Legislative Assembly

Tuesday, 4 November 1980

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

LEGISLATIVE ASSEMBLY: PHOTOGRAPHS

Australian Broadcasting Commission: Statement by Speaker

THE SPEAKER (Mr Thompson): I wish to advise that I have given permission to the Australian Broadcasting Commission to take some still photographs in the Legislative Assembly Chamber this evening. The photographs are required for the commission's library so that it has available some material it may use for the still shots for the news and similar types of productions.

BILLS (2): INTRODUCTION AND FIRST READING

1. Western Australian Overseas Projects Authority Amendment Bill.
2. Industrial Lands Development Authority Amendment Bill.

Bills introduced, on motions by Mr MacKinnon (Honorary Minister Assisting the Minister for Industrial Development and Commerce), and read a first time.

GOVERNMENT BUSINESS: PRECEDENCE

All Sitting Days

SIR CHARLES COURT (Nedlands—Premier) [4.37 p.m.]: I move—

> That on and after Wednesday, 5 November 1980,—
>
> (a) Standing Order 226 (Grievances) be suspended: and
>
> (b) Government business shall take precedence of all motions and orders of the day on Wednesdays as on all other days.

I think most members are aware of the circumstances under which this motion is moved each session. There has been discussion about the matter and it was decided to allow the normal private members' day to persist over the last two weeks and that as from this Wednesday it be suspended; as would be the grievance debates which are dealt with every second Wednesday.

I wish to record that there is an understanding that as from and including tomorrow, Wednesday, 5 November and, for as long as is practicable in this session we will continue the practice which was used fairly successfully previously; that is, that private members' business will be dealt with by arrangement on Wednesdays between 2.15 p.m. and 6.15 p.m.

There will have to be a degree of liaison between the Government and the Opposition with regard to the use of those four hours. I think it is better that it be done that way rather than arbitrarily terminate the private members' day as we used to do in the past and when it was pot luck as to when private members' business was brought forward.

In the last couple of sessions we have been successful in dealing with private members' business for a longer period than used to be the case and, with the co-operation shown up to date, I cannot see any reason for our not continuing with it until we have conferred with the Opposition about an amended situation.

I wish to give notice that, by arrangement, on Wednesdays, until further notice, private members' business will prevail from 2.15 p.m. to 6.15 p.m. The normal procedure of third readings and formal business will prevail on those days to keep that business up to date.

The other items I wish to refer to are, firstly, the end of session. Someone is sure to ask me when this is to be; frankly I would not be brave enough to hazard a guess. Every time I have made a guess in the past I have been wrong. I can only say that we will let the business go along and there will be consultation with the Opposition. No doubt the session will conclude in due course. The other point I wish to mention is that it is customary for a new Governor, on his arrival, to meet the members of Parliament after being sworn in and before he undertakes any other major public engagements. Therefore, there will be the usual State reception at Parliament House on the evening of 25 November, the day of the Governor's arrival. I have conferred with those concerned directly—that is, the President, the Speaker, and the Leader of the Opposition—and it seems there are some practical difficulties in trying to meet as a Parliament before or after the reception. So on due consideration it was felt that the best course was not to meet at all on that day. Of course, if the parties wish to hold party meetings they may do so. However, to permit time for members to go home, change, and to pick up their wives, it was decided to commence the reception half an hour later than planned

originally. So the reception will commence at 6.30 p.m.

The other point I wish to raise is the fact that I have not given notice of the normal motion which provides for the suspension of Standing Orders to allow Bills, motions, and the like, to pass through all stages on the one sitting day. I do not think there is any need for that motion for the time being, but if it becomes necessary, I will confer with the Leader of the Opposition before giving such notice.

MR DAVIES (Victoria Park—Leader of the Opposition) [4.41 p.m.]: In many ways this is a bittersweet motion; sweet to those who are looking forward to the end of the session—and I suppose there are some members of that kind on both sides of the House—but a little bitter to those on this side of the House and on the back benches of the Government who are hoping to have Bills and motions debated properly before the end of the parliamentary session. In my 20 years in the House I have not yet found a successful way to deal with private members' business. It always happens towards the end of the session that some motions are put to the vote without further speeches.

In at least the last Parliament, and I think the one before, the Premier managed to keep private members' business on the notice paper right up to the last week, but there is provision for private members' business under the present motion. As members know, we have been commencing the day's sitting at 2.15 p.m. on Wednesdays, and this allows only four hours of debating time until we go to tea at 6.15 p.m. Some of this time is taken up with the formal business of the House, third readings, the introduction of Bills, sometimes grievances, and questions, and this cuts fairly dramatically into the time available. Indeed, I was quite surprised when I looked into this matter to find how little time was left, and I must admit that I misled the House late last week when I was speaking to a motion relating to the suspension of Sessional Orders. I referred to the time allocated to private members' business and the period of time that Government members had used up on private members' day. The figures I gave were incorrect, and on a future occasion I will check them out thoroughly. However, I did an injustice to the Minister for Transport—I said that he had spoken on one occasion for 90 minutes when it was actually something like 140 minutes. I would like to take this opportunity to correct that injustice to the Minister!

So I can only endorse what I said last Wednesday evening when we moved for an extension of time—the Opposition is far from satisfied with the way the new hours have worked out on private members' day. We hope this situation will be remedied by further consultations between the Deputy Premier and Opposition members who were appointed to a committee last year to review the situation.

No doubt the Parliament as a whole will want to look at the success or otherwise of the sitting hours. From the speed with which we have been passing Bills and clearing the notice paper, it seems that the hours have been fairly successful generally. However, I would point out that there have been many controversial pieces of legislation introduced in this session. Indeed, when I checked through the Lieutenant-Governor's Speech one evening last week, I was surprised to find that many of the pieces of legislation which were forecast for introduction during this session have not yet seen the light of day. I note, however, that the Premier has indicated his intention later today or by the end of the week to let us know the situation in regard to future legislation.

So in that spirit of sweet co-operation which has been so evident on this side of the House, but so lacking from the Government side of the House on private members' day, I feel quite certain we will be able to come to some arrangement to deal with the matter in a proper manner. It has never been my belief that Bills should be debated at length. I am sure you would agree with me, Mr Speaker, when I say that over the years we have heard many long speeches about legislation with which all members of the House have been in total agreement. For some reason or another, various members have felt it incumbent on them to make quite lengthy speeches giving their reasons for agreeing with the legislation before them.

Under the Westminster system, and using the democratic processes which apply in this House, we believe every member should have ample opportunity to introduce legislation or motions which he feels should be properly debated by the House.

Let me say that we appreciate the undertaking given by the Premier in relation to private members' day. We will be using the time to the best possible advantage, as members would expect. I note also the likely changes which will need to be made to the sitting times because of coming events.

It might not be unreasonable to consider holding the annual parliamentary dinner in December in future years, when and if Parliament has been adjourned. I know that some country members are not very happy to return to

Parliament House for the annual dinner, and I have noticed also the lack of general enthusiasm, and indeed, the lack of interest, in this dinner. One of the reasons for this may be that the menu has not changed over the last 15 years, or it may be that the entertainment does not offer any great excitement.

In view of the usual experiences at this time of the year, and in view of the undertaking given by the Premier, we support the motion.

Question put and passed.

BILLS (2): THIRD READING

1. Mine Workers' Relief Amendment Bill.

   Bill read a third time, on motion by Mr P. V. Jones (Minister for Mines), and transmitted to the Council.

2. Transport Amendment Bill.

   Bill read a third time, on motion by Mr Rushton (Minister for Transport), and transmitted to the Council.

ACTS AMENDMENT (TRANSPORT) BILL

Second Reading

Debate resumed from 22 October.

MR DAVIES (Victoria Park—Leader of the Opposition) [4.49 p.m.]: This Bill is complementary to the Transport Amendment Bill which has just been passed by this House. It is required to amend certain other Acts to detail the various duties and responsibilities of people associated with the transport industry. The Minister's introductory speech appears on page 2540 of *Hansard* of 22 October of this year. Although it was a short speech, it sets out fairly clearly what is proposed.

We acknowledge that over the years there has been a change in responsibility. We acknowledge that because of changes in the various forms of transport, and in Cabinet responsibility, changes to the administration are required, and the Minister has taken the opportunity on this occasion in a Bill complementary to the one we have just dealt with to write those changes into legislation.

I do not think there is any need for me to detail the changes. This only confirms what I said a few minutes ago; namely, there is no need for long speeches when the various parties are in complete agreement on a Bill before the Parliament.

With those few words, on behalf of the shadow Minister for Transport, I support the legislation.

MR RUSHTON (Dale—Minister for Transport) [4.51 p.m.]: I thank the Leader of the Opposition for his endorsement of the legislation, and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

PHARMACY AMENDMENT BILL

Second Reading

Debate resumed from 22 October.

MR HODGE (Melville) [4.53 p.m.]: This Bill seeks to do two things: Firstly, it seeks to legalise the operations of a veterinary pharmacy which has been established at the Murdoch University and, secondly, it seeks to tighten the provisions of the Act relating to certain types of advertising.

The Opposition believes the Bill has been poorly drafted and will not achieve what the Minister stated in his second reading speech was the intention of the legislation. We do not believe a good case has been put forward to justify the measure involved in tightening up advertising procedures. Briefly, for those reasons the Opposition intends to oppose the Bill.

To deal with those objections in more detail, it appears that for some time now a veterinary pharmacy has been operating at the Murdoch University. As the Pharmacy Act contains no provision for the establishment of a veterinary pharmacy, particularly at Murdoch University, its operation has been illegal. This Bill seeks to rectify the position by exempting the Murdoch University from the provisions of the Pharmacy Act.

The Opposition does not believe this is the correct way to go about achieving that aim. In fact, we believe this legislation will have a serious effect which may not have been intended, which may well be the result of faulty drafting.

It seems that the easy way out has been taken in the drafting of this Bill. The proper course of action, of course, would have been to write the Murdoch University into the Act, giving it approval to operate such a pharmacy. However, this would have required extensive alterations to the Act.

By exempting the Murdoch veterinary pharmacy from the provisions of the Pharmacy Act, the Government could be creating all sorts of

difficulties. Firstly, the Act contains no definitions of what precisely is a "veterinary pharmacy"; we do not know what it is, or what it is supposed to do.

By exempting this establishment from the provisions of the Act, we could be opening the door rather widely. It will mean that this establishment which currently is known as a veterinary pharmacy—a description that is not defined—can do anything it likes. It will be able to do things other pharmacies may not do because it will not be subject to the provisions of the Act.

If this amendment is approved by Parliament, I cannot see what would stop this establishment—known as a veterinary pharmacy—from entering into all sorts of pharmaceutical business. What would stop it from dispensing pills and medicines to the students and staff at Murdoch University? The Pharmacy Act will contain no provision to forbid this because the Government is seeking to exempt the Murdoch University from the provisions of the Act. Later, the pharmacy could expand to other fields. Neither this Bill nor the parent Act contains any definition as to the meaning of the words "veterinary pharmacy" so there would be nothing to stop the Murdoch veterinary pharmacy from expanding into other fields.

What is a "veterinary pharmacy"? Interminable arguments could arise on this point and, as the legislation contains no definition of the words, we would be going around in circles on the matter.

We are not opposed to the establishment of a veterinary pharmacy at Murdoch University or to the continuation of the present veterinary pharmacy. We are merely opposed to the way the Government is trying to rectify this problem. We believe the incorrect approach has been adopted and the easy way out taken, and that this legislation will not work, but will simply create more difficulties than it will solve.

The second and probably more important amendment apparently is aimed at trying to stop, principally, the Good Neighbour Chemist chain from advertising in the way it has been doing. I found the Minister's second reading speech rather hard to follow. He did not mention the Good Neighbour Chemist chain by name, but simply referred to advertisements relating to "pharmacy-related professional services". The Minister for Health wrote to me clarifying what he meant by that phrase, and I thank him for the additional information. He also enclosed examples of the type of advertising to which the Government would like to put a stop. The two examples relate to the Good Neighbour Chemist advertising and in particular to part of the advertisements which purport to offer medical advice on some common ailments.

One of the advertisements refers to the different types of coughs that people can develop; another refers to problems with regard to swollen and inflamed gums. Both advertisements suggest that if people are suffering from these disorders they should consult their Good Neighbour Chemist who will give them good, sound advice. Personally, I do not find anything offensive or out of order in that sort of advertisement. Again, I think the Bill has been drafted in a way that will not eradicate that type of advertisement. Even if it did, I have yet to be convinced that that type of advertisement is harmful. Frankly, I cannot see anything wrong with the suggestion that people should discuss these common ailments with chemists. Surely the role of a chemist is to offer people the most appropriate drug or medicine for all sorts of common ailments. But the Bill really would not accomplish what it sets out to do.

The Bill tries to prohibit people from offering professional advice in regard to the dispensing and supplying of any medicine or drug. The definition of "dispensing" in the parent Act reads as follows—

> "dispensing" in relation to a medicine or a drug means supplying the medicine or drug on and in accordance with a prescription duly given by a medical practitioner, a dentist, or a registered veterinary surgeon;

I do not think the Good Neighbour Chemists, with the type of advertisement they are printing, are seeking to give advice on any drug or medicine which has been prescribed by a doctor, a dentist, or a veterinarian. They are merely saying that if a person wants to discuss with them the best type of toothpaste or cough mixture, they should do so. They are not promoting the sale of drugs or prescription-type medicines. They are not specifying what their advice will be.

Of course, it may well be that the friendly Good Neighbour Chemist may say that a person should see his doctor, and that a mere change of toothpaste or cough lolly would be of no help to him. I do not think there is anything improper or offensive about that type of advertisement. I do not think this Bill will be successful in prohibiting that type of advertisement. The Bill relates only to situations where a chemist is advertising that he will give professional advice relating to the supply of any medicine or drug.

The Good Neighbour Chemists' advertisements are not giving professional advice relating to the supply of any prescribed medicine or drug. I would be interested to see whether the Minister could show advertisements which purport to offer to give advice relating to the supply of prescribed medicines or drugs. All the advertisements I have seen indicate the Minister could not support that notion.

The third amendment contained in the Bill is an attempt to tighten up the provisions relating to unqualified or unregistered people using the word "chemist", "druggist", or "pharmacist"; in other words, the amendment is to restrict people using such titles and thus, perhaps, to demean them.

It appears the company which inserts the advertisements for the Good Neighbour Chemists is getting around the provisions in the Act. The company is not a chemist or a pharmacist and is not, therefore, bound by the provisions of the Pharmacy Act. Apparently the company is entitled to use the word "chemist" without running into any legal impediment. It does use the title "Good Neighbour Chemist" in its advertisements.

Again, I really do not think this amendment will achieve anything. The Good Neighbour Chemist chain is so well known now after years of advertising that even if it stopped using the word "chemist" I do not think it would alter matters at all. The company would simply ask people to visit their "Good Neighbour" and people would get the message and know to what firm the advertisement was referring, especially as it could still advertise the pharmaceutical lines.

I cannot understand why the Government is bringing in these sorts of amendments in relation to advertising. I do not know whether other chemists have complained and if they feel their livelihood is threatened or that the competition is becoming too great; but I certainly approve of the competition between these big chains. The Good Neighbour Chemists frequently advertise, as do the Friendly Societies and the Target Chemists.

I believe it is in the best interests of the public that there be healthy competition between these various chemist chains. There is little doubt that the competition and marketing which has gone on in recent years between these major chemist chains have helped to lower the prices of pharmaceutical goods. The competition has been to the benefit of the people generally.

It seems that twice in a week I am standing here defending the role of free enterprise and healthy competition. We are told there is a monopoly on the other side of the House as far as its members being concerned to see free enterprise and healthy competition in the business world. The other week we had the Minister for Agriculture bringing in a Bill which was interfering and meddling in the affairs of small businessmen who work as milk vendors. The Government is telling these people how many nights they will make deliveries and all sorts of other things, which is a surprising action from a Government which is so committed to free enterprise and healthy competition. Now we have a move to interfere in the role of companies advertising pharmaceutical lines.

I do not know whether the Government has received complaints from members of the public about the behaviour of any particular chemist. I think there is ample provision under the Pharmacy Act at the moment for the Government to take action against any individual chemist who might not be doing the right thing and who is over-stepping the bounds of normal conduct. If the Government has received complaints, the Minister made no mention of them in his second reading speech; he gave us no evidence to consider in this regard. We would have been prepared to consider such information and to support the Bill if there had been some evidence that the public are being harmed.

I suspect that this really is an unnecessary move on the part of the Government and that perhaps it was instigated by other chemists who are not affiliated with these chains and perhaps fear the competition is getting too brisk. This may well be the reason. I do not believe the Bill was introduced purely for the purpose of protecting the best interests of the health of the public.

For those reasons the Opposition intends to oppose this Bill which it believes has been sloppily drafted from its beginning right through to its end; right from the reference to the Murdoch University through to its attempt to tighten up on advertising procedures. We do not believe the Murdoch amendments will achieve the desired result; but I emphasise we are not opposed to a veterinary pharmacy being established at the Murdoch University. We believe the Bill is sloppily drafted and is an ineffective way of trying to legalise that establishment.

We believe these amendments to the Act are poorly drafted and will not achieve the end result desired by the Minister. The Bill is an unnecessary interference in the competition which has developed between the big pharmacy chains, and I am all for competition when it benefits the public and keeps the prices of pharmaceutical goods down to a reasonable level.

MR DAVIES (Victoria Park—Leader of the Opposition) [5.10 p.m.]: I am concerned about the advertising provisions in this Bill. They go contrary to everything the Government is supposed to stand for and, I suppose, using the reverse argument, everything we are supposed to dislike. But we do not like this sort of restriction. I am concerned that something special has been put in the Bill for pharmacists to which they are not entitled. I also want to take the opportunity to express the concern which has been referred to me by shopkeepers along Albany Highway, Victoria Park and East Victoria Park, regarding the habit of pharmacies of eating into their own particular businesses.

Some chemists are open almost 24 hours of the day and people can buy almost anything from them. There are some restrictions, but I know different pharmacies which sell baby clothes, cameras, records, jewellery, glass and crystalware, perfumery, and other items all of which apparently they are legitimately allowed to sell. But there is concern, particularly in the camera field, that some pharmacists are making serious inroads into that area when certain people have built up their whole businesses on that particular item.

I am not suggesting that a camera shop is going to turn around and start selling Aspros or any other patent medicine, or any medicines at all. I acknowledge that people can always have films processed at pharmacies, but they are now setting up large camera sections in the stores and are able to sell a full range of photographic equipment at any hour whilst they are open.

Are we going to have free and open competition or are we going to say to chemists, "You can sell all these goods and we will give you extra protection in regard to medicine."? I imagine there might be some kind of call for the establishment of chemist shops which sell only ethical medicines; this might be the only way out of it. We need pharmacies in our districts because they provide a good service.

I do not think there is any reason for them to be able to trade in competition with established businesses which specialise in certain lines and so take from those businesses some of the cream of the trade. The cameras which we see in some chemist shops generally cover a wide range, from the moderately priced instamatics to the single-reflex lens types which can cost several hundreds of dollars. The pharmacies would not keep these items if there was not a good trade for them.

Now the Government is saying that it will do something special for pharmacists: they will be protected by limiting the way in which people can advertise and what kind of service can be offered at a time when apparently they are making serious inroads into the trading of certain other businesses. I readily acknowledge that we cannot have pharmacists setting up as "quacks". I do not suggest they are. People who buy proprietary medical lines have the responsibility to read the directions, to decide whether to take the medication, and to determine whether they wish to kill themselves. However, chemists are able to give reasonable advice on medicines. If a person goes to a chemist to ask him for advice in regard to dysentary or whatever that person may have—possibly the person's wife or children have an illness—the chemist is able to say that a certain medication has an opiate or a binding ingredient or something else in it. A layman does not know those things. From the description of the medication given by the pharmacist the person is able to make a selection, and that is a process which I believe is beneficial because often doctors are not readily available or an illness is not serious enough to warrant a visit to a doctor after the normal consultation hours.

We do not need to restrict the advice that chemists can give, and that is why I am concerned with how the proposed section relating to these matters will be applied. I know that when the member for Melville asked the Minister for Health what the proposed section meant, the Minister—I think he will admit this—was fairly vague. He thought it meant that one set of circumstances would apply, but by persistent questioning and reminding him that he intended to carry out further research, we ascertained that the proposal put forward initially to cover this matter was not in fact included in the proposed section. Because of the looseness of interpretation provided in this Bill, the matter should be left to a time when it can be further considered and the proposal more fully explained.

Most proprietary medical lines show a warning that if the condition for which the medication is acquired continues, the purchaser should see a doctor. This warning is given even during television advertisements of headache tablets and the like that one sees from time to time. It is proper that people should be aware of the dangers involved.

The trade is acting reasonably and responsibly at present. Like the member for Melville, I am not prepared to agree to the placement of further restrictions on pharmacists when, as I have already said, they are not necessary. I am concerned about them making inroads into the legitimate trade of other shopkeepers. It is a

matter of great concern for me and a matter which should be considered by the Department of Labour and Industry.

I was a little sympathetic towards pharmacists because I thought they were in over-supply and that some difficulty was encountered by graduating pharmacists in their obtaining work, but only this morning I talked with my local chemist who is looking for a replacement pharmacist for his shop. He said he can employ pharmacists only to carry out relieving duties, and will have to do so until 22 January 1981 when a new graduate will be available to take up full time and permanent duties in his pharmacy.

We do not need to be sympathetic and say, "Let us close our eyes to what they are selling; they need a bit of help because there is not enough illness around to create enough business for their medical lines. We should let them sell cameras, baby clothes, glassware, and the like, which are not normally lines for a pharmacist—they can then make a living." However, pharmacists are operating beyond that point. A general trend has come about these days for stores to sell whatever they can. One has only to look at butcher shops to see how their trade has been affected during the past five or so years; we can now buy so much ready-wrapped meat at all hours of the day and night at the local shop or the supermarket, that we have lost contact with the local butcher.

I do not feel these changes are for the better, but they are occurring. One could expect some changes for chemists but perhaps the changes have gone too far, particularly when one sees a store of which I am aware. It is almost a mini-supermarket for medical lines, and it is able to advertise these products, and sell them till late at night when other stores are forced to close.

It may be a matter for the Department of Labour and Industry to consider; however, now we are considering a Bill to amend the principal Act, which will have the effect of creating certain restrictions. At the same time we will take away some of the element of free enterprise at a time when we can ill-afford to take such action. We should not agree to place unnecessary restrictions of the nature proposed on a trade which I believe is well able to police itself. In the absence of concrete evidence from the Minister for Health I join with the member for Melville in opposing the Bill.

I will not cover the position of the veterinary pharmacy at Murdoch University because its position has been explained. We are in favour of the proposed situation to apply there, but we are not happy with the way the proposal is drafted.

MR BERTRAM (Mt. Hawthorn) [5.22 p.m.]: As has been intimated already, the Opposition opposes this Bill and has given good reasons for doing so. This Bill is yet another quite unsatisfactory piece of legislation to be introduced by the Minister for Health.

It is slightly unsatisfactory in a more precise manner. I refer to the question of which I gave notice to the Minister and which asked what goods and services had been approved and when by the Pharmaceutical Council under section 41A (b) of the Pharmacy Act. I hoped to receive the answer to that question before this debate took place. It may well be that the Minister is kind enough to give the answer when he replies.

Mr Young: When did you telephone that through?

Mr BERTRAM: I believe it went through yesterday.

Mr Young: I am sorry, I have not had any notice of it.

Mr BERTRAM: In the circumstances the Minister is forgiven. Nonetheless, I would have liked to have those particulars because they may become important when the proposed legislation is further discussed during the Committee stage.

The Bill is unsatisfactory for a number of reasons and, certainly, not the least of them, is the provision in respect of the Murdoch University. The Opposition does not intend to frustrate what the Murdoch University attempts to do; however, the Opposition requires any legislation to be effective and efficient. The provisions of this Bill are quite unsatisfactory.

As the member for Melville pointed out, a need exists for the term "veterinary pharmacy" to be defined in this Bill but it is not defined. The term "pharmacy" is defined in the principal Act for the reason that its definition is essential to anyone's understanding of the Act, but it is essential to the understanding of the proposed legislation that the term "veterinary pharmacy" be defined. At present my inquiries have unearthed outstanding ignorance of what is a veterinary pharmacy.

The intention of the Bill is to allow the Murdoch University to operate a veterinary pharmacy presumably to carry veterinary supplies, but nobody knows for sure or whether it will supply these goods and services, which is a circumstance over which the Opposition finds itself in a dilemma, as does anybody interested in this Bill.

Mr Young: Did you ask Murdoch University?

Mr BERTRAM: No. A judge or a magistrate who considers this proposed legislation in a few years, effectively will have to ask the Murdoch University what a veterinary pharmacy is and that course would be an unsatisfactory way with which to deal with this matter. If the law proposed by this Bill is at some time broken, and someone is prosecuted for that, it will be found that the law is thoroughly unsatisfactory; in fact, the Murdoch University could well find itself outside the law. The Opposition recognises these difficulties and believes that something should be done about them.

Another interesting situation will arise from the proposed legislation. In effect, the proposed section 36B(1) states that a person shall not in any sign or advertisement provide or offer to provide services relating to the supply of any drug. I do not know whether this proposal is a departure from Government policy, but it seems to me that it could make unlawful the advertising by tobacco companies that they have attractive young ladies in stores or at other venues, and would make unlawful the provision of services in regard to the drug nicotine.

I do not believe that in the Government's present state of mind on the matter of nicotine—a drug which kills 13 000 Western Australians each year—it has the intention to change its existing stand which for all intents and purposes is to do nothing about the use and advertising of the drug nicotine. Nonetheless, my understanding of proposed section 36B(1) is that it will provide a distinct possibility to the interpretation that the Government is seeking to block the advertising of services, for example, by advertising that attractive young ladies in stores and elsewhere are available to promote cigarettes, because the services relate to the supply of the drug nicotine.

If one referred to an ordinary dictionary one would see that the provision of these services would clearly come within the meaning of the proposed section.

This Bill acknowledges the fact that a certain regulation under the Pharmacy Act makes it unlawful for pharmacists to advertise certain professional services. Mr Speaker, you will notice the Bill refers to professional advice, but the regulation to which the Minister referred does not. The word "advice" does not occur in the regulation which refers only to the term "professional services". Although this already may have been said, I am at a loss to understand why in 1980 the proposed regulation is necessary, having regard to the Government's alleged attitude that anyone should be able to advertise anything so long as the thing advertised is a lawful product.

Why should a chemist be precluded by regulation 62 under the Pharmacy Act, or any other regulation, from advertising that he will provide professional services? Who is that sort of regulation supposed to help? Is it supposed to help the public? I cannot see how it would. It may help the pharmacists a little but in the balance of things we should be concerned about the public interest, not merely the interest of a handful of professional people.

In any event I would be inclined to think the pharmacists are quite content to advertise their professional services in a sensible way and at a sensible and responsible level, and that would be consistent with stated Government policy if ever it was implemented or implemented at a time other than when that action suited the Government's fancy.

We have seen the Government's general policy as being that anyone can advertise anything and that the Government will not put brakes on that advertising so long as the product to be sold is a lawful product.

It is perfectly lawful to dispense medicine; the products sold and dispensed by an ordinary pharmacist are lawful. Therefore why does the need exist for a bar, which appears in regulation 62, against the advertising of, amongst other things, professional services.

There should not be a bar upon their giving or dispensing professional advice. We have a regulation which is unsatisfactory and unnecessary. That is bad enough. Instead of removing that regulation, the Minister now seeks to amend the Act by means of this Bill to make the law currently relating to pharmacists apply to non-pharmacists. In his speech the Minister indicated that the Bill really covers the same area as the regulation I have already indicated, but it does not do that. The Bill refers to professional advice, and then to professional services. Regulation 62 does not refer to professional advice; it refers to professional services. The two things are not the same at all.

The Minister should be removing the offensive regulation instead of worrying about amending the Act in the manner he is attempting in clause 3, particularly with respect to proposed new section 36B(1). That would solve the particular problem.

Another provision, covered by clause 3, will make it an offence to use the words "chemist", "druggist", "pharmaceutist", or "pharmacist" in signs and advertisements. The Opposition does

not believe that provision will work. As the member for Melville has explained, already there are chemists operating in chains or groups, and they will be able simply to strike off the word "chemist" for the purpose of advertising. This is a simple expedient. We are all well aware of the respect which certain advertising organisations have for the law. They do not worry much about the law or the will of the people. They know precisely what the law intends to do, and they know what the people expect. In many cases they are able to get around the law and make it look an ass. They are, of course, completely anti-social people when they do that sort of thing. The law should provide for them to be dealt with, in the same way as other criminals are dealt with.

Having seen the way advertising organisations operate, and having seen the attitude which certain advertisers have for the wishes of the people, and what was intended by Parliament, one can hardly be very confident that this amendment will make any impression at all. It has all the usual indications of window dressing and non-reality, instead of facing up to the realities of life. It is not a provision which, surely, is one which should be brought in by a responsible Minister because it is a provision which the Opposition says simply will not work.

Let us assume that the Opposition was on-side with the Minister in what he is striving to do. It would still require that the legislation before the House be effective. We would want to be satisfied that it could be implemented effectively. But, the Opposition is not satisfied that will happen. The Minister should do something to make the Bill effective. I do not expect he will; he has the numbers here and they are used quite ruthlessly to the extent that for all practical purposes we are only wasting time in debating this measure.

It is important for the public to know this committee is not doing its job. Most of us here know that, effectively to a large extent we are wasting the time of the public, our time, and public money.

MR YOUNG (Scarborough—Minister for Health) [5.35 p.m.]: From the observations I have made of the speeches from the three members who have spoken, the Bill before us probably is one which more properly should be dealt with in Committee. The points which have been made tend to devolve around the words used in the Bill, as distinct from its general philosophy. I think any member who listened to the three Opposition spokesmen would have been struck by the fact—if by nothing else—that there was not a great amount of "dinkumness" in their remarks, if I can use that word.

I can accept the fact there were some reservations, and I intend to mention some of the observations made by members of the Opposition. Firstly, in respect of the veterinary pharmacy at the Murdoch University, it appears the Opposition would be as opposed as is the Government to the Murdoch University veterinary pharmacy being misused. In other words, the point made by the member for Melville was that if the veterinary pharmacy at Murdoch is excluded from the provisions of the Act, that pharmacy may be placed in the position at some future time where it would be able to abuse that power and start to dispense medicines and drugs to the students and staff or, perhaps, to anyone else. By that process the veterinary pharmacy could make a mockery of the law.

I take note of what the member for Melville said, and there may be something in his remarks. But, taking everything into consideration, the method of drafting used by the Crown Law Department has not exactly thrown us into any major danger when one takes into consideration the fact that the pharmacy operating at the Murdoch University operates as a veterinary pharmacy to provide veterinary goods used at the university or by the students and staff connected with the veterinary department of the university, and nothing else.

Mr Hodge: Why not put that definition in the Bill?

Mr YOUNG: The member for Melville seems to think by defining something as accurately as that the problem would be solved. I am not a lawyer, but the point I am making is that if the words in the Bill are examined—and no doubt they will be during Committee—it will be seen they refer to the fact that the Act will not apply to, or in relation to, the pharmacy operated at the Murdoch University. There is only one pharmacy at the Murdoch University, and it happens to be the veterinary pharmacy. The definition of the pharmacy we are talking about quite clearly is not as difficult to interpret as was thought, particularly by the member for Mt. Hawthorn.

If the situation arises that another pharmacy is established on the campus of the Murdoch University, I have no doubt the Act will have to be amended to provide a definition. I do not know that the simple introduction of a definition of a "veterinary pharmacy" would, in fact, overcome the problem mentioned by the member for Melville. I do not know that, but I doubt very much that it would.

The real question is not whether the veterinary pharmacy can be defined, but whether the

pharmacy, if excluded from the provisions of the Act, is likely to do things that are contrary to what both members opposite, and members from this side, believe in. Therefore, we have to look at the performance of the pharmacy, and look at the likelihood of that happening.

Up to date the Murdoch University veterinary pharmacy has not been operating lawfully. The provisions of this Bill will ensure that no longer will that pharmacy be encompassed by the provisions of the Act; it will be exempted. If, indeed, at some future time the Murdoch University veterinary pharmacy takes any action other than that expected of a university establishment, within the campus of the university—providing professional services for the university and for its veterinary department—then I have no doubt from what the member for Melville has said that action of whatever kind would be swift and decisive.

It is probable that my comments will not satisfy the member for Melville but, generally speaking, taking the matter into balance—and notwithstanding, I say again, there may be something in what the member said—the new provisions would be worth observing at least over a period of time.

The question of advertising is one on which we could do a little "philosophising" rather than talk about words. If we discuss words during the Committee stage both the member for Melville and the member for Mt. Hawthorn may find that the Bill is not drafted as badly as it was made out to be.

The member for Melville and the member for Mt. Hawthorn made the point—certainly the member for Melville did—that they did not find anything offensive whatsoever in the fact that an organisation is able to advertise a professional service, or the supply of professional advice, in the type of advertisement to which they alluded, and on which the member for Melville and I have had a number of discussions. But, with respect, I do not believe that is the point. The point is whether people are being treated equally and fairly under the Act. Obviously, the pharmaceutical profession through its guild and through the council, and in conjunction with the board and the Legislature, from time to time in the past has considered that such advertisements are unethical and ought to be proscribed by the legislation and, therefore, the ethics circumscribed in the law.

If a law applies to a registered pharmacist, why should it not apply to others who have formed themselves together as a group and cannot be identified as individuals responsible for the placing of advertisements? As an individual can be penalised under the Act, why should not that provision apply generally and to the group of people which takes that action?

I do not see any heinous crime in somebody advertising products or services. Obviously, that is not something which in normal circumstances is an offence. That is an easy point to answer. But, when a profession and the Legislature proscribe certain actions amongst the members of that profession, under the law, I believe people competing in the same profession ought not be allowed to go outside the law and be treated differently. In other words, the very competition to which the member for Mt. Hawthorn referred and to which the Leader of the Opposition referred, at least ought to be fair. It ought to apply equally.

Mr Davies: But it applies individually to those people.

Mr YOUNG: It applies individually, but this Bill is not just about the individual. In respect of that particular matter, this Bill relates not only to the individual but also to any group which, by the way it advertises, avoids the law by not having the person who committed the offence readily identifiable. Generally speaking, that is the point which has been recognised. I have to ask members: How can competition be healthy or reasonable if one side has its hands tied behind its back?

Mr Carr: You are conceding that fair competition is different from free competition.

Mr Bertram: The way to do that is to remove the restriction on pharmacists.

Mr YOUNG: The member for Mt. Hawthorn immediately makes the point that the way to solve the problem is to remove the restriction on pharmacists under the Act.

Mr Bertram: No, under the regulations.

Mr YOUNG: I am sorry. What the member is saying is, "To heck with the people who have chosen this profession; simply make a unilateral decision in respect of whether it should be imposed upon them."

Mr Bertram: I am not saying that at all; you ought to know that, and if you don't know it, you should know it.

Leave to continue speech

Mr YOUNG: Mr Speaker, I seek leave of the House to continue my remarks at a later stage of the sitting.

Leave granted.

(Continued on page 2964)

QUESTIONS

Questions were taken at this stage.

Sitting suspended from 6.13 to 7.30 p.m.

PHARMACY AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR YOUNG (Scarborough—Minister for Health) [7.30 p.m.]: Before I sought leave to continue my remarks at a later stage of the sitting, I referred to some comments made by the member for Mt. Hawthorn. I made the observation that, if members opposite were serious about opposing the advertising clauses in the Bill, they would have moved that the existing provisions which debar pharmacists from advertising ought to be amended.

Mr Davies: That is an initiative for the guild.

Mr YOUNG: The Opposition has made the suggestion that the Government ought to have moved in that direction. In saying that, I observed the member for Mt. Hawthorn was virtually implying it did not matter very much as to the feelings on the matter of the pharmacy profession. The opinion of the professional body—that is, the guild—has been expressed time and time again over the years, but the member for Mt. Hawthorn seemed to imply I should simply make the amendment without consulting that body. I do not believe that is the correct way to go about such matters when in fact the profession is against such a move and has been against it for many years.

The Leader of the Opposition said businesses were being affected by pharmacies. Indeed, he put an interesting situation before the House. Over the years I have noticed the Friendly Societies pharmacies and a number of pharmacy chains and individual pharmacies have created a situation in which they deal in a large range of commodities which must surely affect the operations of a number of small businesses around them which also deal in a number of products.

The Leader of the Opposition referred to cameras and it appeared to me it was a rather strange commodity to bring up in regard to this matter, bearing in mind the traditional situation of pharmacies over the years and the fact that it was common for some pharmacists to develop films on their premises in order to provide a service for people. In this sophisticated, modern age pharmacists no longer develop films themselves, but they have always been seen as the people to whom one takes one's films to be developed. Therefore, it seemed to me to be a natural and obvious corollary of that service for pharmacists to deal in cameras and associated equipment.

My own view of the pharmacy profession is that pharmacists might have been better served as far as their position in the community is concerned, had they remained as dispensers of medicines without becoming involved in the sale of other commodities.

Mr Bertram: It was probably an economic necessity.

Mr YOUNG: The member for Mt. Hawthorn is quite right. It is probably an economic necessity not only for the pharmacists, but also for the general public. I have no doubt that, had pharmacists remained as dispensers of medicines only, we would not today be discussing the matters contained in this Bill. As a true para-medical profession, pharmacists would have controlled their own affairs without the intrusion of commerce into their profession. However, that is not the way it has developed.

I believe it is probably better economically, if not professionally, for the community that pharmacists did develop in that direction, because by the sale of many goods connected with pharmaceuticals and also many goods not connected with them, pharmacists have been able to provide a service to the public. The profits from the sale of commodities other than pharmaceuticals have provided pharmacists with an income so that it was not necessary for them to demand higher and higher prices for the dispensing and sale of medicines.

As a result, the average member of the community is better off even if people who compete with pharmacists in this area are not. Over the last few decades many of these commodities have been accepted as part of the stock in trade of the pharmacy profession.

I could not hazard a guess as to the level of increases in prices of medicines which would have occurred over the last few decades had pharmacists not been involved in the sale of commodities other than pharmaceuticals. However, it can be said we would have experienced a dramatic increase in the cost of medicines.

I should like to correct a point made by the Leader of the Opposition. During the course of his speech he gave the impression that there was sufficient confusion on my part in regard to the answers I gave the member for Melville about pharmacy-related professional advice, or words to that effect, to indicate that I ought to give up this Bill. I should like to make it clear to the Leader of

the Opposition and to the House that I do not intend to give up the Bill and I shall remind members of the situation which occurred on the occasion referred to by the Leader of the Opposition.

The member for Melville directed a question to me asking me to define certain words used in my second reading speech on the Bill. I answered to the effect that I would reply to him in writing. A couple of days later he asked the question again and I was under the impression I had given him an answer when in fact I had not. Later, by way of interjection, I admitted that and advised him the letter was being prepared at the time and subsequently I gave him the letter and we discussed the matter.

I do not believe that created sufficient confusion in the minds of the members of the Legislative Assembly to suggest I ought to give up this Bill. One of the most pertinent reasons for that is I do not believe the Opposition has made a case which would stand up against the Bill.

I do not believe the Bill has been condemned to such an extent that the Government ought to consider accepting the Opposition's stance on it. I commend the Bill to the House and suggest we deal with the specific matters raised in the Committee stage.

Question put and a division taken with the following result—

Ayes 22

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

Noes 15

Mr Barnett	Mr H. D. Evans
Mr Bertram	Mr Harman
Mr Bryce	Mr Hodge
Mr B. T. Burke	Mr Jamieson
Mr T. J. Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Davies	Mr Bateman
Mr E. T. Evans	*(Teller)*

Pairs

Ayes	Noes
Mr Sodeman	Mr Grill
Mr Crane	Mr Bridge
Mr Watt	Mr T. H. Jones
Mr Coyne	Mr McIver
Mr Nanovich	Mr Wilson
Mr Sibson	Mr Parker
Mr Grewar	Mr Tonkin
Mr Trethowan	Mr Taylor

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Mr Young (Minister for Health) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 5A inserted—

Mr HODGE: This clause seeks to exempt the Murdoch University veterinary pharmacy from the provisions of the Pharmacy Act. I have listened closely to the defence of this provision put forward by the Minister, but he did not convince me. He appeared to pin his whole argument on the rather pious hope that the veterinary pharmacy at Murdoch University would do the right thing. The Minister said the people operating the pharmacy at Murdoch University were responsible; they knew the Government's view; they knew the Opposition's view; and they would undoubtedly do the right thing.

It is extraordinary that we should be legislating on that basis. I thought the Government would be anxious to pass laws which were clear and precise. This Bill certainly does not fall into that category. The Opposition believes the drafting of this Bill is faulty. Whoever drafted it took a short cut and, as a result, it is a deficient piece of legislation. The courts must enforce the laws we pass and they can base their judgments only on what is written in the Act. They cannot take into account what the Minister might have said or what the Opposition might have said. They cannot take into account whether the people at the Murdoch University are reputable. Judgment is made on what is written into the legislation.

There is certainly nothing written into the legislation which defines a veterinary pharmacy. The Minister gave an off-the-cuff definition which seemed to be adequate and I am surprised that he did not insist upon it being written into the legislation.

Mr Bertram: What definition did he give?

Mr HODGE: The Minister made an attempt to define what a veterinary pharmacy was. Surely, if the courts are ever called upon to arbitrate or enforce this legislation they would find it to be of immense help if they knew precisely what type of business operation it was and to what extent it was exempt from the provisions of the Pharmacy Act.

I have no doubt that the people who run the veterinary pharmacy at Murdoch University are responsible people who are very anxious to do the

right thing. We in turn should do the right thing by them and to do our job properly we have to pass concise, clear and correct legislation which lays down the guidelines as to people's obligations and responsibilities and what they may or may not do.

We are not doing that by passing this all-embracing legislation which will exempt that university entirely from the provisions of the Pharmacy Act. All the safeguards and specifications in the Pharmacy Act are thrown out of the window as far as the Murdoch University pharmacy is concerned. The pharmacy will not know its charter or how far it can go before it oversteps the bounds. How does the university pharmacy know its bounds?

The Minister has not given a concise definition and I am sure the people at the university will be left in a most unsatisfactory position. For those reasons, the Opposition will continue to oppose this clause. I ask the Minister to take another look at it to see whether his advisors would perhaps reconsider the wording of this clause.

Mr YOUNG: The member for Melville said that in answer to his proposition on this particular matter, during the course of the second reading speech I said the veterinary pharmacy at the Murdoch University knew the views of the Government and the Opposition and that it would do the right thing. That is not what I said at all. I said that the Opposition's view was the same as the view of the Government. It is obvious from the remarks of the member for Melville that we share the same disquiet. We seem to agree. We certainly do agree that if the Murdoch University misused this exemption provision, whichever party happened to be the Government of the day, that Government would immediately take action.

The member for Melville's comments about the court's view—should a court be obliged to determine what a veterinary pharmacy is—are correct. However, this particular Bill does not require the court to define what a veterinary pharmacy is because the Bill states, "This Act does not apply to or in relation to the veterinary pharmacy operated by Murdoch University". There will be only one veterinary pharmacy operated by Murdoch University. Regardless of the scope of this operation, there is one veterinary pharmacy at the Murdoch University and it will be exempted from the provisions of the Pharmacy Act by this Bill.

Whether or not I gave a definition does not matter. What matters is what happens at the pharmacy at the Murdoch University which is operated solely as a veterinary pharmacy. On the admission of the member for Melville, it would remain the only veterinary pharmacy to operate under their Government and I agree with him that it will remain that way under this Government.

Mr B. T. Burke: You cannot guarantee that. You don't draft legislation like that.

Mr Skidmore: Oh yes they do.

Mr YOUNG: With this Bill, the Murdoch University pharmacy is exempted from the Pharmacy Act and it matters not what the definition of a veterinary pharmacy is. What matters is what the veterinary pharmacy at the Murdoch University would do as a result of this exemption.

Mr Hodge: What if it adopted an undesirable practice or policy?

Mr YOUNG: If that occurred, it would be up to the Senate of the Murdoch University to ensure that would not be done and it would be the responsibility of the Government of the day as well to ensure that it did not occur.

I understand that the policy of the Opposition is the same as the policy of the Government as far as this pharmacy is concerned; that is, it would not misuse its exemption under this Act.

If we agree on that, we must ask the question: What has the Murdoch University veterinary pharmacy done to date that would cause the Opposition to be concerned about what it might do in the future? I know of nothing which has been done or is likely to be done in the course of proper university functions under the control of a responsible senate, that would cause me concern.

I have not been convinced by the arguments put forward by the member for Melville, in respect of this pharmacy, that would suggest that an exemption from the Pharmacy Act would not be proper, because there are many things which happen within the medical parameters of universities and other disciplines within universities which are controlled and which do not fit exactly into the normal pattern of everyday commercial practice.

There are a number of circumstances where the Pharmacy Act would not be applicable to the Murdoch University pharmacy. I am not exempting veterinary pharmacies, and that is the point I wish to make to the member for Melville and the member for Mt. Hawthorn. I am not giving a pure definition of what a veterinary pharmacy is. It is not necessary with this Bill while the exemption applies to the Murdoch University pharmacy only.

Therefore, any propositions put forward by the member for Melville and the member for Mt. Hawthorn that I ought to be defining a veterinary pharmacy, would only lead us down the path of definitions which can only be straightened by continual amendment.

Mr BERTRAM: The Minister has said that the Opposition may have a point as far as this clause is concerned. The Opposition says that it does have a point and that something should be done about correcting this matter. However, the Minister does not wish to do the job properly and by implication has said that we should let the system run and see how we go. That is not the way to legislate in a responsible Committee of Parliament. That may occur in some banana republics but I do not think it is the way to deal with legislation in this place.

The Minister is not prepared to say that the Opposition does not have a point; he has just said that the Opposition may have a point. It is obvious that a reasonably responsible person would improve the situation so that the Opposition could no longer have a point. The Minister has spoken about the veterinary pharmacy but he has not said what a veterinary pharmacy is. The reason for this is that he does not know himself what a veterinary pharmacy is.

It appears the member for Clontarf has the view that he knows the definition but I am not so sure that he thinks the Minister does. When I resume my seat we can confidently expect the member for Clontarf to bound to his feet to explain to us something the Minister has been careful to avoid.

I hope the Minister will correct me if I am wrong, but as I understand the matter, an ordinary pharmacuetical chemist and an ordinary pharmacy as defined in the Act, may dispense medicines and drugs for the use of veterinary surgeons. If it is a fact that a pharmaceutical chemist does dispense medicines and drugs for veterinary purposes, at what stage does an ordinary pharmacist become a veterinary pharmacist?

I have a lot more confidence in this Minister than I have in others and I do not think he would allow a question which is asked in Committee to be ignored. Is it a fact that the veterinary pharmacy at the Murdoch University not only dispenses drugs and medicines for veterinary use, but also provide drugs and medicines for more conventional purposes?

Mr B. T. Burke: Well let the Minister answer.

Mr BERTRAM: We would like to know the Minister's answer.

Mr B. T. Burke: Give him a go.

Mr BERTRAM: That is a good idea; I will pause for a moment.

Mr B. T. Burke: Dead silence! He is onto his orange texta.

Mr BERTRAM: It seems to us that the member for Clontarf is going to run into some heavy country.

Several members interjected.

The CHAIRMAN: I ask the member for Mt. Hawthorn to direct his remarks to the Chair.

Mr BERTRAM: I will be pleased to do that, although I am quite enjoying the assistance from the member for Balcatta—it is excellent assistance if I may say so.

What we need to know is just what is a veterinary pharmacy. There is really no point in our legislating in respect of a veterinary pharmacy or any other thing of which we do not know the nature. How is the Committee to know what a veterinary pharmacy is if the Minister and his colleague, the member for Clontarf, do not know?

Mr Young: Your own colleagues are laughing at you.

Mr B. T. Burke: Can we go a bit easy on the Minister for Health? He has had a rough manipulation with the chiropractors, and he has the Swanbourne Hospital coming up.

Mr BERTRAM: The Opposition is doing its best to comprehend what this is all about. You will remember, Mr Chairman, that Sir Billy Snedden wanted to know what television was all about on one occasion, but he never learnt. The Minister is not going to tell us what this is about.

Mr T. J. Burke: He does not know.

Mr BERTRAM: It is an important question. The problem is we do not know what we are legislating about. As I have intimated, I do not think the Minister really knows the nature of the business operations of the pharmacy at the Murdoch University. He has probably never been there, and I do not particularly blame him for that. It is a plain, simple, and proper question for us to ask the Minister what this veterinary pharmacy is. When we have been let into that secret, we may be only too happy to agree with the whole Bill. The Minister should not put up barriers. Let us know what it is, and then the Opposition will know whether it should support the clause. The Opposition is just like the rest of the Committee, including the Minister, who does not really know what the amendment is about.

Mr YOUNG: The member for Mt. Hawthorn was once the Attorney General of this State.

Mr B. T. Burke: A very good one too.

Mr YOUNG: God forbid that he should ever hold that position again.

Mr Barnett: That is not a very nice statement to begin with.

Mr YOUNG: He took 10 minutes to ask this Committee what we are legislating about. The clause we are debating is to insert a new section which commences—

> This Act does not apply to or in relation to the veterinary pharmacy operated by Murdoch University.

Members will note that it states "the veterinary pharmacy". Proposed subsection (2) reads as follows—

> "Murdoch University" means the university referred to in section 4 of the Murdoch University Act 1973.

So that subsection defines the university, and the proposed subsection (1) states that we are legislating in respect of "the" veterinary pharmacy. The member for Mt. Hawthorn invited me to interject during his speech. Can he tell me how many pharmacies there are on the campus of Murdoch University?

Mr Bertram: What sort of pharmacy?

Several members interjected.

Mr YOUNG: I know the member for Mt. Hawthorn has a passion for criticising every piece of legislation I introduce in this place, and, with due respect, he does not do it very well. It would be obvious to most members of this Committee that his criticism on this occasion was tongue in cheek. I do not want to waste the time of the Committee by repeating what I have already told the member for Melville. Opposition members have completely missed the point. There is no need to define the term "veterinary pharmacy" when the Bill refers to "the" veterinary pharmacy at the Murdoch University and goes on further to define the term "Murdoch University".

Mr B. T. Burke: What if it starts selling clothes?

Mr YOUNG: The member for Mt. Hawthorn could not expect any other answer than the one I gave to the member for Melville.

Mr Hodge: It was unsatisfactory.

Mr BERTRAM: The use of ridicule is an old tactic when one has no other argument. The Minister is trying to dodge the issue.

Mr B. T. Burke: Hear, hear!

Mr Sodeman: What did you and your colleagues embark on a minute ago if it was not ridicule?

Mr BERTRAM: What the Minister does not know and what he ought to know is that the name we give something is not necessarily relevant to what that thing is.

Mr B. T. Burke: That is the whole point.

Mr BERTRAM: The Minister is trying to tell us that if, in five years' time, the whole nature of the operation of this pharmacy has altered, that will not matter. As long as it is called a veterinary pharmacy, it will be all right.

We want to ensure that what we are legislating for in 1980 is the same creature that will function there in 1988. Names count for nothing, and ridicule for even less. We want a datum peg so we know that people who look at this legislation in 20 or 30 years' time will understand it, and they will know whether the pharmacy at Murdoch University comes within the meaning of the legislation in respect of which we are excluding it. It matters not what we call a thing; it is what it is that matters. If it is possible to define the terms "pharmacy" and "pharmaceutical chemist", what is the obstacle to defining the term "veterinary pharmacy"? The Minister is trying to run away from the situation. The Opposition has its job to do, and it is doing it.

Clause put and passed.

Clause 3: Section 36B inserted—

Mr HODGE: The Opposition sees nothing wrong with the advertisements inserted in the Press by the Good Neighbour Chemist, and it is these advertisements that the clause is aimed at. That fact was admitted to me in writing, and, I believe, in debate also by the Minister.

This clause is seeking to place a restriction on the Good Neighbour Chemist in the form of advertising it uses in the Press. It is aimed specifically at advertisements stating that chemists will give advice to the public about their pharmaceutical needs. We see nothing wrong with that sort of advertisement. If other chemists, the Pharmaceutical Council, or anyone else, believes that such advertisements give an unfair advantage to that particular chain of chemists stores, then perhaps it is time we reviewed the regulations and the Act.

Is the Minister or any other member seriously suggesting that it is not the legitimate role of a chemist to give advice to customers about pharmaceutical matters? Surely that is the legitimate role of a chemist, and that is all that is stated in the advertisement. I cannot see any

problem with an advertisement that states, "Come in to see us if you have a problem and want to discuss something about a pharmaceutical line. We will give you advice on it."

If the present regulations preclude a chemist from advertising in this way, should we not do something about the regulations? Is it not placing an unfair restriction on the rights of pharmaceutical chemists and of the public to restrict them in that unnecessary and unrealistic way by saying, "We know you are qualified and that it is legitimate to give advice to people about their pharmaceutical needs, but you are not allowed to advertise in that way to the public"!

That seems to be what the Minister is putting to us with this clause. In other words, whilst these people might provide such a service, they should not advertise in the newspaper to that effect. The Opposition does not go along with that proposition. As I said before, we see nothing wrong with the advertisements which have been placed in the newspapers. If the only reason the Government has introduced this Bill is to try to eradicate the type of advertising given as an example by the Minister for Health, the Opposition certainly does not feel obliged to support it.

The Opposition also feels the other part of this clause which seeks to tighten up the use of the words "chemist", "druggist", pharmaceutist", or "pharmacist" will be ineffective. The Good Neighbour Chemist chain has spent a small fortune on advertising in recent years and it has become extremely well known. If this organisation is forbidden to use the word "chemist" I do not believe it will be any great impediment, or will present any barrier to the way the organisation operates. Either it will find another loophole by using another word, or it will simply leave out the word "chemist" and simply refer to itself as the "Good Neighbour" chain. Everyone would know what the words represented.

The Opposition believes this to be ineffective and unwarranted legislation which will place artificial and unnecessary barriers on chemist chains. I can see no good reason for supporting this clause.

Mr DAVIES: I am surprised the Government has persisted with this clause, which is in two parts. Proposed new section 36B(1) states that no person shall be allowed to advertise that he provides or offers to provide dispensing or other professional advice or services relating to the supply of any medicine or drug. Proposed new subsection (2) states as follows—

> ...a person shall not in any sign or advertisement use the word "chemist", "druggist", "pharmaceutist" or "pharmacist" or any derivative of that word, whether alone or in conjunction with any other word or words.

I am surprised the Government has fallen for this. According to the letter the Minister for Health was good enough to send to the member for Melville, apparently the Pharmaceutical Council was unhappy about companies advertising in this manner. It felt that if individuals could not do it, people working together as companies also should not be able to do it. The Government obviously has been prepared to go along with the council's suggestion.

I am surprised the Government has chosen to introduce legislation, rather than solve the problem by moving to amend the regulations. The matter about which the council complains relates to regulation 62(2) formulated under the Act. This regulation has been in existence for a very long time—so long, in fact, it is time we had a look at it.

Indeed, it is time we had a look at the advertising ethics of many people. I am beginning to believe doctors, lawyers, accountants and the like should be able to advertise if they so desire. If someone tells me a certain doctor removes tonsils or an appendix better than another doctor, I would be prepared to make my own judgment on the matter, rather than simply going to the doctor closest to my home and later discovering he was the worst doctor or surgeon in the State. However, we are not discussing the ethics of advertising in this debate.

We are also not discussing, as the Minister pointed out, the type of goods chemists are able to supply from their establishments. I took rather a long shot on being allowed to refer to that matter because it is one of genuine concern. I mentioned at the second reading stage it could well be a matter the Minister for Labour and Industry and his Retail Advisory Committee could examine to see whether some protection could be afforded shops which are prepared to specialise only to see the cream of their trade being milked off to other businesses which originally were established for a completely different purpose.

I am surprised the Pharmaceutical Council has not moved to amend the regulation, rather than influencing the Government to introduce legislation to handle what it considers to be a problem. Probably, had it been handled by regulation the Government would not have had an

argument on the matter because the change may have gone unnoticed.

It this clause is passed, it will mean that the words "dispensing chemist" will not be permitted in any sign or advertisement. When I was a child, I used to wonder what was a dispensing chemist. Now, of course, I know, and they are to be prohibited from using those words. Apparently there were chemists who dispensed, and those who did not. This amendment will affect hundreds of signs throughout the State; they will need to be altered to comply with the legislation which forbids the use of the words in any advertisement associated with those pharmacies. These words are not used only in newspaper advertisements; they are also used on letterheads, bill boards, and signs outside pharmacies. This one phrase alone will cause a great deal of trouble and we could find the Pharmaceutical Council again approaching the Government and saying that it has made a mistake and asking that the situation be returned to that which exists today.

The Minister for Health said we should not try to define the words "veterinary pharmacy". That seems absurd to me.

Mr Young: I do not mind defining what is a veterinary pharmacy. The point I was making is that this Bill does not require a definition. In fact, I gave a definition in my second reading speech which, even on reading it again, is not a bad definition. However, it is not necessary to be involved in that argument now.

Mr DAVIES: It is what the pharmacy does which must be watched.

Mr Young: I do not think it is necessary for that definition to be written into the legislation.

Mr DAVIES: I think it is. The Minister admitted the Government would be concerned to find that the veterinary pharmacy at Murdoch University was dispensing medicine to students, rather than animals. The Minister believed that was the basis of our concern, yet he says we do not need a definition.

Mr Young: What we need is a definition of what is the "veterinary pharmacy" at the Murdoch University, and we have that definition.

Mr DAVIES: But does it define the extent of the operations of the pharmacy?

Mr Young: We now have a definition of the pharmacy which is to be exempted.

Mr DAVIES: We must question exactly what the pharmacy can and cannot do, because the Minister himself has expressed concern that it might start dispensing medicine for students.

The Opposition is unhappy with the restrictive nature of this amendment. What will happen to those television advertisements which, for example, say, "Aspro Clear will cure your headache in five minutes because it is easily dissolved and is quickly absorbed into the bloodstream"? Whether or not the content of such advertisements is true, it constitutes a company offering professional advice. Of course, at the end of such advertisements they usually say, "If pain persists, see your doctor."

This is exactly what chemists do. When a person approaches a chemist for medicine to relieve a cough, dysentery, or rheumatism, the chemist will examine the label of the medicine and tell the person the formula of the medicine, and what it is designed to do. I believe any reputable pharmacist will then say, "See your doctor if pain persists." In the main, such occasions involve our children. We get worried when they have a bad cough, and rush down to the chemist to obtain a little professional advice.

If the Government persists in restricting the use of the words "dispensing chemist" it is going to be in real trouble. What will happen to all those advertising signs to which I have referred? I think the Pharmaceutical Council is being niggardly and small-minded; this shows only how staid are its members. Certainly, we could not call them "progressive"; they must move with the times and be practical. They have neither moved with the times nor been practical if the best they can do is to ask the Minister to introduce restrictive legislation such as this.

Furthermore, I do not believe the Government is moving with the times. Certainly, it is not being practical in drafting such legislation. What is there to cavil at in advertisements which state—

> It makes sense to get professional advice from your Good Neighbour Chemist—that is where he comes in handy.

Of course it makes sense. We do not want to hold the medical benefit funds of this country to ransom by rushing down to the doctor at every slight upset. Another advertisement states—

> Your Good Neighbour Chemist will be happy to discuss your own problem personally with you and give you sound advice.

What is wrong with that? This sound advice might be, "Go and see your doctor." This clause is far too restrictive.

Of course, if it could be proved a chemist was being negligent, no doubt civil action would be taken against him, just as it could be taken against a doctor. In fact, the longer I was

Minister for Health, the more frightened I was of becoming ill because of some of the things that were reported to me from time to time!

The Government is being small-minded with this legislation. I am surprised that you, Mr Chairman, did not protest about this clause when it went through your party room. Here we have a supposedly free enterprise Government saying, "You can be a professional man; you can be a chemist with a university degree. However, you cannot use the words "dispensing chemist" or offer to provide professional advice or service relating to any medicine or drug." This is beyond me. Yet apparently companies are able to place advertisements in the newspaper recommending the use of various drugs. I do not know about pink pills and the like, but we constantly see advertisements for medicines claiming to relieve varicose veins and all kinds of ailments. Whether or not that advice is accepted, we know the advertisements are not placed by individuals but by manufacturers or processors. I cannot see that this clause will stop that kind of advertising.

Yet a group of chemists who have come together to enable them to buy in bulk and make available to the public various proprietary lines at cheaper rates than might otherwise have been the case, and who try to encourage people to patronise their establishments is to be restricted by this legislation.

I refer to the type of encouragement which is harmless and innocuous, yet the Government seems to think we need this kind of drastic action. We do not go along with it; we oppose it all the way.

Mr BERTRAM: Pharmacy Act regulation 62 (2) in part reads, "A pharmaceutical chemist shall not in any advertisement cause or permit any reference to be made to the fact that he provides or offers to provide dispensing or other professional services of any kind". Because the Opposition has had the temerity to suggest that that regulation is out of date and should be repealed, the Minister seeks to show that the Opposition has no respect for the Pharmaceutical Council, or something of that sort. What he is in fact saying is, if the Pharmaceutical Council submits a regulation to him as Minister for Health, he is obliged to adopt it whether or not he likes it, and that when that regulation comes before Parliament it should be accepted because, if it is not, the Parliament is indicating it has a lack of confidence in the council. The Opposition has no lack of confidence in the council.

The Opposition is saying that if there is a problem, this mode of treatment of it is not acceptable to the Opposition. As has been intimated on several occasions in respect of new section 30B (1), the Opposition is saying simply that we should delete the offending provisions under regulation 62 (2) to which reference has been made.

There are at least two ways of tackling the problem. The Minister is tackling it one way, the Opposition is saying the obvious way to do it is the other way. In his second reading speech, the Minister said—

> There is some concern that persons who are not pharmacists are able, without penalty, to advertise pharmacy-related professional services. However, if a pharmaceutical chemist advertises generally and offers professional advice in relation to ailments, he would be liable to action by the council for contravening a regulation made under the Pharmacy Act.

There is nothing in regulation 62 (2) which speaks of advice at all. It speaks of services, and one can imagine that means something different, because in the Bill before us the Minister speaks of these things separately. Professional advice and professional services are two different things. There is no reference to advice in the regulation. To provide it in the Bill is not bringing the non-pharmacists into line with the pharmacists. What the Minister said in his speech is not what he is doing in the Bill.

As the Leader of the Opposition has pointed out so eloquently, and as I did earlier, this Government pretends to the people that if a person is in the process of some lawful enterprise the Minister should not, according to Liberal principles, bar advertisements in respect of it.

Here we are suggesting to the Minister that he apply that high-sounding Liberal policy, but all we get from the Minister is a condemnation that we have no confidence in the Pharmaceutical Council. That is our reward for drawing to the Minister's attention an area where, by using just a little initiative, he could bring the regulations into line with alleged Liberal Party policy. In the main, dispensing drugs and medicines by pharmacists is thoroughly lawful; it is lawful to the extent that it is done within the confines of the Act.

Proposed section 36B (2) says, amongst other things, that a person shall not in any sign or advertisement use the word "chemist", "druggist", or "pharmacist" or any derivative of that word. Let us assume that provision is aimed at, for example, a business called Good Neighbour Chemist, or whatever name. I

understand the Good Neighbour Chemists are well known and thoroughly reputable; thus far the Minister has given us no evidence to the contrary. All the people who place the advertisements would have to do is refer to "Good Neighbour" and delete the word "chemist". Is it suggested that any person reading the advertisement would not know where to head? The Opposition is of the opinion that any person who read the advertisement would know where to go. People would construe the advertisement to be referring to the Good Neighbour Chemists. As I see it, it would be a perfectly lawful advertisement and would achieve the same result as if the word "chemist" were there.

Mr Young: You would get a lot of people going to the Target chain store.

Mr BERTRAM: Is the Minister saying that to delete the word "chemist" would not achieve the same result? It seems the Minister is agreeing with me, as he has given no response.

If the problem is to be attacked it should be attacked in a lot better way. The solution is probably to do something about the regulations, rather than fiddle around with this measure which, in all probability, will not achieve the Minister's expressed aim.

Mr YOUNG: Firstly, the point made by the member for Melville when starting his comments was that I had virtually admitted to him in writing that the whole purpose of this Bill was to get at the Good Neighbour Chemist organisation—an organisation of which I knew nothing until I discussed the letter with him—and that this was the reason for introducing this amendment. Without any acrimony whatsoever, I indicate that was one of the cases upon which cause for complaint arose and out of which this legislation subsequently arose. It was not the principal case.

The member for Melville may not know it, but when letters are given to him in good faith which contain the sort of information and example which was used, it is probably not good form—and I am surprised the Leader of the Opposition joined him in this respect, as did the member for Mt. Hawthorn—without at least having some consultation, to ask in Parliament whether that was the major reason I introduced the legislation, or to assume that was the case. The member should not have taken the liberty of assuming that was the case for the introduction of the legislation. As a matter of principle, he should have consulted with me in that regard. I do not think the name of the firm ought to be bandied across the Chamber, even though the three Opposition members seem to agree with what they were doing. It is not proper for the member for Melville to accuse me of wanting to get at the Good Neighbour Chemists, who probably did not know, in all innocence, that they were bending or breaking the law.

Mr Pearce: Don't you think it is improper for you to refer to them in confidence and not use their name in public?

Mr YOUNG: If the member for Gosnells is asking whether I think it is dangerous, unwise, or imprudent to do so, he might be right considering the way the matter has been dealt with; but certainly it is not improper to do so if I did not mention that organisation in my letter to the member for Melville. I would expect him to have known better than to act in the way he has.

The member for Melville asked whether it was the role of pharmaceutical chemists to give advice. Of course it is in certain areas, but that is not what the question is all about. He went on to ask whether that was not what they were doing in their advertisements. They are not doing that; they are advertising the fact that they are prepared to give advice. By virtue of the legislation we are not stopping the pharmacists from carrying out their professional duty and obligation to give advice. We are saying certain people who do not currently fall within the ambit of the Act should comply with the Act as all registered pharmacists have to do.

The Opposition has indicated that all we have to do is to allow all chemists to advertise all their wares. We have a very difficult situation with pharmacists. They are a mixed bag; they are not a profession in the complete sense of the word. They are not doing solely what they were trained to do. They sell a mixed range of goods ranging from very complicated prescriptions that sometimes nowadays they still have cause to make up themselves, where they have to exercise their professional expertise, through to being able to understand the proper dosages of medicines, to checking on doctors who prescribe them, to understanding the prescriptions presented to them, right through to selling soaps, cosmetics, and toys. Pharmacists dispense goods some of which are not necessarily those which are by law demanded to be prescribed by doctors; goods which can be dangerous. In that respect they are professional people with professional obligations.

They have to comply with certain obligations if they are to be regarded as professionals—and I believe they are—with the discipline put on them by their profession, and in concert with the Government of the day, whatever political colour,

to make sure they act in a fit and proper manner in respect of their professional capacity.

I understand the Opposition, when it suggests that advertisements ought to be widespread in respect of the pharmacists' professional activities, wants to prevent people who are practising in the field of pharmacy from doing the sort of advertising that generally is proscribed by almost all professions. I cannot understand the Leader of the Opposition saying the advertisements ought to be so widespread and that someone ought to be able to advertise to the effect that he can take out an appendix quicker and more efficiently than the doctor down the road.

Mr Davies: I said it is time that all advertising by professionals such as accountants, lawyers, doctors, chemists and psychologists—the lot—was reviewed.

Mr YOUNG: Mr Davies said that, but I expressed the point that even medicos may be allowed to advertise that they can do things quicker, better, and more efficiently than other medicos. The system proposed may not be the best for a profession, but it is all we have. A profession can combine with the Government of the day to make regulations for its good control, although always someone will be upset.

I can understand the true businessmen among the pharmacy profession who are desperate to sell as many goods through their shops as they can, and who desire to advertise and thereby break the rules or regulations covering their profession.

I was contacted by a number of pharmacists. I reminded them that when I worked in my professional capacity I could not on the one hand claim to be a member of the profession and on the other hand claim to have all the rights of traders in respect of the trading of goods and the provision of services without professional obligations which are invariably imposed by a profession in concert with the Government of the day.

Although it may not be the best system it is as good as I know and is good in any situation in which someone is dealing with goods that have an element of danger and the necessity for the public to be properly advised of the manner in which they should be used—in this case the medicine to be consumed.

If it is wrong for the Government to bring in legislation to tighten control of people in a profession who have combined to form companies, selling chains or groups, or whatever one might call them, and if those people do not comply with the law in the same way as the rest of the people in their profession—in this case the pharmacists—then I guess the Opposition will continue to say that such legislation is wrong, but I do not believe it is. I believe the proposed legislation is proper in view of the points I made.

Mr HODGE: I strongly resent the implication made by the Minister for Health. He said my mentioning the proposed legislation was aimed at controlling the Good Neighbour Chemist chain was improper or breached some confidence. I asked the Minister for Health two questions without notice on separate occasions to seek clarification of what he meant by certain phrases in his second reading speech.

At that time the second reading speech was about as clear as mud. The Minister could not answer off the cuff on the first occasion or on the second occasion, so he said he would send me a letter setting out the required information. For him to suggest something was improper about my using in this debate information I obtained in that letter indicates he has a peculiar idea of what is proper and what is not.

I did not seek confidential information from the Minister for Health and he did not supply me with it. The information he supplied to me was in response to a question asked in this Parliament. I did not seek it in the form of a letter; I sought it in the form of a ministerial reply in this Chamber. I did not give an undertaking that I would not use the information. The principal reason for my asking the questions was to obtain additional information to use and to equip me during this debate so that we could have an intelligent and rational debate.

The general community has no doubt as to what section of the industry this legislation is aimed at. After telephoning a few chemists I received information that the proposed legislation was aimed at the Good Neighbour Chemist chain; everyone knew that to be the situation. The Minister wanted to get at that chain through this Parliament.

Mr Young: I told you that the first time I heard of the Good Neighbour Chemist chain having something to do with this matter was when I saw the departmental attachments to the letter I gave you. Up till then the matter had been referred to me in the form of a case as a principle.

Mr HODGE: The Minister is using the Bill for his—

Mr Young: I admitted that I knew about the chain, but only in the form of a case as a principle. If you are using that against me, you are wrong. Before sighting the letter I had not heard about this company. I said that with no acrimony; sometimes such information is given to

a person and he is expected to accept it in confidence. If you do not know that, it is not my problem.

Mr HODGE: The Minister made no mention of that; he made no request for an assurance of confidentiality and I gave none. I asked two questions in the House.

Mr Young: In future I do not have to make presumptions about your ethics.

Mr HODGE: The Minister has a cheek to suggest that. I did not ask him for confidential information and he did not give information on a confidential basis. He gave this written information to me because he was too incompetent to give it off the cuff; he had to go to his advisers to obtain it in writing. The Minister should not suggest to me that I have done something improper. If he had handled this matter properly he would have explained the situation to the Parliament If the Minister is to have a go at the Good Neighbour Chemist chain he should say that is what he intends to do.

Mr Young: I deny that. You have such an evil and tiny mind.

Withdrawal of Remark

Mr PEARCE: I ask that the Minister withdraw the remark that the member for Melville has an evil and tiny mind.

The CHAIRMAN: I consider the remark unparliamentary. I ask the Minister to withdraw it.

Mr YOUNG: I am tempted to ask which word, but I withdraw the remark.

Mr PEARCE: Has he withdrawn it?

Mr YOUNG: I have.

Debate Resumed

Mr HODGE: I refute the allegation that I breached a confidence. If the Minister is concerned about the Good Neighbour Chemist chain he should stand by his convictions and say so. I will not be a part of a conspiracy to push legislation through this Parliament and not inform the public at whom the legislation is directed and who will be affected. If the Minister attempted to give me information on the basis that it was confidential I would not accept it.

Mr PEARCE: It is a question of ministerial competence. I heard the Minister say he put this Bill before the Parliament without knowing that it was directed at the Good Neighbour Chemist chain and that he was acting without knowing what he was doing on the advice of his department which had put before him a case as a principle.

Mr Young: You did not hear me correctly.

Mr PEARCE: I heard the Minister correctly; that is what he said.

Mr Young: I do not know how you can use those words.

Mr PEARCE: The Minister said he had never heard of the Good Neighbour Chemist chain, but he is the Minister for Health, and is rolling out a Bill—

Mr Young: It is based on a case as a principle.

Mr PEARCE: The Minister should add that he does not know what is involved in the community and involved with his portfolio, which is a *prima facie* case of ministerial incompetence. To say he did not know the effect of his Bill until the member for Melville drew it to his attention is incompetence. He said he did not see a reference to the pharmacy chain until his department added attachments to the letter he sent to the member for Melville.

Mr Young: We do not have time for "Billygates"—that is ridiculous.

Mr PEARCE: It is not ridiculous.

The CHAIRMAN: Order! The member for Gosnells will address the Chair.

Mr PEARCE: The Minister must answer a question.

If I were a Minister in this Chamber I would be concerned if I had to admit that I ascertained information in regard to a Bill only when my advisers drafted correspondence to answer a question.

Mr DAVIES: I take exception to the suggestion that the Opposition has broken a confidence. I read carefully the letter the Minister provided to the member for Melville. He referred to wholesale drug companies advertising professional advice and so forth. He went on to mention the Good Neighbour Chemists because they formed the group about which the Pharmacy Council was, apparently, concerned.

I seem to recall that there are similar groups such as family chemists and Chem-mart, and a number of others, but apparently these groups have not offended in any way. The Minister therefore has taken it upon himself because of a complaint from the Pharmacy Council to do something about the situation.

We say the Bill is unnecessary and that the proposed action need not be taken. We wonder what are the reasons for bringing forward this proposed legislation, but the reasons are not as set

out in the Minister's letter. They were not brought forward during the second reading speech. We will not blame the Premier for that, because he read the second reading speech from notes prepared for the Minister for Health.

I support the action by the member for Melville to dig deeper to determine just what is behind the whole scheme, the letters that passed between him and the Minister, the lack of information given to the Parliament, and, indeed, the answers to the questions as to what was to happen.

I am surprised the Minister became a little petulant, although I do not say that with acrimony. He became petulant because what he thought would be a simple Bill has met with some opposition.

I am completely convinced that no necessity exists for either subsection (1) or subsection (2) of the proposed new section 36B. I believe the proposed section will be restrictive and will block free enterprise. I do not see any danger to the public. I believe the people concerned in this industry are responsible enough to refer a customer to a doctor if necessary, and that the customers are entitled to consult chemists on particular matters. Indeed, I do not want to explain again the experience I have had in this matter.

I want to say that the general question of advertising does not relate to the measure before us. I say in passing that in this day and age it is time we considered some of the restrictions which are placed on certain professional people, not only in the medical profession but also in all other professions. Such people have built up conservatism over the years and very often the public are taken in by incompetent people because they have no way of judging their competence. I believe the public are entitled to better treatment than that. I said that only in passing to try to highlight the point that I think legislation has become unnecessarily restrictive. It is time the Government decided to allow people practising in these professions to advertise and accepted that those people are willing to help. Action by the Government would have little effect on what people do; it would only confirm what is taking place already and merely remind the people that the family chemist will give advice as to what is on his shelf.

It is far better to send a person to a family chemist than let him go to a supermarket and make a selection from two or three shelves of pills and potions. Mr Deputy Chairman, you know as well as I do, there are plenty of such medical supplies on the shelves of supermarkets and that people read the labels on those products to see what good they can hope to get from the products, and to make their selection. Possibly people will make the wrong selection; therefore they should be encouraged by way of advertising to seek the advice of their family chemist.

Mr BERTRAM: I ask the Minister to look at proposed new section 36B(1). Paraphrasing, it reads that a person shall not in any sign or advertisement—

The DEPUTY CHAIRMAN (Mr Blaikie): Order! I suggest to the member that he does not read out the clause. If he wishes to draw the attention of the Minister to the clause, he should do so. He will understand that progress will be impeded if every member decides to read through the clauses of the Bill. I seek the co-operation of the member.

Mr BERTRAM: It was not my intention to read the whole of the clause.

Mr Pearce: The Minister for Cultural Affairs once read out a whole Bill.

The DEPUTY CHAIRMAN: Order! The member for Gosnells will keep order.

Mr BERTRAM: My intention was to paraphrase the proposed new section so that those members who do not have a copy of the Bill in front of them would see the significance of the point I was about to make.

The clause refers to "professional advice or services". I would like the Minister to tell me whether the words are intended to read "professional advice or professional services, or "professional advice or services". People with whom I have discussed this matter, and who know a little about the interpretation of our Statutes, are uncertain as to the meaning. It is important that the Committee knows exactly what the words mean.

Mr YOUNG: My understanding of the particular phrase is that the intention is to proscribe the provision of professional advice or professional services. Whether in fact it is necessary to insert the word "professional" before the word "services", is something I am not qualified to say. I can give the member an assurance that I will have the matter looked at, to see whether it is necessary to make that point.

Clause put and a division taken with the following result—

Ayes 21

Mr Clarko	Mr Mensaros
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Old
Mrs Craig	Mr Rushton
Dr Dadour	Mr Spriggs
Mr Grayden	Mr Stephens
Mr Hassell	Mr Tubby
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Young
Mr MacKinnon	Mr Shalders
Mr McPharlin	*(Teller)*

Noes 15

Mr Barnett	Mr H. D. Evans
Mr Bertram	Mr Harman
Mr Bryce	Mr Hodge
Mr B. T. Burke	Mr Jamieson
Mr T. J. Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Davies	Mr Bateman
Mr E. T. Evans	*(Teller)*

Pairs

Ayes	Noes
Mr Sodeman	Mr Grill
Mr Crane	Mr Bridge
Mr Herzfeld	Mr T. H. Jones
Mr Coyne	Mr McIver
Mr Nanovich	Mr Wilson
Mr Sibson	Mr Parker
Mr Grewar	Mr Tonkin
Mr Trethowan	Mr Taylor

Clause thus passed.

Title put and passed.

Report

Bill reported, without amendent, and the report adopted.

NURSES AMENDMENT BILL

Second Reading

Debate resumed from 22 October.

MR HODGE (Melville) [9.08 p.m.]: Most of the amendments contained in this Bill are reasonably minor in nature, and are not particularly controversial. The most important amendment, and the one which has raised most interest in the nursing profession, is that related to the composition of the Nurses Registration Board. The Bill also seems to recognise the findings and fundamental principles of a recent report on nurses known as the SAX report. They are reflected in these amendments to the parent Act by deleting the reference to nursing training, and substituting "nursing education".

The Bill will give the Nurses Registration Board the opportunity to recognise tertiary institutions, and approve examinations set by tertiary institutions such as WAIT. This move will be welcomed warmly by everyone in the nursing profession.

The nurses have been campaigning for some time for an improvement in their status, and also for an improvement in the system of gaining their qualifications. At the moment nurses virtually go through an apprenticeship and receive their training, to a large extent, whilst working in hospitals. Nurses cannot see why they cannot be put on the same basis as most other health care professional people, and receive their training in tertiary institutions. They want to receive a thoroughly professional training Apparently, this need has been recognised by the State Government. It was begrudgingly recognised in the last few days of the Federal election by the Federal Liberal Government when it was stated that a number of positions would be made available for nurse education· in tertiary institutions.

I believe that eventually more and more nurses will receive their training in tertiary institutions, and this seems to be in line with the growing move by nurses to have their occupation raised to professional status. I am pleased to notice this desire has been recognised to some degree, and in that regard the Opposition welcomes this Bill.

While we agree with most of the provisions of the Bill, there are a few parts of it with which we are not happy. Overall, we agree with the general thrust of the legislation.

The composition of the board probably is the most important part of the Bill, and certainly it has generated quite a deal of interest. Considerable representation has been made to me by people interested in the constitution of the board. I have discussed this matter with representatives from the Nursing Federation, representatives from the Hospital Employees' Union, the Psychiatric Nurses' Association, and other interested people.

It seems to me the board is rather unwieldly in size. It is a pity it is to be so large but, apparently, its size cannot be reduced because of the necessity to represent adequately the various sections of the nursing profession. The board membership will be increased from 17 to 18 under the provisions of this Bill.

I understand an amendment will be introduced by the Government in the Legislative Council which will, in fact, provide for a board of 19 members, an increase on the 18 members mentioned in this Bill. I will speak more about that a little later in my remarks.

In respect of the composition of the board the serious point I want to take up with the Government is that the union which represents about 3 500 State enrolled nurses has been

ignored completely. The union represents the nursing aides who, as a result of this legislation, will be known as State enrolled nurses. That is a much more suitable definition of their job. However, their union has been ignored. The Royal Australian Nursing Federation, which is an industrial union of workers and registered as such, and the Psychiatric Nurses' Association, which is also an industrial union of workers and registered as such, have been named in the Bill and will have the privilege of putting forward representatives to sit on the board. For some peculiar reason, representatives of the Hospital Employees' Union have been discriminated against and have not been recognised in the legislation. I understand that union was mentioned in the original draft put forward to the Minister. It was suggested that the Hospital Employees' Union should be represented, but somewhere along the line that mention has been deleted.

The Hospital Employees' Union represents about 3 500 State enrolled nurses, and it is not mentioned in the Bill; so it will not have an official say in who ought to represent enrolled nurses on the board. I understand the past practice has been for the Minister for Health to write to the major teaching hospitals and invite them to submit the names of State enrolled nurses who are available for selection to sit on the registration board. When the names are returned to the Minister by an agreement reached between the union and the former Minister (the Hon. Alan Ridge), the Minister forwards the names by letter to the Secretary of the Hospital Employees' Union, and the union is asked to pick someone it wishes to sit on the board for a period of two years. Appointments to the board are for two years, and one person retires after each 12 months.

That is the informal arrangement which is working at the moment. However, in reality a person whose name is selected in a hospital is not selected by the staff; in other words, that person is not selected by the employees who are to be represented on the board. In reality, the selection is made by the matron who selects a person whom she thinks will be the most appropriate, and sends that person's name to the Minister. Therefore, the union really has not much choice or room to manoeuvre. It usually ends up having to pick a name out of three or four.

On some occasions hospitals do not respond to the Minister's invitation and do not submit a name. I am advised that on a recent occasion the Fremantle Hospital did not respond, and so only three names were sent to the union for selection. When union officials visited the Fremantle Hospital and spoke to the State enrolled nurses, they found the nurses knew nothing about this move, and had not been consulted or invited to submit a name. Therefore, it can be seen the system is not working too well at present and there is room for improvement.

In my opinion the privilege accorded to the other two industrial unions named in the Bill should be accorded to the Hospital Employees' Union. I would be interested to hear the Minister explain why two of the unions which represent nurses are given the privilege of being named in the Bill and invited to nominate persons to sit on the board, while the Hospital Employees' Union—which I understand has the industrial award covering State enrolled nurses—is left out in the cold and not named in the Bill. That is a serious deficiency, and I would like an explanation of it. I know the union would like an explanation as to why it has been ignored.

Another point about the composition of the board is that provision is made in the Bill for one member of the board to be a specialist in general education. That is a fairly loose definition. I do not want to refer to definitions in respect of this Bill, but that is a fairly loose description. I would be interested to know whether the Minister has in mind that the member should be an official of the Education Department, or has he something else in mind? My view is that the position should be widely advertised and that the selection should not lie with the Education Department, but that it should be made from the community in general. As wide a selection as possible should be available from which to choose a member to fill this position.

Another position on the board is allocated to the AMA. The Bill reduces the number of doctors on the Nurses Registration Board from four to two, but I still think that is too many doctors by at least one. I really cannot see any justification for the AMA to be represented on this board. The Minister did not give any justification for this in his second reading speech, and I would be interested to hear him expand on the matter when he replies to the debate. As far as I am aware, the Medical Board and other boards, including perhaps those set up by the AMA and the medical profession, do not include nurses; nurses are not invited to be members of those boards.

It seems strange that a professional board which is set up to regulate the activities of the nursing profession should be fairly heavily weighed down with members of another profession. I am aware the two professions are allied, but nevertheless there is a distinct difference and I do not think it is appropriate to

have medical practitioners represented so heavily on the Nurses Registration Board. I have no real objection to one doctor being included on the board, nor do the nurses to whom I have spoken object to that; however, many of them raised the point about the necessity to have two doctors on the board.

At present the Chairman of the Nurses Registration Board is a medical practitioner. I find that strange, and I hope the Bill will rectify the situation. Most other States, including South Australia, Queensland, New South Wales, and the ACT, have nurses as chairmen of their registration boards, and I think that is the correct procedure.

No provision is made for a legal practitioner to be on the board; nor is provision made for a member to be skilled in management or economics. I do not know whether that is essential. Most boards seem to have a legal practitioner as a member. In respect of a Bill we discussed recently, I noticed that the Chairman of the Chiropractors Registration Board is a legal practitioner. I suppose the Nurses Registration Board has access to legal advice from the Crown Law Department, and I suppose the administrator or registrar appointed by the board could be a person with skills in management or economics. It is most important that emphasis be placed on cost containment within the public hospital system, and for this reason it is important that management and economic skills be available to the board, by way of one of the members of the board, or by way of consultation.

Probably the most controversial aspect of the Bill is in respect of the position of chairman of the board. The Bill provides that the chairman shall be one of the members of the board and shall be selected by the Minister. Probably that is an improvement on the present Act, which provides that the chairman can be any person; he does not necessarily have to be a member of the board. Most people to whom I spoke about this Bill were disappointed with the provision and said they very much wanted the board to have some say in who should be its chairman. That seemed to me to be not an unreasonable proposition.

Provision is made for the deputy chairman of the board to be elected by the other board members, and that is a new procedure because formerly there was no official position of deputy chairman. In the past, if the chairman has been absent from a meeting the members of the board have elected one of their own to be a temporary chairman. This Bill formalises the position of deputy chairman, and the position will be filled by selection of the board members.

In my talks with the Royal Australian Nursing Federation and later with the Minister, I referred to this provision. It seems to me there is room for negotiation and, perhaps, improvement. I made phone calls to the chairman of the board and held discussions with the Minister; and to cut a long story short I understand the Minister has prepared a draft amendment which he will arrange to be moved in the Legislative Council to provide for more flexibility in the appointment of the chairman. I am pleased about that.

The draft of the proposed new clause with which the Minister has provided me seems to be a definite improvement, and it seems to accommodate the view expressed by the chairman of the board to me that flexibility should be provided to appoint a member of the board as chairman, or to appoint some other person as chairman if that is felt desirable.

It was put to me that there may well be nurses who have recently retired from active nursing and, therefore, would not be eligible to sit on the board, but who perhaps would be available to fill the position of chairman and would be willing to serve in that capacity. Therefore, that option should not be removed. The draft I have received from the Minister of the amendment to be moved in the Council seems to accommodate the view of the board in that it provides flexibility for the board to make a recommendation to the Minister. The Minister will retain the final say about who shall be chairman, but he will be required to take into account the recommendation of the board, and he will have power to recommend to the Governor that a member of the board or some other person be appointed. This seems to provide the best of both worlds, and my only regret is that the amendment is to be moved in the Legislative Council. I thought it would be an appropriate amendment to move in the Legislative Assembly.

Mr Young: It doesn't have to be done in the Council. I thought it would be convenient to do that to save reprinting the Bill between Houses, as long as this House agrees it is appropriate to do that.

Mr HODGE: The draft clause is fairly complicated—

Mr Young: I had to read it about 20 times.

Mr HODGE: —and if I understand it correctly, it seems to do the things the chairman of the board and I requested should be done. I think it will resolve one of the most controversial aspects of the Bill.

Mr Skidmore: That's good.

Mr HODGE: It is amazing what one can achieve with some co-operation.

I am anxious to see—and the nurses in general are anxious to see—that the next chairman of the board should be a nurse. That is not to be taken as criticism of the present chairman (Dr Letham). I have heard no criticism of Dr Letham from any source, and I hope my comments will not be construed as criticism of him. To me it is logical that where a board is set up to regulate the nursing profession, the most important and prestigious position on the board should be occupied by a nurse. That cannot be construed as criticism of the job done by Dr Letham.

Mr Young: I think he agrees with you that the next chairman should be a nurse.

Mr HODGE: Yes, I think he does. I would hope one of the members of the board appointed by the Minister, an employee of the Minister, does not become the chairman of the board. A number of positions on the board are occupied by personnel of the Department of Health and Medical Services, and it is most appropriate that should be so. However, I do not think it would be in the best interests of the nurses, or in the interest of the independence for which they are striving, that a direct employee of the Minister should be the chairman. I think it is unlikely that will happen, but I place my view on record that it would not be in the best interests of the independence of the board.

There are many other minor amendments in this Bill. As I mentioned in my opening remarks, most of them relate to the new thinking, the upgrading of the legislation to reflect the modern trend towards nurse education rather than nurse training.

One amendment which took my interest was an updating of the penalty for a person practising nursing without being registered. That is clause 16, on page 14 of the Bill. The fine is being increased from $40 to $80. There seems to be an inconsistency here because when we were debating the Chiropractors Amendment Bill at some length, the penalty for a chiropractor who is not registered and who calls himself a chiropractor was raised from $200 to $1 000. It is a little strange that a nurse, who would be surely no less important than a chiropractor, is fined $80 for the same sort of offence. It is inconsistent with the view that the Minister expressed when we were debating the Chiropractors Amendment Bill.

Another point about which I am not happy is the change in the list of offences that nurses can commit. The reference to "gross negligence" is to be deleted and replaced by the term "negligence". In his second reading speech, the Minister said that it was almost impossible or very difficult to prove gross negligence. That may be so, but, twisting the argument around, it is far too easy to allege negligence.

Mr Cowan: How about proving it?

Mr HODGE: It would not be very difficult to prove negligence in any walk of life against any person. Almost every member of this Chamber, at some time or other, would be negligent. It is really a matter of degree.

By making the offence "negligence", it makes it easier to harass a nurse and lay frivolous charges against her or him, which charges must be heard by the board. The other aspect that worries me is that if a civil charge is brought against a nurse by a patient—and a number of these have been reported in the Press—and if it was proved in a civil court that the negligence charge was upheld, that would place the board in the position where it must take some action against the nurse for negligence. That would mean that the nurse could receive a double penalty for the one offence.

If the offence was "gross negligence", that conjures up a very serious offence—perhaps something that has put the life of a patient in jeopardy, or caused a serious injury. The mere charge of "negligence" could result from a nurse being hard-pressed one day and overlooking obtaining something for a patient, or changing a dressing, or some other minor thing. I put "negligence" in the same category as "carelessness", whereas gross negligence is something that is very serious—a flagrant breach of ethics or care. The change proposed is a backward step.

It is interesting to compare the position with medical practitioners. It is not possible to charge a medical practitioner with negligence. If one wants to lay a charge against a medical practitioner, it has to be gross negligence. There should not be one set of rules for one part of the profession and another set for another part of the profession. If it is good enough for doctors to be charged with gross negligence only, the same rule should apply to nurses.

Generally, those remarks sum up my views on this Bill. The Bill has been welcomed generally by the nursing profession. I have recorded criticisms; but we support the Bill in principle.

I would like an explanation from the Minister why the Hospital Employees' Union is not recognised and given the same privileges as the other industrial unions representing the nursing profession. I would like the Minister to comment on why there is disparity in the fines for unregistered people practising. Is the Minister prepared to give us some explanation why it is

necessary to change the definition of "gross negligence" to one of "negligence"? They are the main areas I would like clarified. Other than that, we support the Bill.

MR YOUNG (Scarborough—Minister for Health) [9.36 p.m.]: I thank the member for Melville for the general support that the Opposition has given the Bill. I will attempt, where I can, to answer the points that he has made in the general areas of criticism.

Before I do that, I would like to make the comment that the position of the board, which was raised by the member for Melville, is perhaps the most important aspect of this Bill. It was a very difficult decision to arrive at; and it was arrived at after very much consultation between me and various people who wanted to speak to me about it, and the board in particular. I take the points that he made in respect of the fact that certain people might have been represented on the board; but as he pointed out, the board, as it is proposed to be constituted, will be a little unwieldy; and therefore not all the people who, in the vernacular, might have got a guernsey, could eventually receive one.

The question of the State enrolled nurses and the representative of that field of nursing on the board was entered into some years ago when nursing aides, as they were called then and still will be until this Bill becomes an Act, made the point through the Hospital Employees' Union to the then Minister (the Hon. Alan Ridge) that its representation ought to be recognised by a general agreement. Mr Ridge honoured that; and subsequently, on three occasions, I have accepted the nomination of the Hospital Employees' Union from the list supplied by the teaching hospitals.

The member for Melville points out that the nursing aides—and that term is interchangeable with "State enrolled nurses"—do not have the opportunity to vote for the nominees. If that is the case, I will check on it. I was not aware that the aides did not select the nominees which went on a list from each of the teaching hospitals to the Hospital Employees' Union, which made a final nomination to the successive Ministers.

The Minister puts the nomination before the Cabinet and Executive Council; and the nominees are subsequently appointed to the Minister's board. We would continue to honour that arrangement under the provisions for the two nursing aides or State enrolled nurses in this legislation.

Mr Hodge: Why are you treating them differently from the two other unions which you are naming in the Bill?

Mr YOUNG: Is the member asking me why we are separating State enrolled nurses from the Hospital Employees' Union?

Mr Hodge: Well, they both represent the State enrolled nurses, as the Royal Australian Nursing Federation represents the nurses and the Psychiatric Nurses' Association represents the psychiatric nurses. The two are together, are they not?

Mr YOUNG: The Hospital Employees' Union also represents a large range of people employed in the hospitals. Is the member suggesting that what the Government ought to have done was to say that it would appoint two State enrolled nurses on the nomination of the Hospital Employees' Union?

Mr Hodge: Yes.

Mr YOUNG: Perhaps the member might develop that argument in Committee. We can have a look at that as a separate issue. I cannot see any immediate objection. It has not been raised before. No-one suggested before that the nursing aides have not been making the appointments from the teaching hospitals. They are two issues I would be prepared to consider.

The member for Melville also made the point that a specialist in general education ought to be widely canvassed. I think that was his point. That person is one of the board members who would be appointed by the Minister. What I envisage in that respect is to have a person who is not involved specifically in the education of nurses but who might have a more universal approach to education generally. Education is such an important aspect in nurse training or nurse education, as the member for Melville suggested.

As far as the medical profession is concerned, there will be two representatives appointed by the Minister. The member for Melville asked why the Australian Medical Association would be the nominator. I point out that there is a qualifying part in the subclause which indicates that it would have to be a medical practitioner who was practising in a hospital associated with a school of nursing. It is not just a nomination by the Australian Medical Association *per se*, but a nomination by the Australian Medical Association of a person who is involved specifically in both teaching and teaching hospital medicine.

I could not readily think of any body that might be better equipped to make that nomination, because the clinical staffs of the various teaching hospitals, if they were left to do it, would each plump for one of their own to be on the board. The other bodies of medical practitioners, such as

the Royal College of General Practitioners and the General Practitioners Society, are not sufficiently representative of the sorts of people who would have the qualifications and experience in respect of teaching hospitals, and the ongoing association with those teaching hospitals and the aspects of nurse education that I would want to be involved with the board. I cannot think of a better organisation than the Australian Medical Association to nominate a medical practitioner. I do not think the member for Melville said that he could think of a better one.

Mr Hodge: I just questioned the fact that you had two medical practitioners on the nurses board. That did not seem appropriate.

Mr YOUNG: The situation is that on a fairly paternalistic basis, there has been a pragmatic attitude to nursing over the years and the medical practitioners have been represented fairly heavily. Currently there are four medical practitioners on the board, and we have cut it down to two.

By virtue of their training and their association with the medical profession, the nurses would feel more comfortable with medical practitioners represented on the board. When there is the situation of only one person of a dominating personal status, which in the medical profession is usually a medical practitioner, that person tends to take a bit of control; and a balancing influence is not a bad thing.

The amendment in regard to the chairman to which the member for Melville referred, will alter the situation from one in which as appears in the Bill at present, the chairman may be appointed by the Minister from the members of the board, to a situation in which on the recommendation of the board but without the Minister being obliged to follow the recommendation, the Minister may appoint a person recommended by the board who is not a member of it.

In other words, the board will consist of 18 people, unless a nineteenth person is appointed after consultation with the board, in which case that person would be appointed to the board and would become the chairman.

I propose to have this amendment made in another place to avoid the necessity for the Bill to be reprinted between Houses. I agree with the member for Melville, the amendment is not easy to read, but after considerable study it is clear the amendment will achieve what the member for Melville, the nurses board, and myself want it to achieve. I thank the member for his support of that particular proposition.

The member for Melville questioned the increase in the penalty from $40 to $80 in a situation in which a nurse practises without registration or in an unlawful capacity. He likened the situation in regard to nurses to that of chiropractors who are subjected to a much higher penalty if they practise without being registered. The member for Melville asked for a reason for the differential in the penalties.

The reason for the differential is that, in almost all circumstances, a nurse practises his or her profession under the supervision of a doctor or a more senior practitioner of nursing. A nurse is usually an employee rather than a self-employed person and, as a result, is subjected to two forms of discipline, those of professional and employment supervision.

Although a nurse practises in an area in which his or her actions could result in a dangerous situation if he or she is not suitably qualified or is inadequately supervised, the situations in which a nurse finds himself or herself would hardly fit into the same category of problems which could arise if an unregistered chiropractor treated an unsuspecting member of the public. If such a person chose to be treated by an unregistered person, all sorts of difficulties could occur.

In the light of that explanation, it is not unreasonable that the increase in penalties for unregistered nurses should not be of the magnitude of those imposed on unregistered chiropractors.

The point made by the member for Melville in respect of gross negligence exercised the minds of myself and a number of other people from whom I sought advice in respect of the amendments contained in this Bill. Under the Act at present there is no provision for any form of discipline to be taken against a nurse for an offence less than that of gross negligence. In other words, unless the offence of gross negligence is both alleged and proven, no disciplinary action can be taken by the board in respect of any actions taken by that person in the performance of his or her duty.

It was considered that it was virtually impossible to prove an allegation of gross negligence, because it rarely occurs under the sort of supervision exerted over nurses. However, there are many areas of negligence which would not be trivial matters and might require discipline. The proper authorities would consider such matters at the appropriate time. I thank the Opposition for its general support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Blaikie) in the Chair; Mr Young (Minister for Health) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 9 repealed and substitued—

Mr HODGE: I take this opportunity to expand the argument I mentioned briefly in the debate on the second reading of the Bill. The point I wish to make concerns the non-recognition in the Bill of the Hospital Employees' Union. I understand that union has the award which covers the employment of nursing aides, as they are called at the moment, or State enrolled nurses, which is the title by which they will soon be known.

Approximately 3 500 nursing aides are members of the union. I understand almost all nursing aides are members of the Hospital Employees' Union. Theoretically nursing aides can belong to the Australian Nursing Federation, but I am advised that in fact they do not belong to that organisation, because the Hospital Employees' Union has the industrial award that covers nursing aides. Therefore, it is more appropriate for them to belong to that union.

This Bill and the Act recognise the two other industrial organisations involved in this area. Those organisations are the Australian Nursing Federation which is registered as an industrial union both with the State Industrial Commission and the Commonwealth Industrial Commission, and the Psychiatric Nurses' Association which is also a registered industrial union of workers. Both those organisations are named in the Bill and given the right to nominate persons to represent their members on the board.

I cannot see any impediment to naming the Hospital Employees' Union and giving it the right to nominate two State enrolled nurses to represent State enrolled nurses on the board.

The situation in regard to teaching hospitals at the present time is that when a vacancy is due to occur on the board, the Minister writes to the teaching hospitals and invites them to submit a name. I am told that, in practice, the matron then submits a name to the hospital administration and that name is forwarded to the Minister who then passes all the names on to the Hospital Employees' Union and invites it to select one person to fill the vacancy for the following year.

Such a situation is less than satisfactory. It is only human nature that the matron, given the opportunity to select someone, will choose a person of whom she approves. That person would not necessarily always be the one the majority of nursing aides would select. No provision is included for ballots or consultation as to whose name should be submitted to fill the vacancy.

As I mentioned previously, on a recent occasion the Fremantle Hospital—I believe that was the hospital concerned—did not even submit a name to the Minister. The Hospital Employees' Union inquired as to the reason for so much disinterest in the hospital and the nursing aides to whom the union's representative spoke said they knew nothing about the matter, they had not been consulted, nor had they been invited to put forward a nomination. That is unnecessary discrimination against the Hospital Employees' Union.

I can see no disadvantage in treating the Hospital Employees' Union in the same manner as the other two unions to which I have referred; that is, to invite the union to nominate two State enrolled nurses to represent that group on the board.

If the Minister wished, he could lay down procedures for selecting nominations. However, I do not believe that would be necessary. Indeed, such procedures have not been found to be necessary as far as the federation and the Psychiatric Nurses' Association is concerned. Therefore, I do not see why the Hospital Employees' Union should be treated differently. That union is a responsible body and it is administered properly. I believe this right should be extended to that union.

I was pleased to hear the remarks made by the Minister in regard to the specialist in education. It was my intention that the position should be advertised widely so that the best possible person was made available, rather than an official from the Education Department being chosen to fill the position. I still have some doubts about the necessity for two medical practitioners to be on the board. I see some validity in the arguments put forward by the Minister, but the nurses are striving for more independence and they have demonstrated in the past they are responsible people. It seems somewhat paternalistic to have two medical practitioners on the Nurses Registration Board.

The position of chairman has been canvassed thoroughly and I shall not go into it. If the amendment outlined by the Minister is moved in the Legislative Council, the Opposition will be pleased to support it.

I should like the Minister's assurance that an amendment will be moved in the Legislative Council, if necessary, to provide for the recognition of the Hospital Employees' Union.

Mr YOUNG: I shall take the points raised by the member for Melville in reverse order. I assure the Committee the amendment in respect of the chairman will be moved in another place. I have advised the Attorney General and the Minister who will be handling the Bill in that place accordingly, and a draft amendment has been submitted to them.

The member suggested the Hospital Employees' Union should have the right to be able to nominate State enrolled nurses who would then be appointed to the board. The Hospital Employees' Union represents many hospital employees other than State enrolled nurses and I cannot see how the union would be in a position to nominate State enrolled nurses who would then be appointed to the board. However, I take the point made by the member for Melville that some form of selection might be laid down.

I cannot see why that varies from the present agreement we have where State enrolled nurses are given the right to name their own people. So, with the clarification that provided some proper form of consultation is had with members through the Minister, I will have the matter looked at to ascertain whether something which has not been apparent to the member for Melville and myself is causing an impediment. When I have looked at the matter, and if I agree with the member for Melville, I will communicate with him with a view to allowing an amendment to be made in another place or I will indicate to him and subsequently to my representative in another place so that he can explain the reason within the parliamentary system, should it not be acceptable.

Mr HODGE: I thank the Minister for his comments and hope he will give the matter serious consideration. I do not see any impediment in the naming of the Hospital Employees' Union. The Minister seems to think that because the union represents other workers as well—in other spheres—that makes it inappropriate for the union to be named in this Bill. I cannot see that that would be any impediment because I know the union is particularly anxious to have this clause included and for it to be named in the Bill.

I know that the union would ensure that its two representatives on the board would be representative of the State enrolled nurses and would not be people chosen by workers in other industries who may be covered by that particular union.

I am quite certain the union would give that guarantee to the Minister. I hope the Minister will give this matter further consideration.

Clause put and passed.

Clauses 5 to 12 put and passed.

Clause 13: Section 29 amended—

Mr HODGE: This is a clause which amends section 29 of the principal Act in several ways but the amendment I wish to debate is a matter which I raised earlier. It relates to "gross negligence" and this clause seeks to delete the word "gross" and leave the offence as "negligence". The Minister's reply to the second reading debate was completely wrong when he said there was no other offence under which nurses could be charged. He said it would have to be "gross negligence" or nothing. Section 29(1)(c) states—

> ...has been guilty of gross negligence, malpractice, impropriety or misconduct in respect of her calling of a nurse or nursing aide,....

That is quite a large area of charges and it is wrong for the Minister to say it would be "gross negligence" or nothing. There are a number of other charges which are in varying degrees of importance, so if the Minister is working under a misapprehension that this has to be amended for the purpose he has outlined—that is, that there is no other charge—perhaps he may be able to give this matter further consideration.

I have outlined this matter in some detail and I believe I have made a valid argument.

Mr YOUNG: I am sorry that I said during the course of the second reading debate that there were no other offences for which a nurse could be charged under the disciplinary powers of the legislation. In fact, what I should have said was that there were no lesser levels of negligence for which she could be charged. There is a provision for malpractice, impropriety, or misconduct. These are matters which could be construed as a lack of personal application to her professional situation. Malpractice would more or less be confined to a deliberate act of practising nursing without the best interests of the patient in mind.

However, with the matter of negligence, there is no form of negligence for which a nurse might be charged other than gross negligence. In other words, that includes dereliction of duty or not caring whether the action or lack of action has caused discomfort or danger to the patient.

From the advice which has been given to me I believe there ought to be some other level of negligence—other than gross negligence—upon

which the board might satisfy itself or in respect of which it might take action against a nurse.

I believe this provision in the Bill ought to remain because if we are talking about any form of negligence at all, it seems quite ludicrous that a nurse cannot have any action taken against her by the board unless it can prove gross negligence against her in respect of that particular duty.

Mr BERTRAM: Clause 13(b) constitutes a wanton attack upon the nursing profession. This clause seeks to amend section 29(1) of the parent Act which quite clearly sets out the disciplinary powers of the board, and if one of the grounds spelt out is proved then the board may remove the name of a person from the register or suspend the registration of that person for a period not exceeding 12 months, or as it so determines. That is discriminatory and unfair and probably without precedent in the professional world.

If all professional people could be removed from the register or suspended for there negligence, we would probably have to look very closely around the city to find a professional person eligible to practise. Look as one may for a parallel to this proposed amendment, one will not find one. If judges are negligent they suffer no penalty and the same applies to magistrates, members of Parliament, Ministers, lawyers, accountants, tax agents and others. These people most certainly do not suffer any penalty and are not disbarred from practice because of mere negligience. We can also include chiropractors, chiropodists, psychologists, dentists and many other professions which have legislation in respect of their professions, but it would be very difficult to find one instance where a person registered under these Acts could be disbarred or prevented from practising his profession because of some negligence.

Almost all nurses are female; certainly there are male nurses but the great preponderance are females. Similarly, not all doctors are males, there are some female doctors. I will now refer to the Medical Act and an equivalent provision to the legislation—the monstrosity—which is before us. One would expect that if we are to treat nurses in this way then members of the medical profession should be treated in the same way. Section 13(1)(d) of the Medical Act of 1894 reads—

> Where a person registered as a medical practitioner under this Act ..... is found by the board after due inquiry to have been guilty in its opinion of professional misconduct or of gross carelessness or incompetency, ...

So, the law requires proof of gross carelessness in respect of medical practitioners. The Minister said it is not easy to prove gross negligence. There are many things which are not easy to prove; that is why there are so many murderers and all sorts of felons walking the streets.

How discriminatory to have this legislation in respect of nurses, most of whom are females. Surely, any Committee of this place would not permit that discrimination.

In the Minister's second reading speech he pointed out that nurses are different from other professionals because they are employed. Usually a medical practitioner is an employer and, as he pointed out so correctly, the nurse is an employee. If an employer is concerned about an employee, his remedy is swift and simple—he will dismiss the employee. It is all right to do that in the case of negligence, but we should not take away also a person's right to his or her livelihood. That is what this Bill will do.

Gross negligence is hard to prove, and yet we find the word "gross" retained in the Medical Act which applies to medical practitioners, and so, if the Minister is correct, a medical practitioner is virtually given complete immunity. When a patient is on the operating table, who wields the knife? Is it the medical practitioner or the nurse? We all know the answer to that.

I read recently in the Press of a doctor who amputated the incorrect leg of a patient. Certainly this did not happen in Western Australia, but it gives us some idea of the dimension of the consequence of negligence on the part of the medical practitioner. In general terms it is ever so much greater than the consequences that one could imagine would flow from the negligence of a nurse. As I have said, a medical practitioner is his own man; he is the boss. A nurse is usually under his supervision, and can, therefore, be removed from her job instantly—or certainly promptly—if the need arises.

As I have pointed out, this measure is discriminatory. If one wanted an example of discrimination against females, one could never find a better one than the Bill now before us.

I do not know what the nurses union thinks of this matter, but certainly I would encourage it to seek the best advice possible. I believe it will find that this provision will render nurses blameworthy for mere negligence, and not for gross negligence as in the past. Mere negligence could be something of a very minor nature, and in certain circumstances, it could lead to victimisation. A nurse could be charged with negligence, and convicted for that offence in a manner which may

not be entirely *bona fide*. Such a nurse could be deregistered or suspended from registration for a long period of time. That is an extraordinarily savage penalty.

We note that no such provisions apply in regard to accountants, of whom the Minister is one. It is no satisfactory justification for a provision of this kind to rely, as the Minister appears to, on the fact that it is difficult to prove gross negligence. Of course it is difficult to prove gross negligence, and that is the way common law and other statutory laws have developed, and they have developed that way on purpose. Certainly it was never intended that nurses should be penalised and deregistered merely for negligence, and it should not be intended now.

This amendment is to delete the word "gross" from the term "gross negligence" in regard to the disciplinary powers of the board. The justification for this amendment, according to the Minister, is as follows—

> It is apparently very difficult to prove "gross" negligence.
>
> As there is no provision to find a person guilty of any lesser level of negligence than "gross negligence", this amendment will provide that facility. This will not detract from the board's disciplinary powers.

That is the supportive explanation for this provision. Whatever advances the nurses will make under this Bill, certainly they are copping it around the head with this particular provision.

I have seen some extraordinary things happen during the Committee stage of a Bill, but it will be quite extraordinary if this Committee finds itself able to mete out this sort of treatment to nurses and not to any other professionals. This is clearly and unmistakably discrimination against females. It is most unfair, and naturally I hope the Minister will do something about it. I do not have any great hope, however, because that is not the way the Government operates in this place. We will never see a case more glaring, more stark, or more lacking in justice than that contained in the provision we are discussing. The nurses should look at this very carefully and they should ask why they are being discriminated against in this way. They should take any proper and urgent action available to them to delete paragraph (b) of clause 13 from the Bill.

Mr COWAN: I was hoping the Minister would rise to his feet to discuss this clause. If the member for Mt. Hawthorn is correct, the Minister could at least have explained a little more fully why this step is being taken against nurses. Quite obviously no other professional people can be charged with negligence as opposed to gross negligence. I thought perhaps the Minister could cite a case where an unsuccessful charge was laid against a member of the nursing profession to illustrate that the term must be made a little less specific.

Mr Clarko: For you information you might remember that this happened in the case of teachers a little while ago. Teachers can be precluded from teaching.

Mr COWAN: I am not terribly pleased that that happened. I believe that once again teachers have found themselves on the wrong end of the stick.

This amending clause will give the board a sledgehammer to crack eggshells. I do not believe it is necessary, and I would like the Minister to explain the reason for it.

Mr YOUNG: The member for Merredin has asked me to reply to the member for Mt. Hawthorn, and I will try to explain the situation briefly. I believe members of this Chamber know that the member for Mt. Hawthorn sometimes makes statements about matters that he has not properly researched. As the member for Karrinyup said, the provisions in relation to the discipline of teachers were amended recently so that they can be disciplined for ordinary negligence. Contrary to what the member for Mt. Hawthorn said, I understand that lawyers can be charged with professional negligence, that does not have to be proven to be gross negligence. Accountants are not subject to an act of registration in any event.

I think the member for Merredin would recognise, and the member for Mt. Hawthorn would know from his practice, that any disciplinary board or any magistrate of a Local Court who is, subject to section 33 of the Act, able to sit in appeal on such matters, would be very loath to find a person guilty of any degree of negligence.

For such members of the judiciary to find a person guilty of gross negligence, the offence would have to be extremely gross. For the edification of the member for Merredin, the provision means simply this: If the board wants to discipline a nurse for gross negligence, apart from the other matters mentioned by the member for Melville, the negligence would have to be far beyond actions that they would normally seek to discipline. It is not as unusual or as unique as the member for Mt. Hawthorn has described.

Mr BERTRAM: I thought the member for Merredin made an extraordinarily good point; he asked the Minister to give evidence of some cases

upon which he relied to justify the provisions of this Bill. The Committee will notice that the Minister has not attempted to do that. We are indebted to the member for Karrinyup because he appears to have been able to point out that teachers can be precluded from teaching—

The DEPUTY CHAIRMAN (Mr Blaikie): Order! I suggest that the member for Mt. Hawthorn refers to the teachers only in passing.

Mr BERTRAM: I certainly intend to. I would like the member for Karrinyup to satisfy the Committee that what he is talking about is comparable to the situation under the provisions of this Bill and not something else.

I do not accept lightly the proposition put by the Minister that the law in respect of lawyers is in step with this particular amendment. However, I will concede those points for arguments sake at the moment although I am not prepared to accept that either is comparable, but the Minister has not bothered to address himself to any of the other professionals who operate under special Acts; for example, chiropractors, chiropodists, psychologists, social workers, and dentists. Even if we put those aside for the moment, more noticeably he did not refer to the provisions of the Medical Act. I have referred already to the provisions of the Medical Act which deal with discipline in respect of the medical profession—an overwhelmingly male profession. The Minister apparently has no intention at all of amending section 13(1)(b) of the Medical Act to downgrade the level of negligence mentioned there from gross carelessness to carelessness. That level of negligence is to remain for doctors, who are their own men; in the main, they are not employed by another party.

However, as the Minister pointed out, in the main nurses are employed and they are mostly women. The level of negligence for which they can be suspended or deregistered is to be at a level far below that applying to doctors. The employer of a nurse can suspend or dismiss her at a moment's notice. However, that is not sufficient for the Minister; he could then seek to prosecute the woman for her negligence which would affect her right to practise her occupation in the future. That is an extraordinarily extreme situation.

I could sympathise a little with the Minister if he were deleting the word "gross" from the provisions of section 13(1) (d) of the Medical Act which refers to the level of negligence in respect of medical practitioners. However, he has no intention of doing that; he is singling out only nurses. When invited by the member for Merredin to give examples, he failed to do so.

I said earlier that this was a wanton and gratuitous attack on nurses. It is gratuitous to the extent that no evidence has been presented by way of justification for this amendment. If the Minister had been able to say, "Here are half a dozen cases. Look how the public have suffered in consequence. We must do something about it" the Committee would be obliged to amend the legislation. However, no attempt has been made to show that the level of skill, competence and performance of nurses justifies legislative action.

This is a thoroughly discriminatory proposal. If any of us had wives or daughters who were nurses, we would be quite upset by this legislation. I suggest that each member of the Committee put himself into that situation, and recognise the gross injustices this provision will bring about.

This is a serious matter. It is no good at some later time complaining that we did not know this was going to happen. Why should we legislate at one level for nurses and another level for medical practitioners?

The DEPUTY CHAIRMAN (Mr Blaikie): Order! I draw the member's attention to the fact he has made that point on a number of occasions already. If he continues to do so, I shall have to draw his attention to Standing Order No. 142. I ask the member to continue his speech by introducing fresh material.

Mr BERTRAM: I think perhaps I have caught the ailment which afflicts at least one of the Ministers who has been guilty of repeating himself over and over again; I do not propose to do that. Nonetheless, it is a perfectly legitimate debating ploy to emphasise a point by repetition, and I have done that quite often in this place.

If the Committee is still prepared to hit the nurses over the head with this sort of legislation, let it do so. However, it cannot say at a later stage it was not given notice of the real nature of what it was doing.

Clause put and passed.

Clauses 14 and 15 put and passed.

Clause 16: Section 40 amended—

Mr HODGE: This clause seeks to increase from $40 to $80 the penalty applying to nurses who practise nursing without being registered with the board. I listened with interest to the Minister's explanation as to why there was such a huge disparity between the level of fines applying to other health care professionals, and I was not impressed with that explanation.

I pointed out during the second reading debate that in the recent legislation applying to chiropractors, the penalty for practising

chiropractic without a licence, or for purporting to be a chiropractor was increased from $200 to $1 000. That is a very significant increase, particularly in a field where only very few breaches of the Act have occurred.

We are in an entirely different situation with respect to this Bill, and I should like some explanation as to why there is such a huge disparity between fines applying to chiropractors, and those applying to nurses.

The Minister told us a few nights ago that he believed a fine of $1 000 was reasonable in the field of chiropractic. If that was his argument then, what is the rationale behind the decision to impose a fine of $80 for a similar offence in the field of nursing? That fine is hardly going to be a deterrent; it is unreasonably low considering that nurses practise in an area of health care where the potential danger to patients is much greater than in the field of chiropractic. I believe an unregistered nurse is potentially more dangerous than an unregistered chiropractor. Nurses are involved in very responsible positions in teaching hospitals, and an incorrect decision could result in the death of a patient. They are in a more hazardous and important position than chiropractors. To the best of my knowledge, no-one in Australia has ever been killed by a chiropractor.

I think the Minister owes the Committee a little better explanation as to the great disparity between fines.

Clause put and passed.

Clauses 17 to 19 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

BILLS (6): RETURNED

1. Cemeteries Amendment Bill.

   Bill returned from the Council without amendment

2. Acts Amendment (Motor Vehicle Pools) Bill.

   Bill returned from the Council with an amendment.

3. Door to Door (Sales) Amendment Bill.

   Bill returned from the Council with an amendment.

4. Road Traffic Amendment Bill.

5. Bee Industry Compensation Amendment Bill.

6. Beekeepers Amendment Bill.

   Bills returned from the Council without amendment.

REAL ESTATE AND BUSINESS AGENTS AMENDMENT BILL

Second Reading

Debate resumed from 22 October.

MR JAMIESON (Welshpool) [10.42 p.m.]: In dealing with this Bill, I hope it has a swifter passage than we have seen with other legislation tonight. There is not very much of concern to the Opposition in this Bill.

Principally, the Bill deals with the 13 business agents who were not "grandfathered" by the parent Act of 1978.

Mr Davies: So they are illegitimate?

Mr JAMIESON: When the Real Estate and Business Agents Act was passed, there was a danger that the people closely associated with the calling would not be covered, and problems would be experienced later on in having to cover them in other legislation. This has proved to be the only matter causing bother.

Originally, the business agents were required to pay $750 a year to the fidelity guarantee fund, as against the $50 that the real estate agents had to pay. That was changed by an amendment last year, when it was considered fair that the business agents should not have to pay any more than the real estate agents. There were reasons given at that time.

When reference was made to "business agents" I thought it would be fairly easy to find out what a business agent was. I went to the definition section in the Act; and after reading that I was more confused than when I started. I decided that my own interpretation was more sensible than the one in the Act, because the one in the Act says nothing. It is as follows—

> "business agent" means a person whose business either alone or as part of or in connection with any other business, is to act as agent for consideration in money or money's worth, as commission, reward, or remuneration, in respect of a business transaction as defined by this section . . . . .

A business transaction is not defined as clearly as one would have hoped. The section goes on to exempt the people appointed by the court under the Bankruptcy Act, among other things, when

they have to do business as business agents. Therefore, it is not very clear.

The fact remains that the business agents were the people associated with real estate in connection with business dealings. They were brought under the Act when it was considered they should be covered to some degree. It was felt they should be allowed to remain in their capacity, having acquired certain skills and knowledge from time to time, and having been in the real estate business for a number of years.

To that extent, the move is a good one. It will mean now that within the required time they do not have to qualify, but as each one dies or retires from the business of real estate activities there will be no further need for the provision. Undoubtedly, after a few years, there will be few left of the 13 that the Act took into consideration several years ago.

There is an amendment to include the collection of rent as part of real estate transactions. This was not clear before. It is advisable that all such matters be stated clearly so there is no argument as to when a person is acting on a real estate transaction. The collection of rents will be included; and this improves the position quite a deal.

There is another amendment, as the Minister explained, that allows board members to be absent from the Real Estate and Business Agents Supervisory Board for a period of eight weeks instead of three consecutive meetings. The requirement of three consecutive meetings caused many problems because the board meets regularly, and sometimes it would meet as often as three times a week. As a consequence, if a person was away on annual leave, or something like that, he would have to seek the permission of the Minister not to be in attendance at every meeting. Otherwise, he would contravene the law, and he would have to be replaced on the board. It seems reasonable that eight weeks be substituted instead of three consecutive meetings.

The Bill allows a real estate agent to remain licensed without a triennial certificate. If a person wants to return to the business, there is an arrangement for a fee to be paid. That applies to people not actually occupied in the capacity of a real estate agent.

There is another provision in respect of key money. This has always been an insidious problem in real estate transactions. The Bill indicates clearly that this is to be one of those practices not indulged in by those who are registered under the Real Estate and Business Agents Act.

There is also a requirement that specific information on receipt books kept by the agents need not be kept at branch offices. Previously, it would seem an agent could give some written indication that he had received the money or something in kind from the person with whom he was dealing without keeping a duplicate. It is deemed wise on the part of those who have recommended this amendment that there must be a carbon copy kept. The fact that the books of the agents are not necessarily now kept at the various branch offices of the firm is one of those things which shows we are moving with the times. Many offices now have a lot of their work put onto computers and it seems unreasonable to require duplicates to be kept in branch offices when reference to the headquarters of an establishment can very quickly bring forth the required information.

The requirement of sales representatives to hold annual certificates of registration is a good one. It was certainly an unsatisfactory situation for the board to have no jurisdiction over any person who continued to act as a sales representative at the end of the period. If they continue to act in their previous capacity, it is felt there is still a necessity for action to be able to be taken against them under the provisions of the Act. The new provisions allow for 12 months to elapse before the board may not take action against those people who had previously been registered. This is a saving because otherwise it would be necessary to charge these people with some unlawful act and it will mean that the board will retain control of the real estate agency business.

The necessary clarification of section 114 of the Act was desired, because the section left matters very much up in the air as to what happened to business agents after the $1 million guarantee fund had been accumulated. It cuts out the requirement of the real estate agents to pay into the guarantee fund, but it does not cut out the requirement of the business agents. Here again there is a little bit of a flaw in the Act.

The Bill also allows for a refund of fees when a person has died or otherwise has left the business, perhaps due to retirement for the many reasons there can be for a person to retire. Previously, if a person had paid for his triennial registration, there was no chance of his receiving any recoup. This has not been the practice for many years with respect to other licences such as those for a motor vehicle which has been completely destroyed or whatever and where there is some recoup on the cost of the licence for the period remaining.

The Bill also allows for the temporary carrying on of the business in the name of the people involved as it does now in the case of a death; it will extend to cases of retirement. The original legislation was probably not comprehensive enough to cover this situation.

The Bill also covers the aspect of branch managers and just who can act as one. Up to this time, people who had been branch managers at the time of the coming into operation of the Act had been permitted to act as branch managers for a specific period. Evidently, it had been the practice where those branch managers had ceased to exist that others were appointed who were not branch managers at the time and who were acting in that position. It is made clear that that is not tolerated and that the only people who are allowed a privilege under this legislation are those who were at the time of the introduction of the Act acting as managers. Their time will expire according to the time limit proposed for such people.

I see no reason that the amendments should not be agreed to. I have checked with the Real Estate Institute which sees nothing wrong with the Bill. In fact, I understand it suggested certain of the amendments. The Act is a fairly large one and it is a new concept. It is said to be a trend-setter for other States; our legislation is in a more compact form. Of necessity we must keep finding that certain aspects of the business are not covered by law and probably, in the next few years, we will need to further amend the Act. However, the amendments now before us are reasonable and I recommend that the House supports them. I support the Bill.

MR HASSELL (Cottesloe—Chief Secretary) [10.57 p.m.]: I thank the member for Welshpool, speaking on behalf of the Opposition, for his support of the Bill. I have noted his comments and I am glad he finds no difficulty with the various clauses of the Bill as he sees them in the operation of the legislation. As he said, there is no doubt there will be a need in future years for amendments to be made because of the nature of the industry with which we are dealing and the nature of the problems that arise from time to time.

As the member indicated, we have had a feedback which has indicated commendation of our legislation. Only last week the national conference of the authorities having responsibility for the real estate industry was held in Perth. During discussions I had at that conference, which were brief because it was not something I was involved in for its duration, it was clearly indicated to me that our legislation was considered to be something of a model for other States, in particular the code of conduct which has been introduced in our legislation. Our code has been looked at as a model for a uniform national code which it is hoped will be developed. There is a need for this because we are dealing with such a large industry. It is very important to the nation that there be a measure of uniformity between the States. There was some work at the conference towards reaching common understandings.

The legislation now proposed keeps our Act in order and up to date. As the member for Welshpool said, it deals with a number of separate issues which have arisen as a result of the implementation of the Act.

We have a great deal for which to thank the real estate board in the introduction of the legislation, because it has done such a good job, and has brought this legislation into operation without causing any significant problems in the industry. It is as a result of the very frequent meetings to which the member for Welshpool referred, that that work has been achieved.

I repeat my appreciation for the support of the measure which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

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

House adjourned at 11.03 p.m.

QUESTIONS ON NOTICE

LIQUOR

Maddington Tavern

1233. Mr BATEMAN, to the Chief Secretary:

(1) Is it a fact the Licensing Court approved of a tavern licence for the Maddington Tavern on 20 October 1980 with certain restrictions, one of them being "In the interests of nearby residents it will not accede to a request for entertainment permits or for permission to trade beyond the hour of 10.00 p.m."?

(2) If "Yes", will he advise why the Licensing Court has allowed a change of opening hours from 11.00 a.m. to 11.00 p.m. on Thursdays, Fridays, and Saturday nights, together with permission for amplified music on the same nights?

(3) Have these alterations caused great concern to residents living nearby?

(4) If "Yes" to (3), will he ensure, in the interest of residents, that the original approval with restrictions attached is adhered to?

(5) If not, why not?

Mr HASSELL replied:

(1) In giving its decision granting a provisional certificate for this licence on 31 October 1978, the court said—

(xi) The Court is satisfied from the evidence that there is a need in the affected area for the type of tavern envisaged in the Adams Report of 1969 providing an intimate drinking area for residents in the area and gives notice that in the interests of nearby residents it will not accede to a request for entertainment permits or for permission to trade beyond the hour of 10.00 p.m.

(2) After the tavern had been operating for one year and 10 weeks, the owner applied to the court for an extension of hours to facilitate the provision of an improved meal service and to enable patrons to socialise to a more reasonable and popular closing time. The owner undertook that music would be of a subdued nature.

(3) Three complaints have been received. One on 11 February 1980 was found, on investigation, to be groundless. Two were received only on 7 October 1980 and a warning letter was sent to the licensee.

(4) If the court is satisfied that a genuine hardship is being caused to residents, it will reimpose restrictions. The decision of the court quoted in answer to question (1) is not regarded as precluding any later variation of trading hours or conditions to meet changing circumstances.

(5) Answered by (4) above.

HOSPITALS

"A", "B", and "C"-class

1277. Mr JAMIESON, to the Minister for Health:

(1) How many "A", "B", and "C"-class hospitals are there in each category in this State?

(2) Roughly how are each of the categories defined?

(3) Are there any classes other than "A", "B", and "C" in hospitals in this State?

Mr YOUNG replied:

(1) The classification of hospitals as "A", "B", and "C"-class hospitals no longer applies.

Hospitals are either

(i) acute hospitals;

(ii) nursing homes;

(iii) approved hospitals under the Mental Health Act.

Number of acute hospitals in WA	149
Number of nursing homes in WA	122
Number of approved hospitals under the Mental Health Act	4—includes 1 Nursing Home.

(2) Acute hospitals are those providing any of the following services—

Surgical
Medical
Maternity
Paediatric.

Nursing homes are those providing long-term or permanent-care nursing services.

Approved hospitals under the Mental Health Act provide psychiatric care.

(3) No.

FISHERIES

Coastal

1278. Mr CARR, to the Minister representing the Minister for Fisheries and Wildlife:

I refer to the Minister's reply to the North Coastal Fishermen's Association, dated 25 August, in which he stated that a closure from 1 February to 14 March and an opening from 30 June to 15 August would advantage coastal fishermen, but would not affect the level of recruitment in subsequent years. As the change proposed is apparently not detrimental to the industry as far as conservation is concerned, but would reduce the concentrated effort on coastal fisheries, will the Minister please detail his objections to the change?

Mr O'CONNOR replied:

Requests from the North Coastal Fishermen's Association for a change in the rock lobster season north of 30°S latitude cannot be considered in isolation. The effect on those professional fishermen holding "A" authorisations and on the amateur fishermen must also be considered, together with such matters as the inspection difficulties which may arise from having a different season north of 30°S latitude from that south of 30°S latitude. The concern being expressed by members of the North Coastal Fishermen's Association is understood and the Minister is considering a recommendation from the Rock Lobster Industry Advisory Committee which may provide some relief to the coastal fishermen during the period 1 March to 14 March.

FISHERIES

Rock Lobsters: Season

1279. Mr CARR, to the Minister representing the Minister for Fisheries and Wildlife:

(1) With reference to the document "Data Summary—Economic Survey of Western Rock Lobster Fishermen, 1977-78, 1978-79", which states that in 1977-78 34.7 per cent of fishermen stopped on average five weeks prior to the end of the season and that in 1978-79 32 per cent of fishermen stopped on average 4.5 weeks prior to end of season—assuming these to be gross figures for the whole industry, is the department able to break these figures down to a zone-by-zone analysis?

(2) If "Yes", will the Minister please provide such an analysis?

Mr O'CONNOR replied:

(1) No. The document referred to was a summary provided by Mr P. Otteson of the Department of Agricultural Economics, University of Western Australia, following research undertaken by him.

(2) Answered by (1).

FISHERIES

Rock Lobsters: Boats Licensed

1280. Mr CARR, to the Minister representing the Minister for Fisheries and Wildlife:

(1) What is the total number of rock lobster pots licensed in each zone by his department?

(2) How many rock lobster fishing boats are licensed in each zone?

(3) What were the corresponding figures in answer to questions (1) and (2) for each of the last 10 years?

Mr O'CONNOR replied:

(1) to (3) The zones as presently established were introduced in 1975. Details of rock lobster pots and boats since that date are given in the tables below.

LICENSED NUMBER OF POTS PER ZONE

YEARS	A	B	C	D	E
1979-80	18 426	14 429	42 187	823	699
1978-79	18 368	15 108	41 624	805	701
1977-78	19 280	15 276	40 451	805	701
1976-77	20 117	15 752	38 594	716	605
1975-76	20 117	15 752	38 594	716	605

LICENSED NUMBER OF BOATS PER ZONE

YEAR	A	B	C	D	E
1980	204	166	408	7	9
1979	207	175	403	7	9
1978	214	175	397	7	9
1977	218	172	396	7	9
1976	227	170	395	5	10
1975	227	176	390	5	10

FISHERIES

Rock Lobsters: Pot Licences

1281. Mr CARR, to the Minister representing the Minister for Fisheries and Wildlife:

(1) What is the value of rock lobster pot licence fees collected since the introduction of the fee?

(2) As this fee was introduced for purposes of research, will the Minister please detail the expenditure of the fees collected in terms of to whom paid and for what items of research?

Mr O'CONNOR replied:

(1) and (2) Statements of receipts and payments of the Fisheries Research and Development Fund since the introduction of limited entry licence fees is tabled. The fees collected are not recorded separately under the various limited entry fisheries; i.e., rock lobster, prawn, salmon and abalone.

The paper was tabled (see paper No. 366).

MINING

Mine Workers' Relief Fund

1282. Mr HARMAN, to the Minister for Mines:

(1) With respect to the Mine Workers' Relief Fund, will he detail the—

(a) current amount held in the fund;

(b) present number of contributors;

(c) present number of beneficiaries?

(2) Has an estimate been made of the lump sum payment to current contributors?

(3) Given the approval of Parliament to the legislation presently before the Assembly, when is it anticipated the fund will be wound up and payments made?

Mr P. V. JONES replied:

(1) (a) $2 563 774.21 at 30 September 1980.

(b) Statistics on the number of contributors are prepared on an annual basis, and the latest return—31 January 1980—gives an average 9 617 contributors.

(c) 485.

(2) Yes, $1.9 million.

(3) The fund will take three years three months to wind up in the transitional period, and then the entitlements of those beneficiaries who cannot complete their claim because of continuing workers' compensation allowances will be transferred to SGIO to await their eventual settlement. It is proposed to commence windup on 1 February 1981. This will allow for setting up of the machinery for advice and distribution and to coincide with the Mine Workers' Relief Fund financial year ending 31 January 1981. Offers of lump-sum redemption would be made over the following three-month period and, although the board has six months to make payment, it would commence payout as soon as possible after the receipt of the accepted offers and realisation of the fund's assets for distribution.

ELECTORAL

Hospitals: Mobile Polling Facilities

1283. Mr JAMIESON, to the Chief Secretary:

(1) How many hospitals other than those which were proclaimed polling booths, were serviced by electoral officers at the general election in February 1980 in each of the 55 Assembly electorates in mobile capacity?

(2) How many "C"-class hospitals were proclaimed for service of mobile electoral officers at the election?

(3) What was the criterion used to determine whether or not a hospital should be proclaimed for the purpose of mobile service by the electoral officers?

Mr HASSELL replied:

(1) A total of 18 which comprised one each in the following electorates—

Cottesloe	Kalamunda
East Melville	Murray
Melville	Rockingham
Mount Lawley	Roe
Perth	Vasse
South Perth	Warren
Subiaco	Gascoyne
Victoria Park	Kimberley
Whitford	Pilbara

(2) One nursing home was declared.

(3) Hospitals having a bed capacity of 50 or more.

LAND: AGRICULTURAL

Release: North Eneabba

1284. Mr TUBBY, to the Minister representing the Minister for Lands:

(1) Following the recent announcement that further agricultural land will be released in Western Australia, when will land be released in the North Eneabba area, in the Shires of Three Springs and Irwin?
(2) How many blocks will be released?
(3) What will be the average area of blocks?

Mrs CRAIG replied:

(1) to (3) Land within and adjoining existing agricultural areas indentified in broad terms by a committee of the Rural & Allied Industries Council is subject to detailed investigation by an interdepartmental committee. No decision on specific areas to be released has yet been made.

CONSERVATION AND THE ENVIRONMENT

Environmental Protection Act: Amendment

1285. Mr STEPHENS, to the Minister representing the Minister for Conservation and the Environment:

(1) Further to question without notice 320 of 1980 relating to the Environmental Protection Act, did Cabinet approve the engagement of Dr Brian O'Brien as consultant to assist the Minister in his review of the environmental protection legislation?
(2) When did the Minister engage Dr O'Brien?
(3) Is Dr O'Brien engaged on a contract basis?
(4) (a) If "Yes", what are the terms of his contract;
(b) if "No", what is his brief as consultant?
(5) What is Dr O'Brien's consultancy fee?
(6) Will the cost of Dr O'Brien's consulting fee be charged to the Department of Conservation and Environment?

Mr O'CONNOR replied:

(1) Yes.
(2) The Minister has used Dr O'Brien as a consultant since 8 August 1980.
(3) Yes—by letter of contract.
(4) (a) In-depth study and review of the Environmental Protection Act.
(b) not applicable.
(5) Because the review has not yet been completed and there may be further matters requiring study, the final figure has not yet been determined.
(6) Yes.

CYCLES

Cycleways: Introduction

1286. Mr T. H. JONES, to the Minister for Local Government:

What is the Government's present programming for the introduction of cycleways in Western Australia?

Mrs CRAIG replied:

The report of the committee which was appointed by the Government to recommend a policy on the use of bicycles is expected to be available shortly.

This report recommended that a range of initiatives be taken to cater for cyclists, including the provision of cycleways.

Funds have been allocated to allow a number of the committee's recommendations to be implemented in the current financial year.

ROAD

Pannawonica-Fortescue River Mouth

1287. Mr SODEMAN, to the Minister for Transport:

(1) Since I am advised by Pannawonica residents that there are two alternative roads from Pannawonica to the mouth of the Fortescue River and as both access routes are roads servicing pastoral properties, is it a practical proposition to have one of them gazetted as a public road to facilitate ready access to the coast?
(2) (a) What does the gazettal process entail; and
(b) what role does the local authority play, if any?

Mr RUSHTON replied:

(1) and (2) Lands Department plans indicate that a road reserve to the mouth of the Fortescue River exists from the old North-West Coastal Highway via road 4260. Alternatively, another road reserve exists via roads 388 and 4260. The development of either route would be a matter for the Roebourne Shire Council.

CONSERVATION AND THE ENVIRONMENT

Environmental Protection Act: Amendment

1288. Mr HODGE, to the Minister representing the Minister for Conservation and the Environment:

(1) Is it a fact that Dr Brian O'Brien is reviewing the Environmental Protection Act or other environmental matters for the Minister for Conservation and the Environment:

(2) If "Yes", what method of appointment was used?

(3) What is to be the duration of the review?

(4) What fee will be paid for the review?

(5) What are the terms of reference for the review?

(6) When is the review due to be completed?

(7) What other sources of advice have been consulted on the review of environmental legislation?

(8) Has any input been obtained from—

(a) industry;

(b) voluntary organisations;

(c) academics;

(d) other departments;

if "Yes", which ones?

(9) For what period of time will any report or draft legislation be available for public scrutiny before legislation is put to the House?

(10) What method will be used for obtaining comments from other persons after the report or draft legislation has been received by the Minister?

(11) Will the Minister provide members with a detailed statement of the functions of the Environmental Protection Authority, the Conservation and Environment Council, and the Department of Conservation and Environment, comparing the functions and structure with their counterparts in other States?

Mr O'CONNOR replied:

(1) Yes.

(2) Letter of contract.

(3) Until completion of final report—duration not stipulated.

(4) Because the review has not yet been completed and there may be further matters requiring study, the final figure has not yet been determined.

(5) Complete review of the Environmental Protection Act.

(6) Not yet known.

(7) and (8) I refer the member to the Minister's reply to question 102 on Wednesday, 22 October 1980.

(9) Normal processes of Parliament.

(10) Normal processes of Parliament.

(11) The functions of the Environmental Protection Authority, the Conservation and Environment Council, and the Department of Conservation and Environment are clearly stated in the Environmental Protection Act. In view of the proposed amendments to legislation in other States no comparisons can be made at the present time.

QUESTIONS WITHOUT NOTICE

CONSUMER AFFAIRS

Prince Fashions Ltd.

365. Mr NANOVICH, to the Minister for Consumer Affairs:

(1) Is he aware that new jewellery, watches and clothing are being sold to people in Western Australia direct from Hong Kong by Prince Fashions Ltd., and to avoid paying duty and tax on the goods they are marked either "repairs" or "gifts"?

(2) Could he advise what protection the purchasers of the goods have regarding warranties and guarantees?

Mr O'CONNOR replied:

I thank the member for Whitford for some notice of the question, the answer to which is as follows—

(1) No.

(2) No purchasers of goods direct from overseas suppliers have any warranty protection unless it is specifically provided by suppliers through agents in Australia. Therefore, people should be warned to be wary in this regard.

EDUCATION: SCHOOL

Belmay

366. Mr BRYCE, to the Minister for Education:

In the light of the undertaking the Education Department gave approximately six weeks ago for the removal of the prefabricated buildings at the Belmay Primary School, will he please indicate when removal work will commence?

Mr GRAYDEN replied:

I thank the member for Ascot for notice of the question. The answer is—

Three groups which applied for Bristol rooms at the Belmay Primary School have been asked to reaffirm their requests and remove the rooms required. Responses have yet to be received.

If these groups decline and other organisations which showed an interest no longer want them, these buildings will be demolished.

WEDGE ISLAND

Bombing Practice

367. Mr DAVIES, to the Premier:

Last Thursday I asked the Premier whether he had any information regarding squatters at a place called Narrow Neck in the region of Lancelin. He said he was not familiar with the matter but would check with his department. Has he checked with his department to see whether any protests have been received? Since I last spoke about this matter I have received another six or eight letters of protest.

Sir CHARLES COURT replied:

As promised, I passed the query of the Leader of the Opposition to my department to seek information, but at the moment I have not received any response. However, that is understandable, because I have not returned to the department all day.

RAILWAYS

Freight Rates: Alcoa

368. Mr BARNETT, to the Minister for Transport:

Some notice has been given of this question which is as follows—

(1) Is it a fact, as reported in the *Daily News* of 4 November that only 48 per cent of labour cost increases and only 3 per cent of fuel cost increases have been passed on to Alcoa by Westrail?

(2) Is it possible to calculate Alcoa's rail subsidy savings in the years 1977, 1978, and 1979?

(3) If so, would the Minister please provide the figures?

Mr RUSHTON replied:

(1) to (3) The Minister has not been given any notice of this question. Therefore, I would ask the member for Rockingham to place it on the notice paper.

MINING: GOLD

"Rabbit Warren" Discovery

369. Mr COYNE, to the Minister representing the Attorney General:

(1) Referring to happenings in the wake of the much publicised "rabbit warren" gold discovery north of Leonora, could the Minister inform the House whether the Commissioner for Corporate Affairs has satisfied himself that all the proprieties and standards that should prevail are being strictly observed by the entrepreneurs who are promoting this apparent bonanza?

(2) Since the Tasminex and Leopold scandals, in particular, some 10 years ago, have there been any more stringent controls on companies and sharebrokers to curb the activities of share market dealers and company promoters?

(3) If the answer to (2) is "Yes", could the Minister outline what barriers have been introduced to prevent expert promoters and entrepreneurs from maximising their gains through misleading information at the public's expense?

Mr O'CONNOR replied:

(1) The Commissioner for Corporate Affairs is undertaking inquiries into the circumstances leading to the suspension by the Perth Stock Exchange of Cliffminex NL and to other matters relating to the agreement between Cliffminex NL and parties with an interest in the "rabbit warren" discovery.

(2) The Western Australian Securities Industry Act 1975 significantly updated legislation concerning regulation of the securities industry. The provisions of this Act have been further reviewed and included in the Commonwealth Securities Industry Act 1980 which Act is part of the legislation to be enacted under the national companies and securities co-operative scheme. Upon passage of the Application of Laws Bill in this State, the Commonwealth Act will operate as a code in Western Australia. It is expected that the Application of Laws Bill will be submitted to Parliament in the autumn session.

(3) Part X of the Securities Industry Act 1975 deals with tradings in securities. This part creates offences where there has been false trading, where false markets are created, where there has been market rigging, for false or misleading statements, for fraudulently enticing persons to deal in securities, and prohibits the dealings in securities by insiders. Offences for contravention of these provisions are punishable upon conviction by a fine not exceeding $5 000 or imprisonment not exceeding five years, or in the case of a body corporate, by a fine not exceeding $50 000.

PRISONER

Lionel Cruttenden: Compassionate Leave

370. Mr PEARCE, to the Chief Secretary:

Would the Chief Secretary care to deny that the Department of Corrections recommended against the extension of weekend leave provisions for Lionel Cruttenden?

Mr HASSELL replied:

I make it quite clear at the outset that I do not choose to deny or agree with the statement made by the member for Gosnells. I believe the member suffers from the unfortunate misapprehension, also suffered by some of his colleagues, that departments exist to carry out the decisions they choose to make and that Ministers have an automatic obligation to carry out the decisions of the departments.

Several members interjected.

The SPEAKER: Order! The Minister will resume his seat. The member for Gosnells has asked a question and now proceeds to interject whilst the Minister is attempting to answer his question. It seems to me to be not only unfair, but also inappropriate. I call on the Chief Secretary.

Mr E. T. Evans interjected.

The SPEAKER: Order! The member for Kalgoorlie is developing something of a habit of giving a bit of backchat when I rise to my feet to deal with a situation that has developed in the House. The other evening I quietly went around to him and suggested it is inappropriate to do that. If he persists, I will have to take appropriate action.

Mr HASSELL: The member for Gosnells should understand that I will not on this occasion or any other occasion enter into discussion or debate in this Chamber or elsewhere on the subject of advice given to me by departmental heads, whether that advice favours my public utterance or otherwise. To do so would be quite wrong. Departmental heads have an obligation to advise, and Ministers have an obligation to decide; and when those two functions are mixed up Governments get themselves into severe trouble.

The member for Gosnells has been running somewhat of a campaign in the

matter of Mr Cruttenden and, from his utterances which have been reported in the *Daily News* and *The West Australian*, he has no doubt got a very good source of information in my department.

Mr Bryce: Reliable?

Mr HASSELL: We have moved from the stage of legitimate public questions being asked in connection with the Cruttenden matter, into the arena of my being subjected to some kind of inquisition—

Mr Bryce: Perish the thought.

Mr Brian Burke: Get yourself a lawyer.

Mr HASSELL: —by an officer of my department who is using the media and the Opposition to ask a whole series of—

Mr Brian Burke: "I am Noddy".

Mr HASSELL: —questions which have something to do with my responsibilities and those of the director, and nothing to do with the responsibilities of that officer.

Mr Brian Burke: Borrow the police from the Minister for Water Resources!

Mr HASSELL: Last night I received a detailed list of questions on this matter from the Press. The terms of the draft of the questions clearly indicated that they came from an officer of the department. I have declined to answer them, and I make it clear to the member for Gosnells—

Mr Bryce: What have you got to hide?

Mr HASSELL: —that I will not answer any further questions which are based on inaccurate misrepresentations of an employee of the department who ought to have a better sense of his own responsibilities.

Mr Davies: The Minister should have a better sense of his responsibilities.

STATE FINANCE

Wages and Salaries: Increases

371. Mr HERZFELD, to the Treasurer:

(1) I refer the Treasurer to an article which appeared in *The West Australian* this morning under the heading, "Nurses' pay: Government backs down". In the article the Secretary of the Trades and Labor Council (Mr Peter Cook) is reported as having said it was significant that the Government had already had to deviate from its policy declared to a TLC deputation last Wednesday.

In view of that statement I ask: Is it correct that the Government has abandoned or relaxed the policy announced with the 1980-81 Budget—and subsequently enlarged upon—whereby when there are wage and salary increases outside the national wage indexation cases, corresponding reductions will be made in wages and salaried staff to offset the higher costs?

(2) In the same article Mr Cook went on to say that it showed there was flexibility for the Government to absorb increases in areas other than by cutting the work force.

Therefore, I further ask: Is there any flexibility in the Budget which may be used to absorb pay increases other than those provided for in the Budget, or for national wage indexation determinations?

Sir CHARLES COURT replied:

(1) and (2) There is no accuracy in the claim that the Government has in any way abandoned or relaxed the policy announced in the Budget, and upon which I have expanded subsequently. For the TLC or anyone else to place a different interpretation on the Cabinet's decision of yesterday is quite incorrect. Wage and salary earners, unions, and others must understand this, and they must understand also that the Government has no funds readily available outside national wage indexation cases.

That is what I explained when my two colleagues and I met representatives of the TLC a few days ago. I thought we had got the message across to them. We explained in meticulous detail that there is no flexibility, and that if people receive increases outside national wage indexation cases there is no scope within the Budget to cope with them.

In respect of non-indexation increases, the Government has only two choices: to cut services or staffs to keep costs within the limits of the Budget, or to increase taxes and charges.

As far as the nurses' increases are concerned, the Cabinet has asked the Minister for Health to submit quickly—and by that I mean within the next few days—proposals relating to the increased costs of nurses, which are $5 million this year, 1980-81, and $7 million in a full year, so they can be offset. These reductions may be across the whole range of hospital expenditure; but—and this is the point I want to emphasise because it applies to so many other departments—with the cost of staff being nearly 70 per cent of the cost of running the hospitals, it would be reasonable to assume that a cut of that magnitude would result in the loss of jobs somewhere in the system. The Government has made it clear repeatedly—

Mr Harman: What about the inefficiencies in the system, and waste?

Sir CHARLES COURT: If there are any inefficiencies in the system maybe some of those people will be the ones who will be removed, under the Minister's proposal. However, they are still people. This is what we were trying to explain to the TLC when it wanted us to abandon certain contract work. We had to explain that they, as union leaders, are representing the same people who work in the private sector as those who work in the Government sector. In the main, when they are dealing with tradesmen and other workers they are dealing with the same people whether they are in the private or Government sectors.

Mr Harman: A lot of empire building going on.

Sir CHARLES COURT: We make it clear that when non-indexation wage rises occur, the departments and authorities concerned will, nonetheless, have to keep within their budgets. Whether the nurses' increases should be offset by some reduction in nursing staff and/or non-nursing staff, and also by reductions in other expenditure, is a matter for the Department of Health and Medical Services and the hospital administrations to recommend to the Minister, and for the Minister, in turn, to bring the recommendations to the Government so that the Government can make a proper decision. I repeat that one person's increase, in many cases, is another person's job.

Mr Harman: That is not original.

Sir CHARLES COURT: I make one final point: sometimes people assume that if the nurses receive an increase, it must be the nurses who will be dismissed. However, that does not necessarily apply. It has never applied, because when one is dealing with an organisation like the hospital system which, together with all activities of the portfolio of the Minister for Health, has a work force of some 20 000 people the work force sometimes has to be adjusted in different categories. Because one particular section receives an increase, that does not mean that all the adjustments have to take place in that skill; for example, in an organisation where there is emphasis on, say, one particular engineering skill, an increase in pay for people in that skill does not mean the cut-backs have to be directed specifically to that particular group. However, overall in the organisation, the number of people has to be reduced to absorb the extra costs. In that respect, the Government is no different from private enterprise; and it is about time people understood the message.

ROAD

Ennis Road

372. Mr BARNETT, to the Minister for Transport:

I preface this question with the comment that I did give the Minister's department notice of the previous question. If he does not have the answer, it is not good enough for him to say to me that I did not give notice.

Mr Rushton: I am saying I haven't got it; and I asked you to put it on notice.

The SPEAKER: I ask the member to put his question.

Mr BARNETT: What is the current status of negotiations concerning the median strip in Ennis Road opposite Unnaro

Street? In the next couple of days, at his convenience, will the Minister provide me with copies of the plans that have been submitted to him for the opening of the strip, and the reasons they have been rejected?

Mr RUSHTON replied:

I will have a look at the member's request and see what I can do to give him an up-to-date picture.

MINISTER OF THE CROWN: CHIEF SECRETARY

Ministerial Responsibility

373. Mr PEARCE, to the Premier:

(1) Does he accept the outrageous proposition put to this Parliament by the Chief Secretary, that he is not answerable to Parliament for the decisions he takes on his own ministerial responsibility, and that it is not up to members of this Parliament like me to question the basis on which he has made these decisions? I do not doubt that it is the Chief Secretary's right to make the decisions he has made; but we are entitled to know something about the reasons for which they are made.

(2) Bearing in mind the number of discrepancies in answers in this Chamber on the subject of Mr Cruttenden in relation to the missing $100 000, and other matters, will he set up an inquiry into the Cruttenden business to establish the reasons that the matter has been treated in this way?

Mr Parker: He is probably financing the Liberal Party.

Sir CHARLES COURT replied:

(1) The member in the preamble to his question—as I heard him—was distorting the facts. It ill-becomes him. As far as I am concerned, I know of no discrepancies in the answers given by the Chief Secretary.

The member for Gosnells wants to hound somebody who does not have the capacity to come to this place and answer for himself.

Mr Tonkin: He is hounding the Minister.

Mr Pearce: I have nothing against Mr Cruttenden.

Mr Brian Burke: Tell us where the $100 000 is.

The SPEAKER: Order! It is improper during question time to have the person on his feet subjected to a barrage of interjections whilst he is attempting to answer the question.

Sir CHARLES COURT: I repeat that I know of no discrepancies in the answers given by the Chief Secretary. He has been more than patient. He has certainly been more patient than I would have been with the member for Gosnells.

Mr Brian Burke: But he is younger!

Sir CHARLES COURT: The explanation given by the Chief Secretary this evening was long overdue. I hope the member for Gosnells will read it and read it again because it would be to his benefit. What is the position of a Minister in a department? He is not a tool of the officers of his department. He is the Minister, and he has certain responsibilities. The Minister concerned is fulfilling those responsibilities very well indeed.

(2) The last part of the question is whether there will be an inquiry. The answer is "No".

Mr Brian Burke: Where is the $100 000?

Mr O'Connor: Were you here when the answer was given last week?

MINISTER OF THE CROWN: CHIEF SECRETARY

Prisoner Lionel Cruttenden: Intervention

374. Mr BRYCE, to the Chief Secretary:

(1) Is the Minister aware that the purpose of parliamentary questions in probing the role and functioning of the bureaucracy, is a cornerstone of the Westminster system of parliamentary government?

(2) Will he reconsider his decision to run away from the embarrassment which his own intervention in the Cruttenden case has caused him?

Mr HASSELL replied:

(1) and (2) The member for Ascot really does not understand the situation. I am not embarrassed in the least about the Cruttenden affair. I am not now, and I never have been. As I have explained in

numerous answers in this House and to the media, I have given all the details that have been requested properly. There has been no impropriety in the matter of Cruttenden. There has been nothing done that is wrong, improper, out of order, or questionable. Questions have been asked, and answers have been given. I support fully the Westminster system of probing the bureaucracy and what the bureaucracy does. I accept also the obligation that the bureaucracy, as an employee group, has to have fundamental, simple decency and honesty towards its employer. The situation in relation to Cruttenden—

Mr Bryce: Your attitude is encouraging people to be disloyal.

Mr HASSELL: The questions which have been asked here by the Opposition and outside by the media are not questions raised genuinely by the Opposition or the media to probe the workings of the bureaucracy or the decisions of the Minister, but are questions being drafted, in fact, by a member of the staff in my department. I am not answerable to the staff of my department—

Mr Bryce: That is rubbish. It is illusory rubbish.

Mr HASSELL: The member knows it is not rubbish. He knows very well that it is true.

Mr Harman: Who is he?

Mr HASSELL: How does the member for Maylands know it is a "he"?

Let me make it clear that in the future I will answer proper questions which relate to those matters, but I will not answer questions which are framed by departmental officers.

PRISONER

Lionel Cruttenden: Compassionate Leave

375. Mr BRIAN BURKE, to the Chief Secretary:

How did it come to his knowledge that Mr Cruttenden had broken the terms of his release, and from whom was it that he learnt that the breach had occurred?

Mr HASSELL replied:

By a report to me from the department, in the normal course of operations of the department.

PRISONER

Lionel Cruttenden: Compassionate Leave

376. Mr PEARCE, to the Chief Secretary:

Can he advise the House whether Mr Cruttenden had his special leave provisions cancelled or suspended on previous occasions for breaches of the conditions?

Mr HASSELL replied:

Not that I know of. I do not know of any former breaches of conditions.

GOVERNMENT DEPARTMENTS

Confidential Documents: Leaking

377. Mr BRYCE, to the Chief Secretary:

This is a supplementary question to my previous question concerning the Cruttenden affair. Since he is playing the role of "Johnny-come-lately" in his portfolio—

Mr Young: You say that to everyone, lately.

Mr BRYCE: Well, he really is. Is he aware that the experience of this place is that the leakages in Government departments is directly proportionate to the deviousness of the Ministers?

The SPEAKER: Order! That question is out of order.

PRISONER

Lionel Cruttenden: Compassionate Leave

378. Mr BRIAN BURKE, to the Chief Secretary:

I have a supplementary question to the Chief Secretary—

Withdrawal of Remark

Mr HASSELL: Not only was the question out of order, but it was unparliamentary and it ought to be withdrawn.

The SPEAKER: I agree with the point of view of the Chief Secretary, and I would ask the member for Ascot to withdraw the offensive statement.

Mr BRYCE: On a point of order: the Minister knows—

The SPEAKER: Order!

Mr BRYCE: Members are entitled to raise a point of order at any stage.

The SPEAKER: Order! The member is required to withdraw the words now.

Point of Order

Mr BRIAN BURKE: My point of order is that I had already commenced to ask a supplementary question of the Minister. If you are going to permit Ministers to ask for the withdrawal of words after the next question has commenced, we will have withdrawals requested three sentences after the offence has been committed.

Mr Pearce: Or half an hour!

The SPEAKER: Order! I draw the attention of members to the sequence of events. I ruled a question out of order; and I can assume only that the Minister thought I would go one step further and ask for the withdrawal. I did not do that, but I gave the call to the member for Balcatta whereupon the Minister immediately rose and asked for a withdrawal. Whilst the Standing Order says that the objection shall be taken forthwith, I do not think the Minister could have taken it more "forthwith" than he did. I still require the member for Ascot to withdraw.

Mr BRYCE: History will prove my point, Mr Speaker. I am very happy, in deference to you, to withdraw the remark.

Questions (without notice) Resumed

Mr BRIAN BURKE: I will complete my supplementary question to the Chief Secretary. It is a fairly short question, and it simply asks whether the routine report from his department, by which he learnt of the breach of conditions committed by Mr Cruttenden, was a report that he initiated himself following information that he had received, or whether it was a report made by his department to him on its own initiative?

Mr HASSELL replied:

To my recollection, the report was made to me by the department in the normal way. I do not recall having said that it was a routine report. I said it was a report that came to me in the ordinary course of business of the department.