

Legislative Council

Wednesday, 16 September 1981

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

FAMILY COURT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by the Hon. I. G. Medcalf (Attorney General), and read a first time.

PLANT DISEASES AMENDMENT AND REPEAL BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.01 p.m.]: I move—

That the Bill be now read a second time.

This Bill contains proposals for the repeal of the Plant Diseases (Registration Fees) Act and consequential amendments to the Plant Diseases Act to provide for surveys to be the basis for establishing a roll of electors where a fruit-fly baiting scheme is to be established or its continuance contested.

The provisions under the Plant Diseases Act and the related Plant Diseases (Registration Fees) Act regarding the registration of orchards no longer serve a useful purpose. The processes of registering orchards and recording and storing information details are time-consuming and costly operations. The cost of collecting the fees is now equivalent to the total receipts and as the information that registration provides is inadequate for planning baiting schemes, the provisions for orchard registration are no longer valid.

It is further proposed that the provisions for the fruit-fly eradication trust fund be amended to provide finance for the carrying out of surveys of orchard properties and for the taking of polls.

For the purposes of voting for the establishment or continuance of baiting schemes, it is proposed that a survey of fruit growers' properties within

the prescribed district be the basis of a roll of electors. In order to establish equitable voting for multiple ownership or tenants-in-common, provision is made for regulations to define the voting entitlement of such parties.

In the matter of possible disputation on the conduct of a ballot, or the entitlement of particular parties, the Bill provides power for the Minister to resolve disputes and for a notice published over the Minister's name to be proof of the proper conduct of such polls.

Existing penalties under the Act range from \$20 to \$200 but the usual level of fine imposed is around \$20. These outdated levels of penalties are of no consequence to a truck driver with a load of fruit valued at more than \$10 000 who fails to comply with plant quarantine requirements and places this State's agricultural industries at risk through possible introduction of pests and diseases.

It is proposed to increase penalties to the range of \$400 to \$2 000 and strengthen the powers under section 23 to deal with imported agricultural produce and its transportation from interstate.

The inspection of imported produce from interstate is performed at rail and road depots, airports, and the Norseman checkpoint. Section 23 of the Act gives general powers to seize, disinfect, destroy or otherwise dispose of plants, fruits and goods. However, the provision dates from 1914 and at that time did not envisage the present mobility of people or the volume and ease of movement of goods and agricultural produce.

To overcome the lack of specific powers and directions under this section, the proposed amendments allow, where necessary, for the direction under quarantine of vehicles and goods to a place where disinfection or treatment can be carried out, or to detain a vehicle until an inspection can be made.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Brown.

MISUSE OF DRUGS BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [5.05 p.m.]: I move—

That the Bill be now read a second time.

This Bill places in one piece of legislation a comprehensive and coherent "code" relating to drugs of addiction, specified drugs, and prohibited plants. To facilitate this, part VIA of the Police Act, together with sections 41A(3), 42, and 43 of the Poisons Act, are to be repealed and re-enacted with modifications in this Bill.

The provisions of the Bill are in line with the spirit of some recommendations of the Australian Royal Commission of Inquiry into Drugs—the Williams report. However, this Bill is not in response to that inquiry.

Recommendations by that inquiry are broad in their scope, and by their tenor, recommendations for drafting only; whereas, this Bill is based upon workable legislation already in existence, together with some amendments to the law and procedures.

Drugs to which this Bill applies are drugs of addiction, being those defined in the eighth schedule to the Poisons Act, including in particular cannabis, heroin, and opium. It will apply also to specified drugs and to prohibited plants within the meaning of the Poisons Act. These are the same drugs which the Williams report recommends should be subject to control.

Offences defined in the Bill are substantially those existing in present legislation, with the exception of conspiracy which is dealt with later.

In a number of circumstances the Bill will create offences that will occur when—

- a person manufactures or prepares cannabis or opium;
- the owner, lessee or occupier or person concerned in the management of premises, permits those premises to be used for the purpose of the preparation of a prohibited drug for smoking or the sale, distribution, or use of a prohibited drug or prohibited plant;
- a person is in possession of any pipes or other utensils which have been used in connection with the smoking of a prohibited drug or prohibited plant;
- a person is found in any place which is then being used for the purpose of the smoking of a prohibited drug or prohibited plant;
- a person sells, supplies, or offers to sell or supply to another, a prohibited drug;
- a person manufactures or prepares a prohibited drug without authority;
- a person possesses a prohibited drug with intent to sell or supply to another;
- a person possesses or uses a prohibited drug;

an authorised person sells, distributes, or supplies a prohibited drug to an unauthorised person;

a person cultivates, purchases, or possesses a prohibited plant with intent to sell or supply;

a person sells a prohibited plant;

a person cultivates, purchases, or possesses a prohibited plant;

a person forges or fraudulently alters a prescription for a prohibited drug;

a person obtains the administration by injection or otherwise of a prohibited drug by false representation;

a person sells, leases, or otherwise deals with any property which is the subject of an embargo notice;

a police officer, approved person, or other authorised person is delayed or obstructed in the exercise of a power conferred;

a person does not produce to, or conceals from, a police officer, approved person, or other person authorised, any books, documents, or stocks of any prohibited drug, prohibited plant, document, article, thing, or money;

an undercover officer who is not a police officer does not deliver a prohibited drug or prohibited plant as soon as practicable after acquiring the same; and,

a person conspires with another to commit any offence contained within the provisions of the Bill.

The existing offence in the Police Act of being in possession of the proceeds from unlawful dealing in drugs is to be replaced by a provision aimed directly at taking away the proceeds from those who deal in drugs.

In place of the offence which has proved inadequate for the purpose, the police will be empowered to seize such proceeds either under the stop-and-search or search warrant provisions, depending upon the circumstances, and may within 72 hours of the seizure apply to a justice of the peace for an order authorising the continued detention of the proceeds, or where the proceeds are under the control of another party such as a bank, to apply to a justice of the peace for an embargo order to secure the proceeds until proceedings are concluded.

The police may within 21 days from the date of the order make an application to the District Court for forfeiture of the proceeds to the Crown.

A person aggrieved by the order or embargo notice also may apply to the District Court for an order disposing of the proceeds.

There is proposed to be a continuation of the present system of presumed intention to sell or supply when relatively larger quantities are held or manufactured or prepared. Possession of the prescribed quantity of drugs, as proposed to be detailed in the fifth schedule, and plants, as proposed to be detailed in the sixth schedule, will give rise to a presumption of intention to sell or supply.

These prescribed amounts have been arrived at after consultation with the Department of Health and Medical Services and the Government Chemical Laboratories. They are also substantially in accordance with recommendations of a 1976 joint Police and Health Ministers' Conference.

For indictable offences, jurisdiction will extend to both the Supreme Court and the District Court. A summary court presided over by a stipendiary magistrate will, however, have a discretionary power to deal with some of the lesser indictable offences. These offences will be determined by the quantity of the drug or plant involved as enumerated by the third and fourth schedules to the Bill.

Provision is made for trial by jury for the more serious cannabis offences, including large cultivations with intent to sell or supply. The latter offence does not exist in present legislation, but has been included in the Bill to remove not only an anomaly, but also a serious deficiency in present provisions.

Allowance has been made for a court, after hearing an indictable offence—such as possession of a prohibited drug with intent to sell or supply—but in regard to which the prosecution establishes guilt of only simple possession of the drug, to impose a penalty for the lesser offence. At present, an anomaly exists whereby no penalty is provided for a conviction upon indictment under these circumstances.

All simple offences are to be dealt with by Courts of Petty Sessions.

To negate an escape route presently followed by some offenders, the six months limitation for commencing a prosecution for an offence under present legislation is to be eliminated.

The powers of search and seizure for police officers, and others, in relation to suspected offences, are similar to present provisions and recommendations of the Williams report. They are, however, broadened to include "articles or things", and to include places other than premises, which will permit the search of land and property which may have been technically excluded from present provisions.

Police will be permitted to have proper technical assistance, such as the services of a botanist or analyst during a search.

Procedures are set forth within the Bill directing how any property, prohibited drugs, or prohibited plants are to be dealt with until ultimate disposal, forfeiture, or destruction.

To gain evidence against drug dealers, the police will be authorised to use undercover officers for the purpose of detecting the commission of an offence. When acting within these provisions, such an officer will not be regarded as an accomplice, as having committed an offence, or have his evidence deemed to be that of an accomplice. This protection will extend only to an undercover officer who is acting with the prior authority in writing of the Commissioner of Police, or a police officer authorised in writing for this purpose by the commissioner.

The commissioner shall, when requested, furnish the Minister with a report containing such particulars as the Minister requires of the activities of an undercover officer authorised within these provisions. The Commissioner of Police will be permitted to delegate his powers within the Bill to other police officers of or above the rank of inspector.

Protection from civil liability is proposed to be provided for a police officer or other person on whom a power is conferred or duty imposed by the Bill when such police officer or other person does any act or makes any omission in good faith in the exercise of that power or the performance of that duty. The Crown also is not to be liable for any such act or omission.

Analysts and botanists will be permitted to issue certificates for presentation to a court concerning an analysis or examination made by them of any plant, drug, or other substance. At present such certificates are available only in respect of an analyst. A defendant who requires an analyst or botanist to give evidence will be required to give not less than three days' notice.

The Bill provides for the Governor to make regulations prescribing all matters that are required or permitted for giving effect to the purposes of the Bill and, in particular—

prescribing and providing for the recovery of fees;

providing for procedures in relation to analysis or examination, and admissibility and receipt of evidence relating to analysis or examination;

providing for the manner in which property forfeited to the Crown is to be dealt with;

requiring property that is to be destroyed, to be destroyed in a particular manner; and,

the manner in which any plant, drug, or other substance is to be conveyed to and analysed or examined by an analyst or botanist.

It is considered desirable that these matters should be controlled by regulation to enable any defect in procedures to be immediately rectified.

When introducing the Misuse of Drugs Bill 1980 in November last year the Minister for Police and Traffic stated—

This is an important Bill; the first of its kind in Australia. We are faced with a problem of frightening dimensions.

Drugs of addiction have their effect not only on those who become addicted, but also in the organisation and promotion of criminal activity directed to satisfy the base greed of evil people. They are, therefore, a double danger to the community.

The law now proposed is substantially aimed at criminals, and those who seek to profit from criminal activities. It is to be a tough law, to deal with a tough problem. At the same time, it is believed to incorporate proper protections and control of any misuse of necessary police powers.

The Bill is introduced now to lie on the Table of the House until the next session. In the period until then, I look forward to considering the Bill further myself, in the light of informed public comment. It is likely that changes will be proposed before the Bill is again put to the House for enactment.

During the period Parliament was in recess the Minister did receive from various groups, both in the Government administration and from outside, comment and suggestions in relation to the Bill. The Bill has received good support from a number of quarters. The Bill has now been re-drafted to incorporate acceptable changes suggested by submissions received.

The definition of "cannabis" is to remain as that presently set out in the Police Act, and the term "to cultivate" as that currently existing in the New South Wales Poisons Act.

It is proposed that a person who manufactures or prepares cannabis or opium be liable to the same maximum penalty as those who are dealers. This change is consistent with the focus of the Bill overall, which is directed at the dealer chain.

The offence of possession of utensils for opium smoking or preparation has been extended to incorporate utensils for smoking or preparation of any prohibited drug or plant with the added proviso that such drug or traces of drug or plant must be found in the utensil as evidence of use. Mere possession of one or more unused utensils will not be an offence. This proviso will enable persons to retain curios or souvenirs.

Under existing legislation when a person has possession of more than a specified quantity of a prohibited drug, that possession is prima facie evidence of possession for the intent and purpose of selling or supplying the drug to another. Proof of the manufacturing or preparation of a prohibited drug is now included as prima facie evidence of intent to sell or supply, without the need to prove actual intent to sell or supply.

Originally it was intended to repeal the offence of obtaining a prohibited drug by a forged or fraudulently altered prescription from the Poisons Act and rely for that offence upon the provisions of the Criminal Code. Upon reflection, it is considered the provisions contained in this Bill should be complete to the greatest extent possible. Therefore, the provision as exists presently in the Poisons Act is now incorporated in this legislation.

The sale or disposal of property the subject of seizure or an embargo notice as a result of a drug offence inquiry is considered to be appropriately dealt with by the District Court rather than as a summary offence. It is reasoned that seizures and embargo notices will generally be issued by, or will involve the powers of, the District Court. Following from that it is considered any breach of an embargo notice or seizure is in the nature of a contempt of that court and should on that basis bear a penalty not exceeding a \$20 000 fine and/or five years' imprisonment. Any dealing in relation to the property, notwithstanding anything in any other Act, will be null and void.

It is intended that this legislation will effectively ensure that persons do not profit from unlawful dealing in drugs. Significant powers to trace proceeds of drug dealings are now extended in the Bill. These include a general duty to divulge records, documentation, or other information which may assist in tracing the proceeds of drug dealing. Those who fail to give information or give false or misleading information will be liable to a maximum penalty of \$3 000 and/or three years' imprisonment.

A proviso is included in the Bill for those who are likely to incriminate themselves.

For the first time specifically in legislation of this nature, the Bill deals with undercover officers. A statutory obligation has been included for an undercover officer to deliver property or drugs received as directed. Any digression from this direction will, of course, bring the full force of the law into effect.

Currently, under the provisions of the Criminal Code a conspiracy carries a penalty of three years' imprisonment. The Government in its intent to show clearly its position in relation to drug dealing has provided in this legislation for persons who conspire—

- (1) with intent to supply a prohibited drug to another;
- (2) to manufacture or supply any prohibited drug;
- (3) to sell or supply or offer to sell or supply a prohibited drug;
- (4) with intent to sell or supply a prohibited plant or any prohibited drug obtainable therefrom to another or have in their possession or cultivate the prohibited plant for that purpose; or
- (5) to sell or supply, or offer to sell or supply, a prohibited plant to another;

to be liable to a maximum penalty of 20 years' imprisonment, without the option of a fine.

It is pointed out that this provision will relate to those in the dealer category. Those who conspire to achieve the lesser offences contained in the Bill will be liable to the penalty applicable to the substantive offence.

Those in drug dealing syndicates and persons heading organisations whether growing prohibited plants or funding "drug runs" and who do not do the actual physical dealing or collecting will now come within the scope of a penalty appropriate to their character.

Drugs remain and perhaps are increasingly a threat to the community. The heartbreak and problems drug use and abuse can, and do, pose—particularly to the younger members of our community—are well known to responsible persons.

Certain sections of the community conduct campaigns lobbying support for the legalisation of cannabis use. The Government has no intention of supporting such a measure.

Once hooked, a hard drug addict needs at least \$100 to \$200 a day to support the habit, and the only way to obtain that amount of money is by crime. As a result, these persons turn to drug trafficking or alternatively to drug-related crime ranging from theft to armed robbery. As some members of this House are aware, the offence of

armed robbery is on the increase in this State. Offences of that nature at the premises of pharmacists are of grave concern. Break-ins at chemists, drug distributors, doctors' premises, and veterinary premises are commonplace.

The Government realises that harsh laws directed to addicts alone will not reduce the problem. This legislation is therefore not aimed to challenge the problem in that manner, but is aimed at cutting off the market supply. The intent is clearly shown in the powers contained in the Bill relating to search and seizure and the offences relating to conspiracies, cultivation, and manufacturing. It aims at those so far protected profiteers behind the scenes.

Any lesser action than is proposed in this Bill is likely to permit the growth of an uncontrollable problem the like of which has not been seen in this community. It is essential that our police have the determination, the skill, and the legal backing necessary to permit them to prevent the occurrence in our society of the evils which have beset and so badly affected the quality of life in some urban communities of other western nations. Those evils include terrorism, urban warfare, politically motivated crime, and the abuse of drugs.

In the overall context, this Bill concerns itself with legal backing to deal with and prevent the growth of one of those very serious problems.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. H. W. Olney.

ACTS AMENDMENT (MISUSE OF DRUGS) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [5.25 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the Misuse of Drugs Bill. It provides for certain necessary or desirable amendments to the Child Welfare Act, the District Court of Western Australia Act, the Poisons Act, and the Police Act.

The Child Welfare Act is to be amended to provide for the control and treatment of children who become involved with prohibited drugs or prohibited plants.

With regard to the District Court of Western Australia Act, section 42(2) at present limits the jurisdiction of the District Court to indictable offences in respect of which the maximum term of imprisonment does not exceed 14 years or for which the penalty is death.

It is considered that some categories excluded by that section could be handled adequately by the District Court and the Bill therefore extends that court's jurisdiction to such criminal matters as contained in the proposed second schedule to the District Court Act.

Offences specified in the new schedule are as follows—

- (a) A person who with intent to sell or supply it to another has in his possession a prohibited drug;
- (b) a person who manufactures or prepares a prohibited drug;
- (c) a person who sells or supplies, or offers to sell or supply, to another a prohibited drug;
- (d) a person who with intent to sell or supply a prohibited plant or any prohibited drug obtainable therefrom to another, has in his possession or cultivates the prohibited plant;
- (e) a person who sells or supplies, or offers to sell or supply, a prohibited plant to another; and
- (f) conspiring with another to commit any of the before-mentioned offences.

These amendments will not go so far as to inhibit the Supreme Court from handling any of these drug trials.

Sections 41A(3), 42 and 43 of the Poisons Act are to be repealed as similar provisions are included in the proposed Misuse of Drugs Bill.

The Police Act is to be amended by repealing part VIA comprising sections 94A to 94E as the provisions within those sections are included in the proposed Misuse of Drugs Bill.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. H. W. Olney.

VETERINARY PREPARATIONS AND ANIMAL FEEDING STUFFS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON. D. J. WORDSWORTH
(South—Minister for Lands) [5.28 p.m.]: I move—

That the Bill be now read a second time.

The Veterinary Preparation and Animal Feeding Stuffs Act controls the registration, production, importation, treatment, preparation for sale, marketing, storage and sale of veterinary preparations and animal feeding stuffs.

The regulation of feeding stuffs for food producing animals is necessary to protect the owner by ensuring efficacy and to protect the consumer of meat and meat products from unwanted contaminants.

Similarly, the registration of feeding stuffs for horses is necessary to protect the owner who purchases the product and to ensure the claimed benefit to the horse in terms of work output. It is difficult to justify the regulations of feeding stuffs for domestic pets—dogs, cats, fish, and birds—by any such criteria.

Currently, all animal feeding stuffs offered for sale in Western Australia must be registered with a consequent requirement for special labelling.

At the present time, only New South Wales and Western Australia administer their legislation on animal feeding as including dogs and cats. South Australia includes dog food only and Queensland enforces its legislation as though dogs and cats were excluded. Victoria does not include dogs or cats and Tasmania does not legislate for registration of pet foods.

The Advisory Committee on Veterinary Preparations and Animal Feeding Stuffs, established under the Act and including all interested parties, has recommended that registration of pet foods in Western Australia be discontinued until such time as a high degree of uniformity is applicable throughout Australia.

This Bill, therefore, removes the need for manufacturers of dog, cat, pet fish and pet bird feeds to register their feeding stuff product under the Act, thus bringing a greater degree of uniformity of legislation.

On the advice of Crown Law Department, the Bill includes also an amendment to section 15(1) of the Act by the substitution of the phrase "veterinary preparation" for "veterinary medicine".

The inclusion of "veterinary medicine" in the Act is an anomaly. In every other part of the Act veterinary drugs, medicines, etc., are referred to collectively as "veterinary preparations", a name which is defined in the Act. "Veterinary

medicine" is not defined and the amendment will rectify this anomaly.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. T. Leeson.

TRANSPORT AMENDMENT BILL (No. 2)
Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.30 p.m.]: I move—

That the Bill be now read a second time.

The amendments contained in this Bill are designed to ensure, firstly, that the administrative procedures associated with the issue of licences under the policy are related to meeting the transport user's requirements; and secondly, that the definition of "wholesaling petroleum products" under the business franchise (petroleum products) licensing section of the Act embraces all vehicles using the State's road system.

For many years a system has been in operation whereby applicants for a permit or temporary licence under the Transport Act are able to telephone one of a number of designated officers and obtain verbal authority for specific transport tasks with the requirement that a formal application is lodged, together with the appropriate fee, within 14 days. Frequently these calls are made to the officers' residences outside normal hours.

The temporary licences or permits are issued under authority delegated by the Commissioner of Transport and later are formally approved *en bloc* by the commissioner.

The delegation is necessary as there are approximately 38 000 permits and temporary licences issued each year of which an estimated 95 per cent are granted under the verbal authority system.

However, the legality of this practice has now been questioned and the amendment is designed to remove these doubts. The authority to delegate will extend to the issue of permits and temporary licences for omnibus and aircraft journeys as well as commercial vehicles.

It is intended that the commission will retain the current practice of restricting delegated powers to the issue of permits or temporary licences and in accordance with policy determination. The whole thrust of this particular

amendment is aimed at ensuring that the user of transport will incur a minimum of inconvenience in complying with the requirements of the Act.

As to the second matter, this has been introduced to ensure that all road vehicles are subject to the business franchise (petroleum products) licensing sections of the Act.

The amendment changes the definition of "wholesaling petroleum products" by inserting a new subsection which provides that petroleum products used by the wholesaler in the course of his business should be included in the assessment of wholesalers' licence fees under this part.

Legal opinion is that, as the Act now stands, there is no legal obligation on the oil companies to pay a licence fee on fuel used by their own vehicles.

The intention of the legislation is to recover moneys for road purposes and, therefore, a particular road user such as an oil company should be required to make its contribution for the use of roads.

The Bill will validate all licence fees received by the Commissioner of Transport from wholesalers in respect of their own use of petroleum products. It also validates any demand made by the commissioner for fees not paid prior to this amendment.

When the legislation was first enacted there was never any intention that the oil companies should be exempted from paying licence fees for petroleum products consumed for their own use, and it is only proper that this amendment should apply retrospectively to the commencement of those provisions on 1 July 1979.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. F. E. McKenzie.

BILLS (5): ASSENT

Message from the Governor received and read notifying assent to the following Bills—

1. Trading Stamp Bill.
2. Marketing of Onions Repeal Bill.
3. Housing Agreement (Commonwealth and State) Bill.
4. Litter Amendment Bill.
5. Factories and Shops Amendment Bill.

BILLS (2): THIRD READING

1. Mental Health Bill.
2. Acts Amendment (Mental Health) Bill.

Bills read a third time, on motions by the Hon. D. J. Wordsworth (Minister for Lands), and passed.

STANDING ORDERS COMMITTEE

Consideration of Report

Debate resumed from 12 August, for the further consideration of recommendations Nos. 6 and 7.

In Committee

The President (the Hon. Clive Griffiths) in the Chair.

The Hon. V. J. FERRY: Members have before them some recommendations from the Standing Orders Committee. To refresh our memories and to allow continuity of the discussion, I refer to *Hansard* of Wednesday, 12 August, page 2701 when the Committee reported progress and sought leave to sit again. We are now sitting again to reconsider two recommendations of the Standing Orders Committee.

Standing Order No. 153: Questions respecting public business—

Progress was reported after the Hon. V. J. Ferry had moved that the recommendation be agreed to.

The Hon. V. J. FERRY: Recommendation No. 6, which refers to existing Standing Order No. 153, deals also with the existing Standing Order No. 156. The whole purpose of the Standing Orders Committee's recommendation is to amalgamate those two Standing Orders.

In accordance with the request of this Chamber when it last considered the matter, the Standing Orders Committee reconsidered these two items and has now produced further amendments for consideration by members.

For the record, I shall quote the recommendation, which reads as follows—

Page 47—Delete the Standing Order and substitute the following—

153 (a) Notices of questions may be given to Ministers of the Crown relating to public affairs, and to any other Members, relating to any Bill, motion, or other public matter connected with the business on the Notice Paper, of which such Member may have charge. Such notice shall be given by delivering it at the Table, fairly written, signed by the Member, and showing the day proposed for asking such question. Questions shall be delivered when the President calls for Notices of Questions, but questions supplementary to those

answered at the particular sitting may be delivered at the Table, in writing, up to one hour after the time fixed for the meeting of the House or such other time as may be approved by the President.

(b) Following the replies to questions on notice being given in accordance with Standing Order 115 (f) questions without notice may be put to Ministers of the Crown, relating to public affairs, and to other Members relating to any Bill, motion, or other public matter, connected with the business on the Notice Paper, of which such Member may have charge.

The Standing Orders Committee proposes some amendments to that recommendation.

Therefore I move—

Line 5—Delete the word “and”.

Line 6—Delete the passage “. Questions shall be” and substitute the passage “, and shall be stated and”.

Line 7—Delete the passage “, but questions” and substitute the passage “. Questions”.

Later I will move a further recommendation that Standing Order No. 156 be deleted.

For the record I would like to clarify the situation and state that if the amendments are passed the new Standing Order will read as follows—

153 (a) Notices of questions may be given to Ministers of the Crown relating to public affairs, and to any other Members, relating to any Bill, motion, or other public matter connected with the business on the Notice Paper, of which such Member may have charge. Such notice shall be given by delivering it at the Table, fairly written, signed by the Member, showing the day proposed for asking such question, and shall be stated and delivered when the President calls for Notices of Questions. Questions supplementary to those answered at the particular sitting may be delivered at the Table, in writing, up to one hour after the time fixed for the meeting of the House or such other time as may be approved by the President.

(b) Following the replies to questions on notice being given in accordance with Standing Order 115 (f) questions without

notice may be put to Ministers of the Crown, relating to public affairs, and to other Members relating to any Bill, motion, or other public matter, connected with the business on the Notice Paper, of which such Member may have charge.

Further amendments put and passed.

The Hon. LYLA ELLIOTT: As you are aware, Sir, I submitted in writing to the Standing Orders Committee an amendment to delete the words "signed by the member". Obviously the committee did not agree to it. However, it appears to me that if a certain procedure has not been observed for a long time it becomes obsolete, and the rule relating to it should be deleted or changed.

If members are honest they will agree with me that prior to the recent consideration of this report they were not signing their questions before submitting them to the Clerks. I have been in this Chamber for 10 years, and I cannot remember ever having signed a question before submitting it to the Clerk for typing. My attention has never been drawn to this requirement under Standing Orders.

Obviously it has not been considered to be a very important rule because it has not been enforced. As I said, I would like other members to tell me whether or not they have been signing their questions. I see a few members on the other side of the Chamber are nodding their heads—perhaps they are a little more law abiding than I.

The Hon. R. G. Pike: We are not allowed to interject—it is unruly!

The Hon. LYLA ELLIOTT: Perhaps there was some good reason for this requirement in the dim dark ages, but I would like someone to give me a good reason for retaining it. Now that we have electorate offices, a member may be out in his electorate and he would find difficulty in signing the question in time to hand it to the Clerk prior to the commencement of the day's sitting. Although I have my office in Parliament House, on many occasions I have been out in my electorate for one reason or another, and I have telephoned my secretary and dictated a question to her. She has then delivered the question to the Clerk so that I may give notice of that question later in the day.

It is in such circumstances that a member may find it difficult to append his or her signature to a question. It seems to me to be a bit of bureaucratic nonsense. Therefore, I move a further amendment—

Line 5—Delete the passage "signed by the member,".

The Hon. W. R. WITHERS: I agree with the Hon. Lyla Elliott. In fact, I had a similar experience yesterday; I could not believe it when I was asked to sign a question which my secretary had typed for me and delivered to the Clerk, and which I would have to stand up and read in this House later in the day. I pointed out to the officer concerned that it was a stupid bit of bureaucratic nonsense, and members will note that the Hon. Lyla Elliott just used a similar phrase.

The procedure would be understandable if the question was accepted by the Clerks and by the House without the member standing up in the Chamber to read it to the Minister. I agree with the honourable member's amendment.

The Hon. R. J. L. WILLIAMS: The requirement is for the sake of authenticity, and it is because there are electorate offices that the procedure is necessary. It would be quite possible for a member, or a person purporting to be a member, to telephone a question knowing that the member would not be present, and for the secretary to type the question in good faith and hand it to the Clerks. After the question is typed, it is put on the member's desk in this Chamber. As so often happens, if the member is not present in the Chamber, another person will pick up the question and read it out. We must take precautions against such an occurrence, even if it is an outside chance. Because it may happen, we must make provision for it. It is not bureaucratic nonsense; the Standing Order is for the protection of members.

The Hon. W. R. WITHERS: I agree in part with the point made by the Hon. John Williams. If a member is not present to ask a question, it should not be read by another member unless it has been signed. I would quite agree with that point. However, a question should not require a signature before being handed to the Clerk.

I believe it would be very foolish for a member who had not been asked to do so, to stand up in the Chamber to read a question on behalf of an absent member, unless it had been signed by that member. However, a signature should not be necessary when a question is read out by the member asking it.

The PRESIDENT: The Hon. Lyla Elliott referred to a letter she wrote to the Standing Orders Committee. I asked the mover of the original motion to say that we had considered the proposition in her letter but that we did not agree with it. However, there is a requirement for a member to supply the Chair with a signed copy of

a proposed amendment before the amendment is moved. I still do not have a copy of the amendment before the Chair.

The Hon. TOM KNIGHT: It seems to me we are wasting time on this debate. Obviously, the time for signing the question is when it is handed to the Clerk after it has been read in the Chamber. If a member is not present, the question should be left to the next day. If the member believes his question is very important, he will make sure that he is in attendance. Such a procedure would cover the problems that have been raised.

The Hon. I. G. PRATT: I oppose the amendment. A question could be considered to be a document. If my understanding is correct, the question leaves this place and is sent to the department of the Minister concerned so that an answer may be prepared. If a document is prepared on behalf of a member, it is reasonable that it should bear his signature. We do not just rely on *Hansard* to record the content of a question; the question must be set out as a document. Why should any member who is seeking information from the department of a Minister object to putting his signature on a document? It is just common courtesy to follow this procedure.

The Hon. H. W. Olney: Perhaps Ministers should sign their answers also.

The Hon. F. E. McKENZIE: I support the amendment; I cannot see the necessity to sign a question. The copy of the typed question which is sent to the department concerned is unsigned—it simply has the name of the member asking the question on the top of it. The member fills in his name when he submits a question for typing.

The Hon. Lyla Elliott: It ends up in the rubbish bin.

The Hon. F. E. McKENZIE: It is necessary to retype the questions because departmental officers would not understand the handwriting of most members of Parliament. Luckily our Clerks have the ability to decipher it.

It is not necessary to send down a handwritten question with one's signature on it. Obviously the procedure has not been followed for a long time, and certainly not during my time here.

The Hon. LYLA ELLIOTT: The Hon. Ian Pratt has just given us further evidence of the fact that members in this Chamber, firstly, have not been observing the Standing Order, and secondly, do not even know what it means. As the Hon. Fred McKenzie has said, the important copy that goes to the Minister is not the copy that must be

signed. The copy to be signed is the rough copy which ends up in the rubbish bin.

The Hon. W. R. Withers: It is given back to the member, anyway.

The Hon. LYLA ELLIOTT: That is one point. Also, if it is important for the member to sign his question, why is it not important for the Minister's reply to be signed? Perhaps our Standing Order should provide for this. I know some Ministers initial the replies to questions, but not all of them do.

The Hon. G. C. MacKinnon: I cannot remember a reply to a question that was not initialled.

The PRESIDENT: In any case that does not happen to be the point we are talking about.

The Hon. LYLA ELLIOTT: I am sure I have received answers to questions that were not initialled.

In the 10 years I have been here no-one has given evidence of any such occurrence as that referred to by the Hon. John Williams. Indeed, I am not aware of any mischievous questions prior to that. I think it is most unlikely that would happen.

Mr Withers referred to the fact that members are required to stand up in the Chamber to give notice of their questions. If a member does not intend to be present in the Chamber, it is his responsibility to ask a colleague to give notice of his question. On a few occasions I have been absent from the Chamber when the President has called on notice of questions, and, if I have not made an arrangement with a colleague, my question has not been read out. It is up to each member to ensure that notice is given of his question. The requirement is just not necessary; it is an added inconvenience to members. Surely we should be trying to streamline the business of this Parliament rather than insisting that an old requirement is abided by just because it is there. It has not been used; it is unnecessary; and it should be deleted.

The Hon. N. E. BAXTER: In all the time I have been a member I have never heard of a complaint concerning a bogus question asked in this Chamber. There has never been an indication that a question has not been prepared by a member. Most members ask their questions personally.

Reference was made to electorate offices. If the Clerk receives a phone message he would have a good idea from whence it came; he would know if it was bogus. Until recently I have never signed a question. No-one has worried about the questions

I have sent in, but all of a sudden there is this worry about bogus questions. I repeat: We have never had a bogus question in the 30 years I have been here. I support the amendment.

The Hon. W. R. WITHERS: I would like to encapsulate a few points. Firstly, the only person who sees the signature will be the Clerk to whom we give the piece of paper and the typist who types out the corrected copy which is handed to the member. The Minister does not see it; no Government officer sees it. The signature is only to satisfy a Clerk of the Parliament.

This is totally unnecessary. I indicated previously how my secretary took a typed question to a Clerk of the Parliament and it was refused on the ground it did not bear my signature. That is quite ridiculous. I support the amendment.

Further amendment put and a division taken with the following result—

Ayes 14

Hon. N. E. Baxter	Hon. G. C. MacKinnon
Hon. J. M. Brown	Hon. N. McNeill
Hon. D. K. Dans	Hon. H. W. Olney
Hon. Lyla Elliott	Hon. P. G. Pandal
Hon. R. Hetherington	Hon. W. M. Piesse
Hon. R. T. Leeson	Hon. W. R. Withers
Hon. A. A. Lewis	Hon. F. E. McKenzie

(Teller)

Noes 12

Hon. V. J. Ferry	Hon. Neil Oliver
Hon. Tom Knight	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. E. Masters	Hon. P. H. Wells
Hon. I. G. Medcalf	Hon. R. J. L. Williams
Hon. N. F. Moore	Hon. D. J. Wordsworth

(Teller)

Further amendment thus passed.

Question put and passed; the recommendation, as amended, agreed to.

Standing Order No. 156: Notices of to be given—

The Hon. V. J. FERRY: I move—

That the recommendation be agreed to.

Recommendation No. 7 is the deletion of existing Standing Order No. 156 which has been superseded by amendment.

Question put and passed; the recommendation agreed to.

Report

The Hon. V. J. Ferry reported that the Committee had further considered the report and had agreed to the recommendations with amendments.

Report adopted

House adjourned at 6.06 p.m.

QUESTIONS ON NOTICE

PUBLIC HOLIDAYS

Public Service

507. The Hon D. K. DANS, to the Minister representing the Premier:

Further to my question 446 of Tuesday, 8 September 1981, and in respect of the State Public Service, what Public Service holidays does the Government intend gazetting for 1982?

The Hon. I. G. MEDCALF replied:

None. Public Service holidays are prescribed by regulation 12 of the Public Service regulations.

**FUEL AND ENERGY:
ELECTRICITY**

Substation: Bayswater

508. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Fuel and Energy:

(1) Is it a fact—

- (a) that it is the intention of the SEC to build a substation on the corner of Crowther and Frinton Streets, Bayswater;
- (b) that the area is a residential one, and the proposed building will have a detrimental effect on the aesthetic quality of the area;
- (c) that the surrounding residents and the Shire of Bayswater are opposed to this project;
- (d) that the Shire of Bayswater has refused to rezone land for this purpose; and
- (e) that there is more suitable land nearby which would not affect existing property holders?

(2) If the answers to (1) (a) to (c) are "Yes", will the Minister instruct his department to seek a more suitable commercial or industrial site for the proposed substation?

The Hon. I. G. MEDCALF replied:

- (1) (a) Lots 499, 500 and 501, Crowther Street, Bayswater, were acquired by the commission in 1969 for use as a future substation site. At the time of purchase the council would not permit residential buildings on the land because of bad subsoil and drainage problems.
- (b) The use of the land for a substation is not an industrial use, but rather an essential service to most, if not all, residents. In the metropolitan area at the present time there are at least 25 substations of the type proposed at present in use in residential areas.
- (c) Residents have petitioned the Shire of Bayswater, objecting to the proposed use of the land. Scheme review maps prior to 24 August 1981 showed lots 499, 500 and 501 being zoned "public buildings (SEC purpose)".
- (d) The Shire of Bayswater, at its meeting of 24 August 1981, resolved to delete the intended "public buildings" zoning on lots 499, 500 and 501 from the scheme review maps and return the zoning to "residential".
- (e) In view of the objections of the residents of the Shire of Bayswater, which have resulted in the Shire of Bayswater amending the zoning of the site previously approved for a substation to service the future electricity demand of the area, the SEC is now giving consideration to any other options which might assist in meeting the electricity demand in the area.

(2) Answered by (1).

CULTURAL AFFAIRS

Art Gallery: Sculpture

509. The Hon. N. E. BAXTER, to the Minister representing the Minister for Cultural Affairs:

- (1) Is the Minister impressed with the so-called \$52 000 sculpture made by expatriate Clement Meadmore in New York and erected at the WA Art Gallery yesterday?

- (2) If a sponsor from the business community to pay for the supposed sculpture cannot be found, from what source will funds be provided in this 1981-82 year of Government financial stringency?

The Hon. D. J. WORDSWORTH replied:

- (1) The Meadmore sculpture is a major piece of work by one of Australia's most important living artists who has been acknowledged internationally. Besides major overseas commissions he has sculpture at the following art galleries: Art Gallery of NSW; Australian National Gallery; Princeton University; Columbia University; Chicago Art Institute; and many others.

The sculpture was commissioned by the Art Gallery Board for the entrance plaza, and was designed specifically to enhance the new Art Gallery.

The present appearance is of a temporary nature as the material used is designed to oxidize evenly to an orange-brown colour with weathering, thus creating a protective coating which is maintenance free.

- (2) A contract was signed for the commission in 1979, and was funded from acquisition funds partly from 1979-80 and partly from 1980-81. No funds from the 1981-82 Budget are involved.

TRANSPORT: MILK

Geraldton

510. The Hon. TOM McNEIL, to the Minister representing the Minister for Transport:

- (1) Would the Minister advise—
- when was the franchise to transport milk to Geraldton first granted to a transport company; and
 - was the franchise open for tender?
- (2) If "Yes" to (1)(b)—
- how many companies tendered;
 - what was the period of the contract for the successful tenderer;
 - is it the Minister's intention to call tenders on the expiration of the initial contract period; and
 - if the answer to (c) is "No", why not?

The Hon. D. J. WORDSWORTH replied:

- (1) (a) The transport of milk by road to Geraldton is not a Government administered franchise, but is by private arrangement between the processing company and a haulage contractor;
- (b) this is a matter for the milk processors.
- (2) Answered by (1).

HEALTH: NURSING HOME

Penn-Rose

511. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Consumer Affairs:

Penn-Rose lodging house is registered with the Corporate Affairs Office under the Business Names Act 1962 as "Penn-Rose Nursing Home". Its nature of business is also stated as "Nursing Home". Furthermore, it is listed as a "Nursing Home" in the August 1981 telephone book.

- (1) As the foregoing information is totally misleading to the public, will the Minister take action to ensure the practice is ceased forthwith?
- (2) If "Yes", what form will the action take?
- (3) If not, why not?

The Hon. G. E. MASTERS replied:

- (1) to (3) Investigation of the facts relating to the property known as Penn-Rose at 229 James Street, Guildford, disclose that—

Penn-Rose is registered at the Corporate Affairs Office under the Business Names Act 1962 as "Penn-Rose Nursing Home" and the nature of business is stated as "Nursing Home".

It is listed in the 1981 Telephone Directory at page 531 as "Penn-Rose Nursing Home".

It is registered with the Shire of Swan, under part V of the model by-laws, series A, made under the Health Act and adopted by the shire, as a lodging house.

From the foregoing it would appear that there may be breaches of the Business Names Act and accordingly the matter

will be referred to the Attorney General for investigation.

There is a possible breach of the Trade Descriptions and False Advertisements Act and the Commissioner for Consumer Affairs has been directed to investigate.

Finally, the entry in the Telephone Directory may constitute a breach of the Telecommunications Act and, on that basis, the matter will also be referred to the State Manager of Telecom.

512. *This question was postponed.*

**LIQUOR: PALACE HOTEL,
LAVERTON**

Licensing Court

513. The Hon. N. F. MOORE, to the Minister representing the Chief Secretary:

- (1) Since 1970, has the Licensing Court ever ordered the Palace Hotel, Laverton, to take action pursuant to section 96 of the Liquor Act?
- (2) If so, will the Minister list the dates that any such orders were issued?
- (3) (a) Have all of the orders referred to in (2) above been carried out; and
(b) if not, why not?

The Hon. G. E. MASTERS replied:

- (1) Yes.
- (2) and (3) The Chief Secretary advises that the information requested relates to the licensee's business affairs and should not be made public. This can be disclosed to the member on a confidential basis if he has a particular reason for seeking the information.

RACING

Northam Racing Club

514. The Hon. TOM KNIGHT, to the Minister representing the Chief Secretary:

- (1) What finance has been allocated to the Northam Racing Club by the Racecourse Development Trust since its inception?
- (2) What amount has been allocated to that club in the last 12 months?
- (3) What is the total expenditure of the trust in the last 12 months?

- (4) What was the amount available to the trust for disbursement in the last financial year?

The Hon. G. E. MASTERS replied:

- (1) The Racecourse Development Trust has allocated \$136 787 to the Northam Race Club from funds received by the trust since its inception.
- (2) \$77 000 of the amount referred to in (1) above has been allocated within the past 12 months.
- (3) The total expenditure of the trust in the 12 months ended 15 September 1981 was \$219 724.60.
- (4) \$310 699.78.

HEALTH: NURSING HOME

Penn-Rose

515. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Health:

In a report on page one of the *Daily News* of 27 August 1981, referring to the tragedy of Mr Reg Berryman, it was stated that Penn-Rose lodging home was registered under the Business Names Act (1962) as a nursing home. It is also stated that it is also listed in the

- telephone directory as a nursing home.

As this type of information is apparently misleading the public, and is damaging the reputation of correctly registered nursing homes, what action will the Minister take to ensure the practice ceases?

The Hon. D. J. WORDSWORTH replied:

It does not appear that the use of the term "nursing home" is contrary to any legislation which is administered by the Minister for Health. It may be contrary to legislation administered by the Minister for Consumer Affairs, and the matter has been referred to him.

FISHERIES

Rock Lobster

516. The Hon. TOM McNEIL, to the Minister for Fisheries and Wildlife:

- (1) Would the Minister advise when the decision was made to close Quobba Point to professional crayfishermen?

- (2) Is it anticipated that the restricted area will be increased?
- (3) Has consideration been given to professional fishermen who have regularly fished that area?

The Hon. G. E. MASTERS replied:

- (1) On 22 May 1981, an area at Quobba Point was closed to the taking of rock lobsters by all persons, both amateur and professional, by means of rock lobster pots.
- (2) The matter is still under consideration.
- (3) Yes.

LIQUOR: PLACE HOTEL, LAVERTON

Public Health Department

517. The Hon. N. F. MOORE, to the Minister representing the Minister for Health:

- (1) Since 1970, has the Public Health Department ever ordered the Palace Hotel, Laverton, to take action pursuant to section 99 of the Liquor Act?
- (2) If so, will the Minister provide the following details—
 - (a) when were such orders made;
 - (b) why were such orders made; and
 - (c) were such orders complied with, and if not, why not?

The Hon. D. J. WORDSWORTH replied:

- (1) and (2) No, however, it is understood action has been taken in this respect on a number of occasions since 1970 by the local authority.

HEALTH: NURSING HOME

Penn-Rose

518. The Hon. F. E. MCKENZIE, to the Minister representing the Minister for Health:

- (1) Is the Minister or the Public Health Department aware of allegations being made that Penn-Rose lodging house is for all intents and purposes acting as a nursing home?
- (2) Has Penn-Rose recently been investigated by the Public Health Department?
- (3) If so, would the Minister advise what was the form of the investigation?

- (4) Would the Minister advise of the outcome of the investigation, and what recommendations were made?

The Hon. D. J. WORDSWORTH replied:

- (1) and (2) Yes.
- (3) Inspection by senior officers.
- (4) The report is still confidential and receiving consideration. In general, officers reported that the premises and grounds were clean, tidy and well maintained and that it appeared to be a well run home catering for dependent frail aged persons. It was evident that the proprietors were not trying to conduct a nursing home as defined in the private hospital regulations of the Health Act. The frail aged residents appeared to have had adequate supervision and care but some reservation was expressed in regard to the timing of the transfer of Mr. R. Berryman to hospital. There were no recommendations in regard to the structure of the premises, but it was recommended action be taken to stop the use of the term "nursing home" and regulations regarding the conduct of rest homes in other States be studied.

519. *This question was postponed.*

STOCK

Straying

520. The Hon. V. J. FERRY, to the Attorney General:

The Law Reform Commission said in its report on straying stock (project No. 11) that anyone injured as a result of a farmer or grazier failing to take reasonable care to prevent his animals causing injury or loss to persons using a highway should be able to recover damages from that farmer or grazier.

- (1) Could the Attorney General say whether a farmer and grazier can insure against this kind of liability?
- (2) If "Yes" to (1), then—
 - (a) did the commission investigate the cost of obtaining such insurance; and

(b) did the commission consider the problem caused by farmer and graziers not knowing in advance how much they might be held liable for and hence being unable to insure for an amount which would in all cases adequately protect them?

The Hon. I. G. MEDCALF replied:

(1) Yes. Farmers and graziers can insure against being held liable to pay damages to someone who is injured as a result of one of their animals straying on to the highway. This can be done by taking out what is known as a "public liability" insurance policy.

In this connection, it is important to note that a public liability insurance policy will not only provide a farmer or grazier with an indemnity in respect of liability arising out of an accident caused by an animal straying on to a highway, but also with an indemnity in respect of liability arising in other ways; for example, liability arising as a result of a fire escaping from the insured person's property.

(2) (a) Yes. The Law Reform Commission spoke to a number of insurance companies and brokers and to the Regional Director of the Insurance Council of Australia about the cost to farmers and graziers of obtaining public liability insurance. In paragraph 6.17 of its report the commission said that it had been quoted the following premiums by one prominent company specialising in farm insurance—

Size of Operation	Amount of Cover	Annual Premium
1 person farm	\$250 000	\$100
2 person farm	\$250 000	\$165
1 person farm	\$500 000	\$150
1 person farm	\$1 000 000	\$200

(b) Yes. Because of the problem referred to by the member, the commission recommended that an upper limit be fixed beyond which damages could not be awarded against the keeper of a straying animal. This would enable persons keeping animals to take out insurance up to the limit fixed and thereby be certain of being fully indemnified in the event of damages being awarded against them.

The commission suggested that at the present time the upper limit be the sum of \$500 000 but that this be increased at regular intervals so that it kept pace with increases in awards of damages made by the courts.

The commission's recommendations are being studied by the Government.

HEALTH: MENTAL

Mental Health Services

521. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Health:

- (1) What were the dates of admittance and discharge at Pyrtton Training Centre of Mr Reg Berryman (featured in an article on page one of the *Daily News* of 27 August 1981)?
- (2) Did Pyrtton Training Centre receive any payment for his board and lodging for the period of his stay?
- (3) What was the monthly charge?
- (4) Did Penn-Rose lodging house make any of these payments?
- (5) If so, how much did it pay?
- (6) Did Penn-Rose lodging house make any other payments for use by Mr Berryman?
- (7) If so, could the Minister provide details?

The Hon. D. J. WORDSWORTH replied:

(1) Mr Reg Berryman was admitted to Pyrtton Hospital on the following dates—

7 October 1977—10 July 80
25 March 1981—26 March 1981.

- (2) Yes.
- (3) The monthly charge during his period of stay varied as follows:

			per week
October	1977—November	1977	\$35.00
November	1977—May	1978	\$36.50
May	1978—November	1978	\$37.50
November	1978—May	1979	\$39.25
May	1979—November	1979	\$42.00
November	1979—May	1980	\$44.10
May	1980—July	1980	\$46.20

Accounts are sent out four-weekly.

- (4) Penn-Rose lodging house made payments as detailed in (3).
- (5) Payments were made as detailed in (3).
- (6) Yes.

- (7) Records indicate payments to Pyrton were made as follows—
 November 1977: shoes approx. \$20.00
 September 1979: clothes and shoes approx. \$60.00
 September 1979: private cash approx. \$20.00

SHOPPING CENTRES

Floor Space per Head of Population

522. The Hon. TOM McNEIL, to the Minister representing the Minister for Urban Development and Town Planning:

As the Minister has previously advised that no figures are available for shopping floor space per head of population in Geraldton, would she now advise on what basis she subsequently states that the retail floor space of Geraldton is less than 59 960 sq. metres?

The Hon. I. G. MEDCALF replied:

Preliminary figures have been made available to the Minister since her answer to the member's question of 1 April last.

WATER RESOURCES

Consumption and Subsidy

523. The Hon. W. R. WITHERS, to the Minister representing the Minister for Water Resources:

- (1) What was the total cost of Government subsidy on domestic water supplied in the last financial year to the towns of—
 (a) Broome;
 (b) Derby;
 (c) Fitzroy Crossing;
 (d) Halls Creek;
 (e) Kununurra; and
 (f) Wyndham?
- (2) What is the total domestic water consumption in each of the existing towns?
- (3) What was the total domestic water revenue for each of the Kimberley towns in the last financial year?

The Hon. G. E. MASTERS replied:

- (1) Information is not available in regard to losses or subsidies for each type (such as domestic only) of water classification. Total losses sustained for each of the towns referred to for the year 1980-81 were—

	\$
(a) Broome	261 202
(b) Derby	140 262
(c) Fitzroy Crossing	18 865
(d) Halls Creek	152 342
(e) Kununurra	59 507
(f) Wyndham	241 223

- (2) The latest available figures for total domestic water consumptions for these towns for 1979-80 are—

	kl
(a) Broome	389 179
(b) Derby	359 885
(c) Fitzroy Crossing	9 164
(d) Halls Creek	73 628
(e) Kununurra	261 004
(f) Wyndham	178 117

- (3) Total domestic water revenue for 1980-81 for water rates and sales was—

	\$
(a) Broome	89 871
(b) Derby	69 554
(c) Fitzroy Crossing	3 218
(d) Halls Creek	15 760
(e) Kununurra	71 369
(f) Wyndham	44 944

SEXUAL ASSAULT

Sexual Assault Referral Centre

524. The Hon. H. W. OLNEY, to the Minister representing the Minister for Health:

- (1) How many cases have been referred to the Sexual Assault Referral Centre in each of the last 12 months?
- (2) How many prosecutions have been initiated as a result of such referrals?

The Hon. D. J. WORDSWORTH replied:

(1) August	1980	17
September	1980	16
October	1980	19
November	1980	12
December	1980	25
January	1981	14
February	1981	22
March	1981	18
April	1981	20
May	1981	14
June	1981	20
July	1981	15
August	1981	13

(2) I have no information on this aspect.

(c) Fitzroy Crossing	7.6
(d) Halls Creek	7.6
(e) Kununurra	8.0
(f) Wyndham	7.8

Consumers

(3) (a) Broome	759
(b) Derby	693
(c) Fitzroy Crossing	53
(d) Halls Creek	178
(e) Kununurra	660
(f) Wyndham	387

\$ million

(4) (a) Broome	0.774
(b) Derby	0.956
(c) Fitzroy Crossing	0.121
(d) Halls Creek	0.136
(e) Kununurra	0.861
(f) Wyndham	0.846

FUEL AND ENERGY:
ELECTRICITY

Consumers and Subsidy

525. The Hon. W. R. WITHERS, to the Minister representing the Minister for Fuel and Energy:

- (1) What is the total cost of the subsidy on generated power in the last financial year, which was given to the towns of—
 - (a) Broome;
 - (b) Derby;
 - (c) Fitzroy Crossing;
 - (d) Halls Creek;
 - (e) Kununurra; and
 - (f) Wyndham?
- (2) What is the subsidy per unit of electricity consumed?
- (3) How many consumers are in each of the Kimberley towns?
- (4) What was the total revenue collected from consumers in each of the Kimberley towns in the last financial year?

The Hon. I. G. MEDCALF replied:

I am advised that in order to establish cost estimates, it has been necessary to arbitrarily allocate overhead costs to provide the following answers:—

	\$ million
(1) (a) Broome	1.411
(b) Derby	1.254
(c) Fitzroy Crossing	0.144
(d) Halls Creek	0.159
(e) Kununurra	1.139
(f) Wyndham	1.220
	cents
(2) (a) Broome	8.5
(b) Derby	7.5

ROADS: FUNDS

Stirling City

526. The Hon. N. E. BAXTER, to the Minister representing the Minister for Transport:

Further to question 506 answered on Tuesday, 15 September 1981—

With reference to part of the answer to question (3) which stated that the amount of \$2 492 189 included some \$580 000 as well as some other funds allocated to the council in 1980-81 and not spent in that year—

- (1) Were the said \$580 000 and other funds referred to held by the Main Roads Department, or were these amounts paid to the council during 1980-81?
- (2) If the amounts were paid to the council during 1980-81, should they not have been shown as credits brought forward?

The Hon. D. J. WORDSWORTH replied:

- (1) These amounts were not paid to the Stirling City Council in 1980-81 but were held by the Main Roads Department.
- (2) Answered by (1).

As this matter is essentially one for the City of Stirling rather than the Government, it is suggested that the member direct any further inquiries to the council.

QUESTION WITHOUT NOTICE

"DE FACTO"

Definition of Term

166. The Hon. W. M. PIESSE, to the Attorney General:

- (1) Is the Government aware that there may be persons in the community who are uncertain as to whether or not they qualify as *de factos*?
- (2) Does the Government intend to legislate so as to define *de factos* for the purpose of legislation generally?
- (3) If not, why not?

The Hon. I. G. MEDCALF replied:

- (1) Yes, probably there are some people who do not know whether they are *de factos* or otherwise, and there is probably some doubt as to when a person becomes a *de facto*. This question has been asked often and has been answered on a number of occasions. For example under the Workers' Compensation Act a period of three years is provided for qualifying as a *de facto* or when a child is born into such a union. Other States have Acts with different qualifying periods. In one State, South Australia, a period of five years is laid down under its Family Relationship Act in order to qualify as a *de facto*, and in Tasmania there is a period of 12 months set down in particular legislation.

In most States if a woman in a *de facto* relationship has a child, it is deemed to be sufficient evidence of a *de facto* marriage.

- (2) The WA Government has already legislated in relation to the Workers' Compensation Act and the Inheritance

Family and Dependents Provision Act which is the old Testators' Family Maintenance Act. The latter Act provides that a *de facto* widow may have a claim to upset a will or distribution on intestacy where there is a moral obligation on the part of the deceased to provide for her because she normally resided in his house or premises and he has contributed to her maintenance.

The Government does not have any intention of introducing any general legislation in regard to *de factos*.

- (3) There is some doubt about the desirability of general legislation. I do not believe we ought to have general legislation on this subject because it should be dealt with in terms of the particular subject matter, such as we have done in the past. There are problems in introducing general legislation. One major problem is the conflict between a legitimate wife and a wife of the *de facto* marriage. The member will appreciate there are occasions where there have been conflicts between the lawful wife and the *de facto* wife, in terms of their rights. There have been numerous instances where a man has a lawful wife and enters into a *de facto* relationship with someone else and neither of the women has any knowledge of the other.

There was one particular case where several years after a man died it was discovered that he had a lawful wife when his *de facto* wife made a claim to his property. It is possible also to have more than one *de facto*. From this one can see the problems in this area.

The Hon. P. G. PENTAL: Crikey!

The Hon. I. G. MEDCALF: I think I have given sufficient reasons as to why the Government does not wish to venture into this area.