly. It is proper that the Minister should have some control and through the publication in the *Government Gazette* the public should have knowledge of the kind of people who are approved by the Government to become involved in assisting the police in their work. When it comes to clause 31 we are talking about a matter of law enforcement and as members know we adhere strongly to the view—

Mr T. H. Jones: I am glad you told me that because you would not find it out in clause 31.

Mr HASSELL: —that the police take an oath as law enforcement officers and the Government of the day should not be involved in enforcement issues, and in that way a clear distinction is made between the two.

Clause put and passed.

Clause 31: Undercover officers—

Mr T. H. JONES: Clause 31 commences by providing that the Commissioner of Police may authorise a person to act as an undercover officer and then it proceeds to outline what an authorised person and an undercover agent may do. We query the need for the appointment of an

undercover officer. Already we have an authorised person appearing as an undercover officer, and it is our view that the matter is becoming far too involved. There is no authority for a retrospective appointment. We make the strong point: Why is it necessary to appoint two classes of police agents? Obviously that is what we are doing—these agents will be operating on behalf of the Police Force. Perhaps I am wrong, but after study of the provisions in the clause, I did not reach the conclusion that such agents will be police officers. The Minister says these people will take an oath.

We argued about authorised persons this morning and now we find undercover agents will be appointed by the Commissioner of Police under the provisions of the Bill. The description of an undercover agent's duties requires some clarification, as does the method of recruitment of these persons. There has been no mention of this in the Minister's second reading speech. These agents would appear to have the same powers as policemen without having taken an oath or having undergone any training. Where will they receive their training and what is the precise duty of an undercover agent? The Minister may be able to clarify this and explain why two classes of persons are required to do the same work.

I ask the Minister the reason that provision has not been made for the public to be made aware of the activities of these authorised people from time to time. It appears that the authorised persons are to be given a lot of power. I do not think the Minister will deny that. The whole provision is becoming very complicated. Why cannot a skilled policeman or a member of the drug squad who is experienced in this area carry out these duties, rather than appoint undercover agents?

Mr PEARCE: In looking at subclause (2) I am taking a slightly different point of view from that taken by my colleague, the member for Collie. In my view, this will allow police officers to act as agents provocateur. Indeed, a police officer can acquire, and have in his possession, a prohibited drug or prohibited plant for the purpose of detecting the commission of an offence. I presume this does not mean that, in fact, an undercover agent will take, say heroin, cannabis, or some other drug, and try to involve other people in the commission of an offence through his own involvement. There is no sort of magic property about these drugs; they are not like metal detectors which react to the presence of metal. The fact that a police officer has, say, a packet of heroin in his pocket, does not mean that he will tremble sympathetically when he passes other people who have heroin in their possession. The

main purpose for a police officer to acquire such drugs should not be to set up crimes which would not otherwise take place.

It seems to me that the provision could work in two ways. The first and most sinister way would be for a police officer to acquire drugs somewhere for the purpose of selling them to someone else. He could set up a subsequent meeting in order to sell the drugs, and when the sale takes place, the other person would be arrested. This seems to me to be encouraging people to commit crimes when there is no evidence that those crimes would have been committed without the efforts of the police to involve them.

We cannot prove that a person is naturally a criminal when he has been encouraged to commit a crime in that way. It may be the first time such a person has become involved in the use of drugs.

The other side of it may be less sinister, but it is bad enough. A policeman, for example, could go around offering large sums of money to impecunious people in order to obtain drugs. For example, a policeman may come around and offer \$5 000 for so much heroin.

Mr Crane: Are you suggesting the police are corrupt?

Mr PEARCE: I am not suggesting that at all.

Mr Crane: Sounds like it.

Mr PEARCE: The member for Moore would be better to return to Wanneroo or somewhere else for the rest of the day because clearly he has not been following the debate. This clause will establish the very sorts of procedures I am discussing and will make them lawful. The police will not be operating in a corrupt way but in a lawful way, if this clause is passed. Perhaps there is a kind of corruption about that sort of procedure. I would not have used the word "corruption"; however, I think it is unethical and immoral to involve people in criminal activity in which they may not have been involved without the encouragement of the police officer.

The purpose of this clause is not only to allow police officers to act in this way but also almost to place an obligation on them to do so. It sets up the machinery for them to use and, if they do not use it, they could well be criticised in this place.

I believe that to involve police officers in getting people to commit crimes is an unfortunate way of going about what is described in the Bill as "detecting criminal activity". A strong argument exists to the effect that by these actions, the police will be creating criminal activity. The only excuse might be that the police may catch people who would be involved in criminal activities of the

same type elsewhere, without a policeman present; that may be true in some cases. However, it may be equally true that the use of policemen in this way will have the effect of coercing people into criminal activities in which they would not otherwise have been engaged.

Before being interrupted by the member for Moore I was making the second point that this clause also will empower the police to go around to hotels, and other places where it is believed drugs change hands, and offer large sums of money for quantities of drugs. Let us suppose somebody happens to be broke, and is standing near the police officer when he makes his offer. The person may have been subject to the economic policies of this Government and be quite desperate; he may be short of money and unable to pay his rates and taxes; his water may have been cut off because he could not pay his water rates. We all know how many people there are in our community who go to the hotels of an evening to drown their sorrows because they do not wish to go home and face their bills.

Mr Shalders: They are going to have even less money with which to pay them after they have been in the hotel for a few hours.

Mr PEARCE: I do not dispute that. The unfortunate thing is that, social pressures being what they are, a person who is down to his last \$4 and has bills totalling hundreds of dollars cannot pay his bills with that \$4, but can relieve some of the tensions created by his problems by having a few drinks at the local hotel. That is what I was talking about during the second reading debate on this Bill when I said one of the problems of drug usage is that it is prompted by various sorts of social tensions and that the way to cut down drug usage in fact is to dissipate those tensions.

It is ironic that in the same week as the Minister for Police and Traffic is spending much of his time discussing this Bill and telling us what a ghastly thing cannabis is, he also has moved the second reading of the Liquor Amendment Bill which will have the effect of making an authorised drug which is acceptable to the Government more easily available to the public on Sundays. Perhaps it would have been in better taste for the Government to introduce that legislation in a different week.

The point I make is that this clause lays open the possibility that temptation will be placed in front of people who in the normal course of events would not be involved in the drug trade. One of these people could succumb to the temptation by finding out where drugs were available, buying them, and selling them at a higher price to the

police officer. That person could be said to have been encouraged to engage in a criminal activity by the activities of the police when in fact, the job of the police is to prevent criminal activities taking place.

I object to the concept of "agent provocateur". I do not object to the use of undercover agents; obviously, if police officers go around to the various places in uniform, the people involved in the drug trade would disappear before their very eyes. However, I am very much opposed to the principle that police officers, either as undercover operators or as anything else should actively encourage people to commit offences so that they may be arrested.

Mr HASSELL: I wish to make one point clear at the outset so there is no misunderstanding: No power is contained in clause 31 for undercover agents to act as "agents provocateur". I defy the member for Gosnells to point to anything contained in this clause which will enable the police to act in this way.

If there were any clause in this Bill the Opposition should support, it is this one, because for the first time we have faced up to bringing into the legislation and within legal control the use of undercover activity.

Mr T. H. Jones: Undercover agents have operated before in the force, haven't they?

Mr HASSELL: Of course they have; no-one would suggest the Police Force could operate without them. I doubt whether there is a Police Force in the world which does not engage in some form of undercover activity.

However, in bringing that matter into the open, and within the law, we could not direct an authorised undercover agent to do anything which the law does not accept; the law provides that he may have in his possession the drugs with which he is dealing in that particular area.

Mr Pearce: Look at subclause (3).

Mr HASSELL: What about subclause (3)? It simply provides that an authorised person exercising the power conferred on him is not an accomplice. However, that does not authorise him to promote the commission of an offence.

Mr Pearce: Yes it does, because if he were to go around and engage in either of the activities to which I referred, and become involved in a situation where one person was selling drugs and the other person was buying drugs, the police officer would be automatically exonerated by this subclause.

Mr HASSELL: Subclause (3) states—

(3) An authorised person who exercises the power conferred on him by subsection (2)—

That is the first limitation. Subclause (3) continues—

—is not an accomplice in respect of, and does not commit, any offence detected by that exercise . . .

The word is not "promoted" but "detected". Unless he falls within the provisions of this clause, he is not authorised. Unless he operates within the law as laid down and uses only those limited special powers contained in this clause, he will not receive the protection provided for in the clause. If he strays outside that limitation, he will not receive any protection. That is very clear and has deliberately been made clear because we are not in the business of authorising people to promote the commission of an offence.

In my opinion, the matter needs no further explanation. The law is clearly set out in the legislation and in a proper way it will control what goes on; it sets out the procedure; it provides for ministerial inquiries if the Minister believes there is some reason he should hold an inquiry.

In reply to the point raised by the member for Collie, clause 31 stands on its own. It is not related to any of the other clauses where there are authorised persons or officers.

Mr T. H. Jones: An authorised officer can do virtually anything he likes, can he not?

Mr HASSELL: No.

Mr T. H. Jones: Where are the restrictions provided for?

Mr HASSELL: He must act within the law.

Mr Pearce: But this is the law within which he must act.

Mr HASSELL: I make the point also that an authorised person under clause 31 who operates as an undercover officer does not acquire the powers of a policeman.

Mr T. H. Jones: You have agreed they are operating now. All you are doing is legalising something they are now doing.

Mr HASSELL: I doubt whether there is a single Police Force in the world which does not carry out those sorts of activities with the use of undercover people; I do not think any member opposite would suggest they are never used. We are dealing with undercover people operating in the drug area. We have brought the matter into the open by placing it in the legislation so that their operations may be defined and controlled. We have not sought or given them any powers of

policemen, or any powers to promote the commission of offences.

Sitting suspended from 12.45 to 2.15 p.m.

Mr PEARCE: Before the luncheon break, the Minister was putting a proposition denying my suggestion that this clause could lead to a situation in which police officers could act as agents provocateur, bringing about the commission of crimes, or assisting other people involved in crimes which they have set up. The Minister, a lawyer, told us that it is not at all possible for what I have suggested to take place because of the provisions of the law. The Minister is a better lawyer than that, and he should know perfectly well that that is not the case. In fact, he was somewhat misleading in dealing with this clause.

Clause 31 of the Misuse of Drugs Bill 1981 will be the law if it is passed by this Chamber and another place and subsequently gazetted. Then the operations of police officers under the law will be those under clause 31 of this Bill when it becomes an Act. The Minister suggested a series of limitations, but they simply are not there. He read subclause (2), and he put certain limitations on it. One of the limitations is that it is subject to clause 26(2) or to subclause (4). In fact, clause 26(2) refers only to the way in which drugs acquired by undercover agents shall be disposed of. Subclause (4) does the same thing; so there is no limitation on the ability of officers to acquire drugs for the purpose of detecting crimes. The clause deals simply with the way in which the drugs are disposed of after their use has been effective or ineffective as the case may be.

The power given to undercover people is to acquire and have in their possession a prohibited drug or prohibited plant for the purposes of detecting the commission of an offence. I ask members to consider how a police officer's detection of crime is to be advantaged by his possession of heroin or marihuana. As I pointed out earlier, these things are not magical detectors, so that once one has heroin in one's pocket, one suddenly becomes remarkably sensitive to the fact that heroin is about. If one had a magnet in one's pocket, one would be able to detect the presence of other magnets, because they do have some attraction and response. However, heroin and marihuana do not operate like that.

The Minister made great play about the business of detecting the commission of an offence. If an officer of the law, undercover or otherwise, is involved in an offence, and is able to detect it through his involvement, still that is detection. The Minister attempted to show that

the word "detecting" under those circumstances would not cover the situation in which the crime was actually set up by the police officer concerned. I would like him to point to some legal precedent to suggest that the word "detecting" cannot extend to that—that somebody could front up before the court and say, "I only bought this drug from a chap. I have never bought it before, and I only bought it because he offered it to me. He turned out to be a police officer". In that case, the police officer would not be detecting the crime; he would be promoting the crime. The Minister would be laughed out of court if he attempted to defend somebody on those grounds.

The effect of this is indicated in subclause (3). The power conferred by subclause (2) is the power to acquire drugs and possess them. Subclause (3) provides that if a police officer is caught in a crime—the sale of drugs, for example—he is immediately exonerated from the effect of his having committed the crime. Of course, the other people involved will be prosecuted in the normal way, but not the police officer.

Furthermore, the police officer is not an accomplice with anybody else who is involved in that little exercise. Even if he does it in concert with others, the policeman can bow out at the last minute, and leave the rest to carry the can. Furthermore, the policeman's evidence in the case is not to be considered to be that of an accomplice where there are certain legal restraints with regard to credibility and the like.

A policeman involved in these exercises is totally exonerated from the penalties of the crime. The reason we are being asked to approve of that proposition is that police officers and undercover agents are being asked to place themselves in positions where without legislative approval, they would otherwise be prosecuted for being involved in crimes.

If the proposition I am suggesting is untrue—that police officers or undercover officers will be entitled to set up crimes, and then assist other people to join them in criminal conspiracies, and then be exonerated—will the Minister explain to the Chamber what can be done by a police officer to detect crime by his having in his possession cannabis, heroin, or some other prohibited drug? How is a police officer aided in the detection of drug carrying, drug selling, or drug possession by possessing the drug himself? What detective processes are aided by possession of these drugs, if they are not the processes I have already outlined?

Perhaps the Minister could suggest what sort of detective procedures may be advantaged by the

possession of prohibited drugs. I have made two suggestions as to how it could be done, and I have said that neither of those ways is acceptable to us. The Minister has not yet convinced me that I am inaccurate in my prognostication. If he cares to answer me, he may be able to go some way towards believing his proposition with regard to this clause. Now let us hear from the Minister.

Mr HASSELL: I can say only that the member for Gosnells has not convinced me on the proposition I put to the Chamber before the luncheon adjournment. Clause 31 of the Bill does not authorise the operation of agents provocateur. It is concerned with regulating and controlling the work of undercover agents and undercover officers. It has nothing to do with people seeking the commission of offences.

The clause does not authorise the committing of an offence, although clearly there will be circumstances when an undercover officer is the recipient of illegal drugs and plants in connection with the work he has to do. It is quite a different matter from his going around seeking to sell or supply drugs or getting people to buy them or grow them so that those people can be charged with an offence.

It is very necessary to understand that there is a world of difference between situations where an undercover officer purchases a drug for which there is a willing seller and circumstances where he seeks out people and offers the drugs for sale to them or seeks to have them become agents in the supply of drugs. That is not what the clause is about; that is not its intent.

Clause put and a division taken with the following result—

Ayes 23

Mr Clarko	Mr MacKinnon
Sir Charles Court	Mr Mensaros
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Sibson
Mr Crane	Mr Sodeman
Dr Dadour	Mr Spriggs
Mr Grayden	Mr Trethowan
Mr Grewar	Mr Tubby
Mr Hassell	Mr Watt
Mr Herzfeld	Mr Williams
Mr P. V. Jones	Mr Shalders
Mr Laurance	

(Teller)

Noes 18

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr McIver
Mr Brian Burke	Mr Pearce
Mr Terry Burke	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Evans	Mr Tonkin
Mr Harman	Mr Wilson
Mr Hodge	Mr Bateman

(Teller)

Pairs

Ayes

Mr Old
Mr Craig
Mr Young
Mr Nanovich
Mr Rushton

Noes

Mr Skidmore
Mr Grill
Mr Parker
Mr Bridge
Mr Davies

Clause thus passed.

Clause 32: No limitation—

Mr T. H. JONES: There is no evidence to suggest that the prosecution for a simple offence ought to be removed from the Statute of Limitations; the Minister gave no evidence at all. An indictable offence can be instituted at any time after the commission of an offence, but a non-indictable offence or summary offence must be instituted within a six-months' period.

There seems to be no reason for this change, bearing in mind that witnesses often leave an area, making it difficult to recollect who was involved. We believe there should be no change. Therefore we will vote against this clause.

Mr HASSELL: The Government cannot accept the proposal put forward by the member for Collie. The essence of the matter is that the present limitation is unreasonable, bearing in mind that when we are dealing with some of the major drug syndicates—which is what this Bill is concerned with—in the higher levels, often the investigations and procedures which could lead to a prosecution do not take six months, but literally take years. It is just not feasible to imagine that a Bill with such important provisions as these can retain a very short period of limitation which does not allow the work to be done which would lead to the convictions being sought.

The DEPUTY CHAIRMAN (Mr Blaikie): I suggest to the member for Collie that to achieve his ends all he need do is vote against the clause.

Clause put and passed.

Clause 33: Attempts, conspiracies, incitements and accessories after the fact—

Mr T. H. JONES: I move an amendment—

Pages 24 and 25—Delete subclause (2) with a view to substituting the following—

(2) A person who conspires with another to commit an offence against this Act (in this subsection called 'the principal offence') commits that offence and is liable on conviction to the same penalty to which a person who commits the principal offence is liable.

This amendment is intended to do away with mandatory prison sentences for certain offences involving conspiracy and other matters. It is a small amendment, but it will have important

implications. It is an attempt to define an offence which is defined in the Criminal Code.

Mr HASSELL: It is interesting to note the effect of the amendment proposed by the Opposition would, in one respect, increase the penalty whilst, in another respect, it would decrease it. It would increase the penalty for an offender who conspired with another to commit an offence and committed that offence in relation to drugs other than cannabis from 20 to 25 years imprisonment and/or a \$100 000 fine. On the other hand, it would decrease the penalty of a person who conspired with another to commit an offence in relation to cannabis from 20 years to 10 years imprisonment and/or a \$20 000 fine.

Nevertheless, I understand the objective of the Opposition is to eliminate a mandatory gaol sentence for conspiracy.

The clause we propose is in line with the recommendations of the Williams report and is similar to the existing Commonwealth provision. It is in line also with our policy which is aimed at people who are involved in the most serious part of the drug scene; that is, the trade in drugs, and particularly those who are involved in trading in large quantities of drugs. We believe it is important there be a very high penalty for the conspiracy offence.

Conspiracy as you, Sir, would be aware and as the member for Collie knows, is never easy to prove. It is a seldom-used prosecution in many areas, but where it can be proved in this area it is our firm view the penalty should be severe. Alternatives were considered when we were framing the legislation. The amendment does not appear in this form by accident. We cannot accept the amendment moved by the member for Collie.

Mr PEARCE: That does not seem to be a sufficient reason from the Minister in regard to this matter. All he is saying is that we want to remove certain options from the courts and, in that regard, the Minister is making a judgment about a whole range of cases which may come before the courts.

The Minister's assessment of the penalties which would apply were this amendment to be passed is quite correct. In one case, it would increase the penalty and, in another case, it would decrease it. However, that sort of differentiation between soft and hard drugs seems to be quite reasonable, bearing in mind the comments I made during the second reading debate.

I refer members to the words proposed to be inserted by the member for Collie. The provision in the Bill would result in the situation that if two

people conspired to commit an offence and one person committed it, the person who conspired only could be liable for a greater penalty than the person who conspired and committed the offence. Is it not strange that somebody who commits the offence can be subject to a lesser penalty than the person who talked about committing it, but did not actually commit it? It seems to me the person who commits the criminal offence is the one upon whom the heaviest penalty should fall.

In his amendment, the member for Collie recognises that circumstances exist in which a person conspiring with somebody else to commit an offence can be considered to be equally guilty, but I have never heard the proposition put forward by anyone other than the Minister for Police and Traffic that a person who conspired to commit a crime, but did not commit it, could in fact be guiltier and be liable to a heavier penalty than the person who conspired and committed the crime.

Amendment put and negatived.

Clause put and passed.

Clause 34: Penalties—

Mr BLAICKIE: I move an amendment—

Page 25, lines 15 to 17—Delete all words after the passage "7 (1)" down to and including the passage "both" and substitute the passage "shall be sentenced to imprisonment for a term of not less than 3 years and not exceeding 25 years and is also liable to a fine not exceeding \$100 000".

The result of this amendment if it were passed would be the courts would be instructed that, where a person is convicted on a charge of drug trafficking, he shall serve a penalty of not less than three years' imprisonment. The other options are at the discretion of the court. It can impose a fine up to an amount of \$100 000 or extend the term of imprisonment to 25 years, or it may do both.

I referred to this matter during the second reading debate and my concern is that, whilst I congratulate the Government on introducing a Bill which tightens up the position and goes a long way towards overcoming a serious social problem, I believe the legislation does not go far enough in the control of the heinous crime of drug pushing.

All members would be very much aware of comments made from time to time about the drug scene in Western Australia. When considering the drug scene there is probably no better authority for us to consult than the Police Force of Western Australia. Its officers are charged with the

responsibility of ensuring community safeguards and maintaining community standards.

The Commissioner of Police is the one person I would regard as being most involved in understanding the drug scene. He is more informed than any social worker. His annual report of 1979 states—

Sadly the predictions I made in my Annual Report in 1976 concerning the drug abuse problem are becoming more pertinent during each year of my term as Commissioner.

The problem is increasing further in respect to cannabis with even greater escalation in the use of heroin which is insidiously reaching our young people from its source in South East Asia.

It would be beneficial for me to read the whole of that section of the report, but it is sufficient to read the small section I have. Members ought to read the whole of that report and give it serious consideration. In the 1980 annual report of the commissioner a great deal of reference was made to crime surveillance and the crime scene generally in Western Australia. It was stated that the crime scene generally relates heavily to the drug scene in this State. The report reads—

The tragic social problem occasioned by drug abuse continues to rise in keeping with a further marked increase in respect to arrests since my 1979 report. This is not the total end result, however.

This area, in which I have always shown concern, takes toll of the youth of our community and ultimately effects a decline in community standards and acceptable life styles, in addition to the inevitable entry into criminal activity of abusers whose addiction must be sustained by the acquisition of money or drugs.

The report goes on to make strong statements about the use of marihuana, and refers to the views of Dr Robert Dupont, the former Director of the National Institute on Drug Abuse in the United States. My understanding of the report is that it states no real or significant difference exists between hard and soft drugs; in fact, there is a strong correlation between the two.

Mr Pearce: That is absolute rubbish. The only correlation as I pointed out earlier in the week is that the same people deal in both types of drugs.

Mr BLAIKIE: If the member for Gosnells were a little patient and had a little understanding he would be able to accept that I am endeavouring to speak to an amendment to legislation about which I have great concern. He should listen to the

remarks I am making and then at the appropriate time say what he wishes to say.

Mr Pearce: I certainly intend to say something. The amendment is dreadful.

Mr BLAIKIE: The member is entitled to his opinion, but my opinion is that the Bill does not go far enough.

Mr T. H. Jones: You would make it worse.

Mr BLAIKIE: In respect of people who have been convicted of trafficking—

Mr Pearce: If someone grows a cannabis plant, in they go. Half your electorate would be in Fremantle Gaol.

Mr O'Connor: Is it the maximum penalty?

Mr BLAIKIE: I will not go into the finer details of the 1980 report; suffice it to say that the previous commissioner continually was and, of course, still is concerned about the drug scene in Western Australia. The new commissioner is equally concerned as was the previous commissioner about the escalation of drug problems in Western Australia.

I am very concerned for the people using illegal drugs. It is important that we become involved in a system of education in order to assist young people involved in the drug scene. Of course, while we attempt to do that it is important we ensure that people involved in the trafficking of illegal drugs are subject to the heaviest of penalties that can be brought against them. I have no sympathy for the people involved in the insidious act of drug trafficking. I would not think any penalty is heavy enough for such people; and I do not believe the penalties envisaged in this legislation are heavy enough. The legislation will give the courts far too much discretion.

I refer to the report of the new Commissioner of Police (Mr Porter). The report states—

The number of all types of drug offenders who appeared before court increased by 48 per cent over the entire age scale. This was particularly evident with the under 18 age group, resulting in a 96 per cent rise over arrests for this bracket during the previous year.

Every member of this Chamber should be very concerned by that dramatic rise—a 96 per cent increase over last year in the number of people arrested for offences related to drugs. I suggest to all members that if there were a 96 per cent increase in motor vehicle accidents there would be a hue and cry from one end of the State to the other.

Mr Bertram: What if there were an increase of such a nature in cigarette smoking? What would you do about that?

Mr BLAICKIE: That would be something about which all members should be concerned. The matter to which I have referred certainly ought to cause grave concern in the minds of members of Parliament and the community at large.

Mr Pearce: We are concerned.

Mr BLAICKIE: I reiterate the point that there was a 96 per cent increase in the number of drug-related offences. The report goes on to say—

Drug offending is significant enough on its own, but is aggravated by users committing other offences to purchase supplies. In this respect, there was a marked increase in breaking and entering and armed holdup offences, and a sharp rise in the incidence of the theft of medical practitioners' medical kits, usually from their motor vehicles.

I regret to say that the drug scene gives little scope for optimism. However, aided by new legislation presently before Parliament, every effort will be maintained to reverse this trend.

I do not think I need to cover all the statistics to prove that there has been a skyrocketing spiral of the drug scene generally.

Mr T. H. Jones: I brought all this out during my second reading speech.

Mr BLAICKIE: I heard all the member's speech, and already have made comments about it.

Mr T. H. Jones: You must have been asleep.

Mr BLAICKIE: To 30 June 1981 there was a 41 per cent increase in drug-related offences by people of all ages. When one looks at the statistics covering offences related to the dealing in illegal drugs one sees that in the 1979-80 period 168 cases involved people in such dealing. The penalties proposed in this legislation and, in particular, in the clause under discussion, do not go anywhere near far enough in the prevention of the ever-growing and hideous pattern of drug-related crime in this State.

Mr T. H. JONES: It cannot be denied that since the commencement of the debate on this Bill the Opposition has maintained its stance that the legislation is not directed to the right section of the drug scene; that is, the Mr Big of the game—the bloke reaping the millions of dollars out of it.

It is unfortunate the member who has just resumed his seat did not examine the parts of the recent report of the Commissioner of Police to

which I referred during my second reading speech.

He was very quiet on that report. He briefly referred to it, but that report went a great deal further than he indicated today. What the member for Vasse, of course, is attempting to do is to say that under the provisions of clause 34 it will be mandatory for a sentence of a minimum of three years to apply. That is in essence what his amendment seeks to do.

Mr Blaickie: That section relates specifically to people who are charged in relation to dealing in drugs. We are talking about the racketeers and drug dealers.

Mr T. H. JONES: There may be special circumstances, and this is the reason that the judiciary often calls for a pre-sentence report in relation to a certain accused person. That is the way the Opposition maintains the law should remain. If, on the evidence and the performance of the accused, the judge of the day decides that a three-year penalty should be imposed, he still has the power, under these provisions, to apply that penalty. There is nothing to prevent him from doing so. What we are saying is that if the Parliament passes this amendment, he must commit the person convicted to a sentence of three years imprisonment. We have adopted the line that it should be left to the discretion of the judge to call for a pre-sentence report and then apply the sentence according to the situation.

Of course, if the person concerned has been involved in peddling or dealing, as the member for Vasse suggests—on the basis of the pre-sentence report and any other committals the judge is then in a position to impose a penalty of, say, five years plus a fine. For those reasons, we think there is ample scope in existing provisions to meet the situation. The member for Vasse is attempting, by his amendment, to apply an automatic sentence of three years' imprisonment to anyone charged and found guilty of an offence.

I mentioned in the second reading debate that the prisons are too full now. That is one of the problems. Western Australia has the highest imprisonment rate of any State in Australia. If the member for Vasse refers to the report of the Commissioner of Police he will discover that this is the situation. I was not aware of the proposed amendment until he moved it. If my memory serves me correctly, it costs \$53 a day to keep a person in prison in this State. The Dixon committee was commissioned to look at the rate of imprisonment in Western Australia. Its findings expressed the view that there should be more accent on rehabilitation. The Government

should make more money available for rehabilitation. Sending people to gaol in all instances is not the answer to the problem.

Mr Shalders: What does it cost to keep in hospital a young person who has become a drug addict as a result of these vicious people?

Mr T. H. JONES: Costs have trebled since the Court Government came into power. That is the answer to the member's question. This was brought about by the Fraser federalism policy. Hospital charges is another argument. Surely the member for Melville gave the member enough of a thrashing the other night that he is not looking for another serve today! However, that is not part of the Bill.

We all know the hopeless mess our hospital system is in due to the starving of funds by the Federal Government due to the new federalism concept strongly supported by the Court Government. This is the reason that hospitals are in such a mess and the reason that pensioners are now being forced to join hospital benefits funds. It is the Government's doing. I hope that answers the poor question raised by the member.

Mr CRANE: I would like to lend my support to the amendment moved by the member for Vasse. I indicated during my address to the second reading debate, that I felt that there were certain aspects of this Bill which did not go far enough. As has been outlined by the member for Vasse, this is one area where we can give a very strong indication to the people of our State that we are extremely concerned, and that we intend, not only to pay lip service to the problem, but also to attempt to do something about it.

It has been suggested that we as a Parliament should not direct the judiciary. I accept this concept that we should not, but only when it comes to deciding whether people are innocent or guilty. The amendment will not in any way affect any decision which is the prerogative of the courts. We are the responsible body for setting the penalties. This is one instance where I believe there ought to be a minimum penalty. The penalty for drug pushing, as suggested by the member for Vasse in his amendment, should be a minimum of three years, with discretion for the judge to increase that penalty up to 25 years, to impose a fine of \$100 000, and if necessary, to impose both. It does not hold water to say that the judge has the prerogative to impose a three year sentence if he wishes. We know that. A judge always has that discretion with such legislation.

What is important about this particular amendment is the fact that this Parliament, possibly for the first time in its history, is

prepared to say to the people of this State that it has had enough as far as drug pushing is concerned. I appreciate the comments of the member for Collie when he said it costs \$53 a day to keep a person in prison. This is the price we have to pay for the security of the public, and particularly of our young people.

Some of us have had the misfortune to see the results of hard drugs such as heroin. I have had this experience; I have sat in hospitals with people who are addicted to drugs and I have watched them come through the cold turkey treatment. I know what it is all about because I have seen it—it is not a very pleasant sight. I believe that if we do our best to destroy the security that many pushers seem to have, we will be playing our part and doing what we were elected here to do.

It has also been mentioned by the member for Collie that we make no mention of Mr Big. Whilst we have not referred to him specifically, Mr Big can only become so when there are a lot of Mr Littles.

Mr T. H. Jones: They are around now, unfortunately.

Mr Pearce: Is this a nursery rhyme? Are you going to finish off with "Jingle Bells"?

Mr CRANE: We can get to Mr Big through the process of elimination. We will do that through this amendment if it is passed. I hope that every member of this Chamber who is concerned with the welfare of our community will support this amendment. There is no need to canvass it any further.

I give the amendment my wholehearted support. I appeal to all other members on both sides of the Chamber to recognise that here at last we have an opportunity to do something for which we were elected. I strongly support the amendment.

Mr PEARCE: I certainly do not support this amendment. Here we have a classic example of a couple of nonentities on the Government back bench who are attempting to get a headline for themselves.

Mr O'Connor: They are representatives of the people.

Mr Crane: Since when have we been nonentities?

Mr PEARCE: The member has been a nonentity for a long time.

Mr Sibson: How do you define a nonentity?

The CHAIRMAN: Order! I ask the honourable member to resume his seat. I think we would make better progress if the member directed his remarks to the issue before the Chair

rather than cast aspersions on other members. I do request him to do so.

Mr PEARCE: I would have been well past that point had it not been for the interjections. Here we have two members seeking to attract attention to themselves with regard to this Bill which has been roundly criticised.

Mr Shalders: At least they are not having themselves thrown out like you have a penchant for.

Mr PEARCE: Thrown out of what? Would that be counted as an argument?

The CHAIRMAN: Order! I did ask the member to resume his seat so that I could ask him to relate his remarks to the issue before us and not refer to personalities. I urge the member to relate his remarks to the issue.

Mr PEARCE: I am prepared to do so. However, we found ourselves in difficulty the other night because of the provocative statements made by the member for Vasse when he accused me of being associated with drug peddlers.

The CHAIRMAN: The member for Gosnells may understand that is the reason I have asked him twice to relate his remarks to the issue.

Mr PEARCE: If provocative statements such as those made by the member for Murray continue then I will have to defend myself.

The member for Vasse and the member for Moore believe these penalties should be increased. They have adopted the attitude that penalties are the answer to this problem. I point out that the amendment is a silly one. It indicates that the trafficking of drugs in this State is so serious that the penalty ought to have a mandatory minimum term of three years. When we consider that term in relation to other crimes listed on the Statute book we will note that there is no minimum term set for the crime of rape. So it appears the trafficking of drugs is considered to be more serious than rape.

When we refer to the clause we note it states that if a person sells, supplies, or offers a prohibited plant it is an indictable offence. So if one supplies or offers to sell a prohibited plant to someone else one is subject to a minimum term of three years.

Mr Blaikie: What about explaining to the Committee what will occur if my amendment is carried? What would be the number of plants involved which would make that offence one of pushing? Be fair about this.

Mr PEARCE: This legislation has failed to deal with the point I made the other evening; that is, the Bill does not distinguish, in a sensible way,

between hard and soft drugs. It seems to me that no matter to what extent cannabis is supplied or sold, it is not considered to be as serious a crime as rape.

Mr Crane: That is not the Bill before us.

Mr Blaikie interjected.

Mr PEARCE: The member for Vasse is always distracted. In the case of Shakespeare, distraction was often taken as being mental. Hamlet was often distracted and a little around the twist. So, if a person is one, he is the other, according to the thinking of the 15th and 16th century.

The amendment places a minimum penalty—

Mr O'Connor: Tedious repetition.

Mr PEARCE: Apparently it is news to the member for Vasse. The amendment seeks to provide a minimum penalty as well as to increase the maximum penalty and I object to that because the proposition in the Bill put forward by the Government—and supported totally by the member for Vasse and the member for Moore—increases the maximum penalty to 20 years and the maximum fine to \$100 000. The courts have the ability to decide the relative seriousness of the offence and whether soft drugs or hard drugs are involved.

Mr Blaikie: Where does the Bill mention soft drugs?

Mr PEARCE: The member for Vasse has me at a loss—

Mr Blaikie: What clause in the Bill mentions soft drugs?

Mr PEARCE: This was canvassed the other evening when I spoke for 45 minutes—

Mr Blaikie: I was present and the newspaper quotes can prove that.

Mr PEARCE: The member for Vasse obviously spent the whole time being provocative and it is not surprising he received the treatment he did. I spent a good part of my speech canvassing the inefficiency of the legislation because of its failure to distinguish between hard and soft drug usage. The member for Murray spent a great deal of his time assisting me.

Mr Shalders: You usually need a great deal of assistance.

Mr PEARCE: When I read *Hansard* my speech appeared more like a play and I was a very minor character in the production.

The CHAIRMAN: I fear the member is wandering a little wide. The member should ignore the interjections.

Mr PEARCE: The point I wish to make is that the supplying of drugs such as cannabis is less

serious than is the supply of heroin or opium. I have no sympathy for the dealers of hard drugs, though I do have some sympathy for the users of those drugs.

I suppose to some extent it is cheaper to gaol the users than hospitalise them, but what treatment do people receive in gaols? I have no sympathy for traffickers of heroin and they deserve to be incarcerated for 20 years. However, I do not believe cannabis users should receive the same treatment.

Mr Blaikie: You have admitted you do not mind cannabis.

Mr PEARCE: There is nothing secret about my attitude to cannabis. I illustrated my attitude last Tuesday evening.

It is possible for a judge or a court to decide how serious the offence is within the range of penalties available to that judge or court under the legislation which the Minister has presented. However the member for Vasse and the member for Moore wish to make the crime more serious by introducing a minimum mandatory gaol sentence. That would make the crime more serious than rape for which there is no minimum penalty.

Mr Crane: If we were discussing rape in terms of a Bill I would be happy to move a minimum penalty of perhaps 10 years for that crime.

Mr PEARCE: The member for Moore has made no effort to amend the rape laws. I will move to amend those laws at some time during this session.

By setting a mandatory minimum penalty the member for Vasse is seeking to state that this crime is more serious than rape and I believe that a minimum statutory penalty of three years is unnecessary.

The court is in a better position to make a judgment on individual cases than is the member for Vasse or the member for Moore, as we are legislating in generalised terms; so I reject the concept of a minimum penalty in this regard. Had the member been prepared to limit portion of this clause to hard drugs then I may have been more sympathetic to his approach. Even so, I believe the court is in a better position to assess the seriousness of an offence, and, of course, the court does that in a relative way. It judges many similar cases and this is why the Parliament gives the court the ability to inflict a range of penalties. For instance, if we imposed a life penalty—with or without a whipping—for the crime of rape, it is because we see it as a crime of very great seriousness. If we set a minimum penalty of three years for selling cannabis and we have no

minimum penalty for the crime of rape, we are making a judgment that the crime of selling cannabis is more worthy of a minimum penalty than is the crime of rape. I simply do not accept that is a proper relativity, and that is the reason I am opposing the amendment moved by the member for Vasse.

Clearly, the Government has not accepted the member's amendment, or it would have been included in the legislation in the first place. If the members for Vasse and Moore had any serious desire to assist young people, they would not be talking about sending them to gaol for as long as they possibly can. They should be turning their minds to the problem of drug use in the community, and trying to find a proper way to combat it.

Mr Blaikie: Haven't I already said that?

Mr PEARCE: No, the member for Vasse would send them to gaol.

Mr Blaikie: In my second reading speech I referred to an education programme for young people, and I have already said the people involved in trafficking ought to receive the most severe penalties.

Mr PEARCE: I know the member said that, but he has demonstrated patently his inability to distinguish between drugs.

Mr Blaikie: I regard all drugs as serious, including alcohol and tobacco.

Mr PEARCE: In that case I am of a like mind with the member.

Mr Blaikie: I am now worried.

Mr PEARCE: I have made my point. The member for Vasse has managed to get in a few more points during my speech. Perhaps if I sit down, he will make his own speech.

Mr HASSELL: As far as I am concerned the member for Vasse deserves commendation for his contribution in relation to this matter. It represents his very firm expression of great concern about the seriousness of the drug problem, and it is a very good thing he should have done so. It contrasts sharply indeed with the remarks of the member for Gosnells who once again has demonstrated his lack of concern about the drug problem in the area of cannabis. He has also demonstrated that the real substance of his opposition to certain provisions of this Bill is related to his desire to change the law in relation to cannabis. In making this statement I distinguish between the member for Gosnells and the member for Collie because I think it is accurate to say the latter member is not of the same view at all.

I would like to repeat a comment I made in the Chamber the other night relative to the Australian Royal Commission of inquiry into drugs.

The commission made a strong point that cannabis cannot be distinguished lightly from other drugs and there is no valid distinction between hard and soft drugs. The Royal Commission used the words "trendy" and "emotional" when referring to people trying to make that distinction. Whatever the member for Gosnells might say the Royal Commission of inquiry is the most authoritative body on this subject in this country. It had the support of the Commonwealth Government and four of the States in a joint referral of power to the commission and indeed recommended that cannabis use should not be decriminalised. Furthermore it would not allow the distinction to be made between so-called soft drugs and hard drugs.

Mr Pearce: Did it recommend a minimum term for cannabis?

Mr HASSELL: I have great respect for the member for Vasse having expressed concern about the seriousness of this problem. The Government is not able to accept his recommended amendments and that is basically for one reason only: We do not as a general principal favour the insertion in the criminal law—and we are dealing here with an area of criminal law as distinct from some other laws which are in the quasi-criminal category—of minimum penalties, except in the most exceptional circumstances. It is the view of the Government—having seriously considered this proposition—that the penalties should be prescribed in the usual way and that is at the maximum level which is considered to be appropriate for the offence concerned. It should be left to the respective court to determine what penalty to apply in the particular cases coming before it at the time.

Whilst acknowledging the support of the legislation given by the member for Vasse and his concern about the problem, the Government is unable to accept that the Bill should be amended to prescribe minimum penalties in this central area of criminality.

Mr CRANE: It is not usual for me to rise twice on the same clause but because of the comments that have been made relative to the member for Vasse and myself I will reiterate what I said earlier. We are dealing in this Bill specifically with evil people who would traffic in drugs for their own gain and at the same time cause the

degradation of those with whom they come into contact. There is only one way to deal with evil people and that is to deal with them severely. I agree with the comments the Opposition has made concerning training and education programmes but we have had a great deal of education on drugs and it has not been very effective.

Mr T. H. Jones: Did you read the Dixon report?

Mr CRANE: We are not dealing now with educating the people but rather with showing the pushers that we will not tolerate them any more. I said these people are very evil and it has been said, "All evil needs to triumph is for good men to do nothing". Here is an opportunity for members of this Chamber to view the Bill in such a way that it will do something for the benefit of the public. The Government has given members a vehicle whereby they can do the right thing by these people who are being influenced by the pushers. We have to accept this responsibility and if we do not we will have to face the electors with shaking knees before the next election. The opportunity is there to do what needs to be done and I cannot agree with the Minister. I agree with his reasoning perhaps but I do not agree with his conclusions that we should not fix a minimum penalty. We already have a minimum penalty, and the minimum penalty we have for anything at the present time is nothing, and unfortunately, in many instances that is the maximum penalty; an offender is rapped across the knuckles and told to go home and be a good little boy.

Mr T. H. Jones: Who does that?

Mr CRANE: It does happen in the courts. People come to me on many occasions with that complaint. There is insufficient harshness in the treatment handed out by the judiciary from time to time. I am not suggesting we should put people in boiling water or use other similar treatment which was used years ago.

However, I am suggesting we have arrived at the time when the people have had enough and it is for this Committee to give a lead in these instances.

It has been mentioned other crimes are just as serious. The member for Gosnells mentioned rape. I believe members all know where I stand on that issue. When a telephone ring-around was organised by the Press a couple of years ago seeking to establish what members of Parliament would do with rapists and murderers, I said something which propriety does not allow me to repeat today. I used three words, and the first two words were, "Hang the". Members can work out

for themselves what I meant. My photograph was in the paper the next day with a caption under it stating my position.

That is how I feel about those sorts of people, and I am not afraid to stand in this Chamber—to which I was elected by the people of my electorate to put forward their point of view—and state my position. I believe I am putting forward the views of the vast majority of the people of my electorate.

I support the amendment moved by the member for Vasse which provides for a minimum penalty of three years for the offence of drug peddling.

Mr BLAIKIE: It was with surprise when moving my amendment that I heard a certain amount of derision coming from members of the Opposition that a member of the Government side would have the audacity to move an amendment to a Government Bill.

Mr T. H. Jones: I suggested it should have been on the notice paper so we could look at it.

Mr BLAIKIE: I have been a member of this place for nine years, and I know that a number of my colleagues both in this place and in the other place have from time to time moved amendments, and they have remained to tell another story on another day. I can understand the concern expressed by members opposite when I moved my amendment; they thought my party might take action against me. However, that will not be the case.

It is evident from the comments of members opposite that they favour a softer line towards drug offenders. My amendment indicates that I do not believe the action proposed by the Government is anywhere near tough enough. I was very disappointed the Opposition chose to act in such a cavalier fashion.

Mr Bertram: Did the Minister support you?

Mr BLAIKIE: The Minister is very well aware of my sentiments, and did not denigrate me for having those sentiments.

Mr Bertram: Did the Minister support you?

Mr BLAIKIE: The member for Collie—

Mr Bertram: Did the Minister support you?

The CHAIRMAN: Order!

Mr Bertram: I asked him a question.

The CHAIRMAN: Order! The member for Mt. Hawthorn said something which failed to convey the picture to members. That is the third time he asked whether the Minister supported the member for Vasse. I have called him to order

before. He should not continue to ask his question *ad infinitum*; I ask him not to do so.

Mr BLAIKIE: The member for Collie, in opposing my amendment, said due discretion should be left to the court to enable judges to make determinations as to the severity of sentences. He suggested that when a person was on a charge of drug dealing, the judge should call for a pre-sentence report and then use his discretion as to whether that person should have the book thrown at him or dealt with in a softer way.

Mr T. H. Jones: Is there anything wrong with that?

Mr BLAIKIE: I believe there is; the sentiments I express would be supported by the majority of Western Australians. We are talking about the crime of dealing in drugs. In fact, many people in this State would support a far heavier penalty than the one I have put forward. My amendment provides for a minimum penalty of three years' imprisonment, with the court to decide whether a sentence greater than the minimum should be applied.

If a person driving a motor vehicle is apprehended by the police and found to have a blood alcohol level of more than .08 per cent, the court has no discretion in the matter because the Parliament has established a mandatory minimum penalty; the only people to complain about that are those who have been convicted.

Mr Bertram: That is not so.

Mr BLAIKIE: That is what we do in the case of alcohol. Members opposite have said, "What about alcohol?" I believe it is very important that our legislation in this area is adequate to cope with the problem.

The member for Collie asked what it would cost to keep all these drug dealers in gaol. I agree that the cost would be great. However, society would receive a bonus in that these drug dealers would be kept off the streets, unable to continue to cause suffering and anguish amongst the community, with young people undergoing treatment in hospitals, and the like. In other words, I believe the cost of allowing these people to remain free would be far greater than the cost of keeping them in gaol.

Mr T. H. Jones: We have never condoned drug trafficking.

Mr BLAIKIE: I do not dispute that; however, members opposite do not support the hard line I believe is necessary to deal with the problem.

Mr T. H. Jones: The Minister for Police and Traffic said it was one of the toughest Bills ever introduced to this place.

Mr BLAIKIE: It is not tough enough.

I thank the member for Moore for his comments and support. He said that anyone who has seen a person going through the process known as "cold turkey" would have an appreciation of the travesties to which the human body can be subjected.

The member for Gosnells is in a slightly different category, and his remarks caused me concern. He commenced by saying I was trying to claim headlines which, of course, was nonsense. His colleagues are able to give me better headlines than I could claim for myself, which also is nonsense. I assure the member for Gosnells that I have a point of view in relation to the problem of drug abuse, just as I accept the fact that he has a point of view on the matter. I have a point of view relating to drugs in total, and the division between hard drugs and soft drugs.

The member for Gosnells wants to legalise cannabis. Yesterday he said he was concerned about the usage of heroin, but that he did not mind cannabis.

I believe that when the member for Gosnells said some 10 to 12 months ago that he did not mind cannabis, his comments were a disgrace, coming as they did from a member of Parliament and the Opposition spokesman on education.

Mr Pearce: Let us not start that again, or we will have a little look at your own Minister. It will be Tuesday, all over again.

Mr BLAIKIE: I repeat that for the member for Gosnells, holding the position that he does, to say that he does not mind cannabis was a disgrace. Although he did not say so, the implication was that if he ever got the opportunity, he would move to have it legalised.

Mr Pearce: I have never said I would move to have it legalised; that is a nonsensical remark. You are trying to obtain cheap and dishonest political capital—just as you did last Tuesday—by once again calling me a friend of drug dealers. It is totally untrue and unjustified, and has nothing to do with my position as shadow Minister for Education.

The CHAIRMAN: Order!

Mr T. H. Jones: You are starting over again. You are bringing it on, not the Opposition.

Mr BLAIKIE: I hope the member for Gosnells will have the opportunity to withdraw the remark that he does not mind cannabis, because I am concerned that in fact he said it.

I do not believe there is a distinction between hard and soft drugs. Any person involved in drug distribution ought to be subjected to the heaviest penalties, whether the drug be cannabis, heroin, cocaine—

Mr Bryce: Or alcohol.

Mr BLAIKIE: I do not believe the courts should have a discretion. The minimum penalty ought to be three years, and from that point the court can decide on the severity of the sentence. Society expects the Parliament to express a point of view. The amendment is a fair one, and it ought to be passed.

Mr PEARCE: I was a little surprised, might I say, that during that outburst by the member for Vasse, more constraints were not placed on him by the Chair because of what he said—

The CHAIRMAN: Order! The member will resume his seat. You will have noticed I gave you an opportunity to make a very extensive interjection. I might have stopped you, but I did not—

Mr PEARCE: Very well. I apologise for that reflection on the Chair.

If the member for Vasse wants a repeat of Tuesday night, we are only too happy to accommodate him. Unlike him, we will not be crying throughout the next day about how unfairly we have been treated by the Press.

Mr Spriggs: You were telling untruths.

Mr Bryce: The member for Vasse told the most palpable lies the Parliament has ever seen.

Point of Order

Mr BLAIKIE: On a point of order, Mr Chairman—

Mr Bryce: I am not talking about the member for Gosnells. I am talking about the filth—

The CHAIRMAN: Order! The member for Ascot.

Mr BLAIKIE: I find the words used by the member for Ascot offensive, and I ask that they be withdrawn.

The CHAIRMAN: I request the member for Ascot to withdraw the offensive words.

Mr BRYCE: I withdraw.

Committee Resumed

Mr PEARCE: I would not have listened to the interjection of the member for Darling Range, except that his contribution to this debate—

Sir Charles Court interjected.

Mr Bryce: If the dirt, filth from your side of the Chamber was not here, perhaps that type of suggestion would not be made.

The CHAIRMAN: The member for Ascot will desist.

Point of Order

Mr BLAIKIE: On a further point of order, I find the words used by the member for Ascot relating to filth in that interjection to be objectional and offensive, and I ask that they be withdrawn.

Mr Bryce: Since when? Where are we going to draw the line for the sake of the kindergarten?

The CHAIRMAN: I call on the member for Ascot to withdraw the words relating to filth.

Mr BRYCE: Under what Standing Order?

The CHAIRMAN: Standing Orders Nos. 131 and 132. The words are clearly offensive, and I ask him to withdraw.

Mr BRYCE: For the sake of the member for Vasse, I withdraw.

Sir Charles Court: You nasty man!

Committee Resumed

Mr PEARCE: I have never promoted or advocated that people should use marihuana. The point I have always made is that it is sheer hypocrisy for people who drink alcohol to excess—as it can be clearly demonstrated from the public record that members from the front bench on that side have—to make the point—

Point of Order

Mr GRAYDEN: Mr Chairman, I take the strongest objection to those remarks of the member. They are highly offensive to me. I ask that they be withdrawn. They are untrue.

The CHAIRMAN: In the heat of the moment, I was not able to capture the words to which the Minister is objecting. I ask him if he would state the words.

Mr GRAYDEN: He was talking about people drinking to excess, and instanced a member of the front bench. I take strong exception to that type of thing, and I ask that it be withdrawn.

Mr Bryce interjected.

The CHAIRMAN: The member for Ascot will remain silent.

I will leave the Chair and ask the *Hansard* reporter to give me a transcript of the member's statement.

Sitting suspended from 3.39 to 3.51 p.m.

Chairman's Ruling

The CHAIRMAN: I have considered the situation that caused me to withdraw from the Chamber and I will now read Standing Order No. 132—

All imputations of improper motives, and all personal reflections on Members, shall be considered highly disorderly.

I have been given by *Hansard* a transcript of the incident which shows that the member for Gosnells said—

The point I have always made is that it is sheer hypocrisy for people who drink alcohol to excess—as it can be clearly demonstrated from the public record that members from the front bench on that side have—

The words used by the member for Gosnells are a personal reflection on members and I therefore direct him to withdraw the offending words, because they are objectionable under Standing Order No. 146.

Mr PEARCE: I think there are millions of precedents that—

Point of Order

Mr O'CONNOR: On a point of order, as far as I understand—

Several members interjected.

The CHAIRMAN: Order!

Mr Bryce: He is in the middle of a point of order.

The CHAIRMAN: Order! The member for Ascot will remain silent. The member for Gosnells did not take a point of order and I am now taking the point of order which has been called by the Deputy Premier.

Mr O'CONNOR: I understand that a withdrawal is required without any other words being used.

The CHAIRMAN: Order! The point raised by the Deputy Premier is true. I did assume that the member for Gosnells was making a point of order—I gave him some tolerance. I ask him now to either immediately withdraw his words or take a point of order.

Mr PEARCE: I take a point of order, which is that it has generally been taken by successive Speakers and Chairmen that a reflection has to be specifically directed before it is a reflection on a member. Members on this side have unsuccessfully taken points of order against the Premier, who is in the habit of calling us hypocrites or worse, and he is always getting away with it because he has said he has made the

allegation not at a specific person but at members generally.

My reference was made in a general sense, although one member thought it was directed at him. But the precedents are such that unless a reference is made to a member specifically, it is not an offence. An aspersion cast on a whole side of the Chamber is not an aspersion. There are thousands of precedents available, because I have myself sought withdrawals from the Premier and have been unsuccessful when he has used intemperate language without having to withdraw it.

The CHAIRMAN: Order! I have listened to the member's point of order and I am sure he will not be surprised when I tell him that I considered carefully that very point when I examined the matter. Standing Order No. 132 states specifically "and all personal reflections on Members". That could be taken as being either collective or singular and, because it gives the opportunity to be taken as being collective, and the remark was collective, I ruled in the way I did. Therefore, I ask the member to withdraw the words.

Mr PEARCE: I very much regret that I cannot do that.

The CHAIRMAN: I name the member for Gosnells. I will now report to the House.

[The Speaker (Mr Thompson) resumed the Chair]

Suspension of Member

Sir CHARLES COURT: I move—

That the member for Gosnells (Mr Pearce) be suspended from the service of the House.

Point of Order

Mr DAVIES: According to May's *Parliamentary Practice* I understand it is necessary for you, Sir, to ask the member if he continues to refuse to withdraw. You have not done that. Therefore, might I, with respect, suggest that be done?

The SPEAKER: In point of fact we have had a situation similar to this previously when in Committee a member was named by the Chairman of Committees and, on that occasion, I established there was no opportunity for any

action other than for me to receive a motion that the member be suspended from the service of the House.

Suspension of Member Resumed

I shall now put the question that the member for Gosnells be suspended from the service of the House.

Question put and a division taken with the following result—

Ayes 23

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr O'Connor
Sir Charles Court	Mr Rushton
Mr Crane	Mr Sibson
Dr Dadour	Mr Sodeman
Mr Grayden	Mr Spriggs
Mr Grewar	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Herzfeld	Mr Watt
Mr P. V. Jones	Mr Williams
Mr Laurance	Mr Shalders
Mr MacKinnon	

(Teller)

Noes 19

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bridge	Mr McIver
Mr Brian Burke	Mr Pearce
Mr Terry Burke	Mr A. D. Taylor
Mr Carr	Mr I. F. Taylor
Mr Davies	Mr Tonkin
Mr Evans	Mr Wilson
Mr Harman	Mr Bateman

(Teller)

Pairs

<i>Ayes</i>	<i>Noes</i>
Mr Old	Mr Skidmore
Mrs Craig	Mr Grill
Mr Young	Mr Parker
Mr Nanovich	Mr Hodge

Question thus passed.

The member for Gosnells left the Chamber.

Committee Resumed

Progress

Progress reported and leave given to sit again, on motion by Mr Hassell (Minister for Police and Traffic).

QUESTIONS

Questions were taken at this stage.

House adjourned at 4.20 p.m.

QUESTIONS ON NOTICE

FUEL AND ENERGY: ELECTRICITY

Power Stations: Generating Cost

1759. Mr T. H. JONES, to the Minister for Fuel and Energy:

What is the current cost of a unit of power at each individual power station using coal as fuel and also the production cost at the Kwinana power station using oil?

Mr P. V. JONES replied:

The information being sought by the member is essentially the same, where coal is concerned, as that provided for him in answer to question 550 on Tuesday, 14 April 1981.

Electricity produced from oil at Kwinana has risen to approximately 9c per kilowatt hour, due to increased fuel and production costs at that particular power station.

PARLIAMENT HOUSE

Wages Staff

1812. Mr BRYCE, to the Speaker:

With reference to his answer to question 1435 of 1981 concerning the wages staff at Parliament House—

- (a) has the appropriate information been collated yet;
- (b) will he ask the Chairman of the Joint House Committee to forward the information as soon as possible?

The SPEAKER replied:

- (a) I understand the information is being collated;
- (b) yes.

MINING: IRON ORE

Koolyanobbing

1813. Mr GRILL, to the Premier:

In answer to my question without notice of 8 September 1981 relating to BHP

Kwinana steelworks and Koolyanobbing iron ore mine, he stated that "negotiations were continuing". I ask—

- (a) Between whom are the negotiations being carried on;
- (b) with what object are they being carried on;
- (c) how long have they been going on;
- (d) what has given rise to these negotiations;
- (e) when is it likely that they may be concluded;
- (f) is it likely that the Koolyanobbing mine will have to close or seriously curtail production?

Sir CHARLES COURT replied:

- (a) to (f) Discussions between representatives of BHP-Australian Iron and Steel and Government officers have been held in recent weeks. As has already been publicly indicated, the company advised the Government of the difficulties in marketing pig iron produced at Kwinana, and of the measures being taken to establish new markets of sufficient tonnage to justify refiring the newly relined Kwinana blast furnace.

No finality has yet been reached in these discussions and market examinations. It is reasonable to assume that a closure of the Kwinana blast furnace would affect the Koolyanobbing iron ore operations unless alternative arrangements can be made.

1814. *This question was postponed.*

HEALTH: MEDICAL PRACTITIONERS

Geraldton

1815. Mr CARR, to the Minister for Health:

- (1) With reference to the situation which emerged in Geraldton last week in which 13 doctors signed a statement indicating that they would not treat patients with hospital only insurance as hospital patients at the outpatients section of Geraldton Regional Hospital, has he or his representatives had subsequent discussions with the doctors or their representatives?

- (2) Has this problem been resolved?
- (3) Will he please detail the present situation?

Mr YOUNG replied:

- (1) Discussions have been held with the WA Branch, Australian Medical Association.
- (2) Negotiations are continuing.
- (3) As far as can be ascertained by the hospital administration, no patient has yet presented to Geraldton Regional Hospital and requested treatment as a hospital service patient. If required, each doctor will be asked whether he will treat hospital only insured patients as hospital service patients at Geraldton Regional Hospital.

POLICE: FIREARMS

Dum-dums

1816. Mr T. H. JONES, to the Minister for Police and Traffic:

Are dum-dum bullets to be used in Western Australia?

Mr HASSELL replied:

They are currently available from retail outlets.

POLICE AND ROAD TRAFFIC AUTHORITY

Amalgamation

1817. Mr T. H. JONES, to the Minister for Police and Traffic:

Is it the intention of the Government to amalgamate the Police Force and the Road Traffic Authority?

Mr HASSELL replied:

No decision has been made. Many possible proposals have been and remain under consideration in the context of preparation of the State Budget.

HOSPITAL: ROYAL PERTH

Insurance

1818. Mr HODGE, to the Minister for Health:

- (1) Further to question 1432 of 1981 relating to the Royal Perth Hospital Board, has the Government instructed

the Royal Perth Hospital Board to comply with Government policy and give every patient, regardless of their health insurance rates, the opportunity to elect to be treated either as a "hospital patient" or as a "private patient"?

- (2) Has the board of any other Government hospital refused to comply with Government policy or indicated a reluctance to do so in respect of this matter?

Mr YOUNG replied:

- (1) It has not been necessary for the Government to issue instructions to the Royal Perth Hospital Board as patients are given the option to choose to be treated as a "hospital service" patient or as a "private" patient.
- (2) No.

HEALTH: TOBACCO

Anti-smoking Study: Busselton

1819. Mr HODGE, to the Minister for Education:

Further to question 1736 of 1981 relevant to the Busselton anti-smoking study, when does he expect the evaluation of the study to be completed?

Mr GRAYDEN replied:

The Minister's advisory committee on health education will consider aspects of the Busselton report which can be referred to the health education syllabus committee for inclusion in school programmes. For various reasons the Busselton project cannot be imposed upon all schools in all areas of the State without further trial.

HEALTH: DISABLED PERSONS

Assistance Scheme

1820. Mr HODGE, to the Minister for Health:

Further to question 1735 of 1981 relating to aids for the disabled, what

steps are taken to see that those patients in private hospitals and nursing homes who can afford to purchase their own aids and appliances do so, and thereby leave the maximum amount of funds possible from the programme of aids for disabled persons scheme for needy patients?

Mr YOUNG replied:

Patients in private hospitals and nursing homes are not eligible for assistance from the programme of aids for disabled persons (PAD) scheme unless the aid or appliance is being supplied to enable the patient to be discharged from that hospital or nursing home, and this must be certified by the attending doctor.

The conditions under which this scheme is administered were set by the Commonwealth Government and do not provide for a means test to establish eligibility under the scheme.

QUESTIONS WITHOUT NOTICE

GOVERNMENT HOUSE

Paintings

460. Mr DAVIES, to the Premier:

(1) With respect to the new painting of the Duke of Edinburgh and the late King George VI commissioned for Government House, was it ever contemplated that the taxpayers would bear all or part of the cost of the portraits or of associated costs such as freight and insurance?

(2) Will the donations that have been made cover all the costs, including those such as freight and insurance?

Sir CHARLES COURT replied:

(1) and (2) I thought I had made it clear that, in view of the financial constraints on the Government, had there been any costs to the taxpayer, the paintings would not have been contemplated. I include in that statement the cost of transportation.

Mr Davies: Was it one donation or a series?

Sir CHARLES COURT: There were two separate portraits and two separate groups of donors.

HOUSING: PURCHASE

Assistance Scheme

461. Mr DAVIES, to the Honorary Minister Assisting the Minister for Housing:

This question refers to question 1747 I asked the Minister yesterday relating to the new scheme which is to be introduced and the home purchase assistance scheme which operated between 1974 and 1978. My question is—

- (1) Was any physical research done on the present wages of those persons who now hold those loans, or has it been taken for granted that they will have increased in accordance with the increase in average wages?
- (2) Is the Honorary Minister aware that some of the persons who now enjoy those loans receive a salary which is less than that received by some of the people the Government proposes now to assist?

Mr LAURANCE replied:

- (1) I believe the first question related to the earnings of people affected by the proposed increase in interest rates on home purchase assistance scheme loans taken out in 1978.

Mr Davies: I asked whether any physical research was done.

Mr LAURANCE: No, it was worked out on the basis of increased earnings and the particulars of the loans in that category were taken into account also. We looked at the repayments, based on the date on which each loan was acquired, and the prevailing interest rate at the time. The limit for a maximum loan varies, depending on the date on which it was taken out.

I have indicated that, under the proposal, the maximum increase paid by any person would be \$16 a month. That figure relates to a maximum loan entered into in 1978. Of course, the figure reduces to \$2 and \$3 a month on smaller amounts borrowed in earlier years.

The answer to the question yesterday referred to the increase in the overall weekly earnings, in particular, relating

to the period about which the Leader of the Opposition asked.

- (2) The income of those people affected under the Government proposal for pre-1978 loans will be lower than for people taking out new loans today which come under this proposal. I remind the member that these people will not receive a concessionary interest rate at the level of pre-1978 loans; however, they will receive loans at a concessional interest rate even with the additional 1 per cent.

For the benefit of the House I must say the average interest rate on pre-1978 loans was 5.75 per cent. Of course, with the 1 per cent addition the new rate will be 6.75 per cent, but that is still a long way below the amount other people must pay. When these loans were taken out the prevailing rate was something like 7 per cent; people were getting an interest rate of 1.25 per cent below the prevailing interest rate in the community. Now people will get a rate which is 6 per cent or 7 per cent below that prevailing rate.

Mr Davies: There are still people on a small wage subsidising people on a higher wage.

Mr LAURANCE: That is not accurate.

Mr Davies: Of course it is true.

Mr LAURANCE: People receiving loans today will not be subsidised just to the extent of 1.25 per cent; they will be subsidised to the extent of 7 per cent or 8 per cent.

Mr Brian Burke: The point he is making is that some of the pre-1978 people are pensioners.

Mr LAURANCE: In reply to the Leader of the Opposition I am saying that people who receive loans today and people who received loans as far back as 1978 have been given a concessionary interest rate. However, interest rates generally have escalated since 1978. The people gained the maximum benefit in the first two years. Because of the escalating interest rates the benefit is withdrawn over a period. That has happened with all loans since 1978 and will occur with people helped today.

The people who received loans prior to 1978 have a considerable benefit above people being helped today.

HOUSING: PURCHASE

Assistance Scheme

462. Mr DAVIES, to the Honorary Minister Assisting the Minister for Housing:

Must the agreement be changed by an Act of Parliament or will the change be an administrative matter?

Mr LAURANCE replied:

The pre-1978 mortgage agreements in question contain variable interest rate clauses. I agree that at the time there was no intention that those interest rates would be moved up or down, and they have not been until this time. However, a clause exists within the mortgage agreement to allow for a variation in the interest rate paid. The lending institutions have been instructed to increase the rate by 1 per cent as from 1 October under the particular clause of the mortgage documents to which I have referred.

EDUCATION: WA SCHOOL OF MINES AND FURTHER EDUCATION

Interim Council

463. Mr I. F. TAYLOR, to the Minister for Education:

My question relates to the future of the WA School of Mines and Further Education. Because the question is a little longer than usual, and because I hoped for a well-reasoned and positive response from the Minister, I have given him some notice of the question which is as follows—

- (1) Did the so-called round table conference to overcome the problems facing the new school take place?
- (2) If not, why not?

(3) Did he today receive a copy of a telex from students and both School of Mines and technical college staff addressed to Mr J. Manners, chairman of the interim council, advising that all classes had been boycotted by students and staff and calling for immediate action by the council to re-establish School of Mines links with WAIT in 1982?

(4) Is he aware that the students currently attending the school have now been waiting for six months to find out if they will receive degrees, yet in reply to the telex no guarantee was given to students that they will receive WAIT degrees?

(5) Is it not time that he recognised that the interim council has failed in its responsibilities and that the council should be replaced either as a whole or at least in part in order that the School of Mines might survive this, its greatest crisis?

Mr GRAYDEN replied:

The member referred to notice of this question. However, I was able to read through it only quickly, and I cannot give a comprehensive reply. My answer is as follows—

(1) and (2) The conference did not eventuate. I intended to meet various parties, but in the week I had set aside for that, the Chairman of the Western Australian Post-Secondary Education Commission assumed duties, and it was felt desirable that he should go to Kalgoorlie to meet the various parties as a preliminary to the meeting to which the member referred. Dr Pullman has since been to Kalgoorlie and met those parties. I shall meet him tomorrow. He hopes to be able to put forward some recommendations which I hope will solve the problem.

(3) I received the telex from the students. I regret that it was sent. I regret also the action taken by the students. Really, they are trying to jump hurdles before they come to them. I appreciate their concern, but still adequate time is available to overcome the problem quite satisfactorily.

Mr I. F. Taylor: Two staff of the WA School of Mines have resigned and you say there is still adequate time.

Mr GRAYDEN: There is still adequate time. To continue—

(4) The Director of WAIT has made it very clear over the last few months, and he has said in writing he is most anxious to co-operate in respect of WAIT degrees. As far as I am aware the students would have the option of either. I believe the director repeated his assurance the other day.

(5) This part of the question was to the effect that the interim council has lost the confidence of all parties. I would not agree that that is so. It may well be that the council may require another week or more in order to finalise the preliminary portions of its task, but this matter will be determined tomorrow.

I reiterate my certainty that no difficult consequences will arise. I hope that the recommendations that will come forward tomorrow will overcome the matter.

TRANSPORT: AIR

North-west

464. Mr BRIDGE, to the Minister for Transport:

With reference to the question I asked the Minister yesterday concerning the future operation of the Fitzroy Crossing-Halls Creek regular transport service—

- (a) Has the Government received a detailed submission to the review it is currently conducting on air transport from Trans-west Airlines Pty. Ltd. which outlines the difficulties faced in providing air services in remote regions of Western Australia?
- (b) If "Yes", will the Government give an assurance that no changes will be made in the existing services or subsidy in the Kimberley until such time as the Government has reached its findings on the air transport review and formulated policies which take these difficulties into account?

Mr RUSHTON replied:

- (a) Yes.
- (b) The Commissioner of Transport recently invited applications from interested operators in an endeavour to maintain services to the communities in the Kimberley and he will ensure that all aspects of the matter are given full consideration.

SMALL BUSINESSES: SMALL BUSINESS ADVISORY SERVICE LTD.

Shopping Centre Development

465. Mr TRETOWAN, to the Honorary Minister Assisting the Minister for Industrial Development and Commerce:

- (1) Has he seen the article in this morning's edition of *The West Australian* headed, "ALP warns on shop centres"?
- (2) What is the current position regarding retailing in suburban shopping centres?
- (3) What steps are being taken by Small Business Advisory Service Ltd. to increase the ability of small retailers to compete successfully?

Mr MacKINNON replied:

- (1) I saw the article to which the member referred. It states—

The Leader of the WA Opposition, Mr Davies, called yesterday for a brake on shopping-centre developments, especially outside sub-regional centres.

- (2) I have contacted the office of the Minister for Local Government and have been advised that currently there have been no applications for MRPA approval for major shopping centre developments outside subregional centres. Further, last Friday there was gazetted a reduction in the minimum size of shopping centre developments requiring MRPA approval from 9 500 square metres to 5 000 square metres. This will assist considerably in monitoring and co-ordinating regional shopping developments.
- (3) I am pleased to say that several steps have been taken. Firstly, the service has increased in size. We have now four counsellors and a manager to handle the work in that area. Secondly, the service is effectively involved in promoting itself through advertising in the media generally and also in the classified sections of *The West Australian*.

Thirdly, the Corporate Affairs Office is distributing information. When a new business is registered, a pamphlet on the Small Business Advisory Service Ltd. is forwarded. In addition to that, where possible, in both the rural and metropolitan areas, media coverage is being sought. Members may have heard the manager (Mr Bruce Ashworth) earlier this week on the ABC talk-back programme; I thought he got his message across very well. All that activity has meant that the Small Business Advisory Service Ltd. has had double the number of approaches made to it in recent times. We have had in excess of 500 approaches a month, and slightly in excess of 70 per cent of these inquiries are from people who are buying businesses, or entering into business for the first time.

In addition, the service is not ignoring the country areas. Visits have been made to many country areas on a regular basis including Albany, Bunbury, Busselton, Collie, Wyndham, Karratha, Roebourne, and Port Hedland, and visits are soon to be made to Esperance, Kalgoorlie, Broome, and Derby. Of course, country people are able to telephone the service and reverse the charges.

Small Business Advisory Service Ltd. has been involved also in two seminars in country areas. These were designed to encourage small business people to look at themselves, to look at their own problems, and to improve their own organisations.

Finally, through the board membership, the service has been involved actively in representing to the Government the problems of small business people, including representations made to the McCusker committee of inquiry into rates and taxes, and also to the Ralph committee of inquiry into management education.

SHOPPING CENTRES: DEVELOPMENT

Government Committee: Recommendations

466. Mr BRYCE, to the Honorary Minister Assisting the Minister for Industrial Development and Commerce:

My unrehearsed question is on the same subject matter, and it is as follows—

- (1) Has he received a copy of the report of the Government back-bench committee of inquiry into shopping centres?

Mr Wilson: Held about 12 months ago.

Mr BRYCE: To continue—

- (2) Does he intend to make that document available for members of the public who are interested, and particularly for members of Parliament since the Government has placed such store on the report?
- (3) If not, will he indicate why not?
- (4) As the committee received public submissions, why is the Government keeping the document secret?

Mr O'Connor: Do you make all yours public?

Mr MacKINNON replied:

- (1) I have seen a copy of the report of the Government members' committee of inquiry.
- (2) to (4) The report is in the hands of and under the control of the Minister for Local Government. I suggest that if the member wants to ask any questions about that report being made public, he should address his questions to that Minister.