Legislative Assembly

Tuesday, 21 September 1982

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

TRAFFIC: ACCIDENT

Merredin: Condolence Motion

MR O'CONNOR (Mt. Lawley—Premier) [4.33 p.m.]: I seek leave of the House to move a condolence motion in connection with the recent tragedy at Merredin.

Leave granted.

Mr O'CONNOR: I move—

> That this House expresses its deepest sympathy to the families bereaved in the tragic bus accident near Merredin last Saturday night.

Early last Sunday morning when I received a telephone call from the Minister for Education, and within two minutes another call from the Minister for Police and Prisons, I was very shocked and I could scarcely believe the magnitude of the horrifying accident that had occurred 11 kilometres from Merredin. Nine of our young people, on the threshold of their adulthood, and the driver of the bus, lost their lives. What happened makes it impossible for us to express in words the sorrow we feel and the sympathy we have for the families involved. I can only try to express the feelings of members of this House and of the people of Western Australia.

As a father of seven children, I cannot help but wonder how I would feel if faced with such a tragedy. The deep suffering that must be experienced by the families of those who died makes us all feel very sad. It is fitting that we, the members of this Chamber, record our shock and sorrow at the tragedy, and our sympathy towards all those affected.

This House has some responsibility in connection with the safety of citizens on our roads, and I must say I am proud of the way in which all members of this Chamber have joined together in their efforts to reduce the carnage on the roads and to work towards some solution to a problem of great magnitude. Following this tragedy, it is necessary for us to look further to see whether there is anything more we can do. I make it very clear that I am not trying to lay any blame on anyone involved in this accident. I am just indicating that it is the sort of thing we must look at and we must do all we can to show that we are a responsible Government which has great concern for those involved.

I express the sincere sympathy of all members of this House to the bereaved families. I also express heartfelt wishes to all those injured in the accident for an early and maximum recovery.

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [4.36 p.m.]: I second the condolence motion moved by the Premier, and I endorse the comments he made. I would like to add to those comments that the Opposition expresses, on behalf of the members of this House, its appreciation for the very fine work done by the civic authorities and the emergency services during the trying time following the accident. I understand from those with whom I have discussed the tragedy that the standard of commitment to and performance of duty by the members of the emergency services and the civic leaders in the affected areas were quite exceptional.

The Opposition hopes that the Government, in addition to sponsoring this condolence motion, will seek out ways in which it may assist those families who may find themselves confronted with practical problems as a result of the tragedy. We are not to know the financial circumstances of those involved and they might now be facing expenses in association with the tragedy. A practical application of this condolence motion would be for the Government to provide whatever practical help might be appropriate in the circumstances.

It goes without saying that our prayers are with those families so severely affected, and we hope they will have the strength to overcome this tragedy and to carry on their lives in the years ahead.

MR COWAN (Merredin) [4.38 p.m.]: With your permission, Mr Speaker, and with the permission of the House, I would like to join with the Premier and the Leader of the Opposition in speaking to this motion. The accident referred to has left no district in the electorate of Merredin untouched. Every district has felt the full effect of the sadness following the shock of the accident. I feel that the people in the district will be very appreciative of the expressions of condolence of this House, and also the offers of assistance which have been made from the many people who have telephoned me.

The SPEAKER: I invite members to rise in their places as a mark of their respect.

Question passed, members standing.

SITTING OF THE HOUSE: TUESDAY, 28 SEPTEMBER

Governor General's Visit: Personal Explanation

MR O'CONNOR (Mt. Lawley—Premier) [4.40 p.m.]: I seek leave to make a personal explanation.

Leave granted.

Mr O'CONNOR: I advise members that, as the Governor General will be here on Tuesday next and a number of members will be attending functions during and after the normal tea suspension, I have consulted with the Leader of the Opposition and it has been decided that we shall sit from 2.15 p.m. to 5.30 p.m. on that day instead of at the usual time. I give notification of this matter in order that members may make their arrangements accordingly.

EDUCATION

School Cleaning Contractors: Petition

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [4.41 p.m.]: I have a petition which reads as follows—

> To the Honorable The Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned citizens of Western Australia call upon the Government to reconsider its policy with respect to the contracting out of school cleaning.
>
> Such policy can only result in stress and anxiety for Education Department Cleaners and their families and a deterioration in the standard of hygiene in schools.
>
> Permanent cleaning staff in schools serve an important role in providing stability and continuity for young children, in addition to providing an important caring, adult presence before and after school hours.
>
> Experience has shown that the hours and conditions under which the employees of contractors work are not conducive to fulfilling these essential roles.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration, and your petitioners in duty bound will ever pray.

The petition bears 4 830 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

(See petition No. 20.)

EDUCATION

School Cleaning Contractors: Petition

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [4.44 p.m.]: I have a further petition couched in terms similar to those of the one I have just read to the House. I certify that the petition bears 2 887 signatures and conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

(See petition No. 21.)

PRISONS AMENDMENT BILL

Third Reading

MR HASSELL (Cottesloe—Minister for Police and Prisons) [4.45 p.m.]: I move—

> That the Bill be now read a third time.

Last week the member for Fremantle referred to a couple of issues which I undertook to consider before the Bill completed its passage through the Parliament. On the points raised by the member for Fremantle advice has been sought from Parliamentary Counsel and the legal officer who advises the Prisons Department. I referred to those people the points made as recorded by *Hansard*.

The advice I have received is that our advisers are of the firm opinion that section 42 of the Prisons Act and the amendment to this section proposed in the Bill do not restrict the powers of police officers. The situation of a prisoner who has escaped from work release, or of any prisoner who has escaped, falls outside the subject matter of this provision and clearly is a matter to be dealt with by the Police Department.

The Act does not comment on or set out to control the powers of police officers except in those sections of the Act where specific reference is made to police officers.

Section 42 of the Act and the proposed amendment contained in the Bill provide authorisation, in limited circumstances, for the restraint of a prisoner who is in the custody of the Director of the Prisons Department. That section and the amendment cannot be interpreted to apply to a person who is not in the lawful custody of the director.

It is considered by the advisers whom we have consulted that it would be unnecessarily cumbersome and contrary to good practice to single out all situations which fall outside the scope of the particular provision and to try to make a specific provision for them.

On that basis, I believe all the points raised by the member for Fremantle have been dealt with properly.

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [4.47 p.m.]: On behalf of the member for Fremantle who is overseas, I thank the Minister for the answers to the points raised by the member. The information given by the Minister will be conveyed to the member for Fremantle and I have no doubt that, knowing that member, if the information is not satisfactory, the Minister is likely to hear more on that particular subject.

Question put and passed.

Bill read a third time and transmitted to the Council.

MINE WORKERS' RELIEF AMENDMENT BILL

Third Reading

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

DAIRY INDUSTRY AMENDMENT BILL

Second Reading

MR OLD (Katanning—Minister for Agriculture) [4.49 p.m.]: I move—

That the Bill be now read a second time.

The negotiability of market milk quotas has been a much-debated issue since quotas were first introduced. When the Dairy Industry Authority came into existence in 1974, it set about providing guidelines by which the Minister administering the Dairy Industry Act could ensure that the transferability of market milk quotas was adequately controllable by the authority, but at the same time allowed some degree of flexibility in relation to the industry's restructuring.

The general intention was that quotas themselves would not be freely negotiable, but that dairy farm walk-in-walk-out sales would include the transfer of any market milk quota associated with the particular dairy farm being sold. In more recent years the system was made more flexible by allowing for the free transfer of market milk quotas between members of a family who were individual quota holders and who wished to level out the total family quota amongst the members.

The industry generally has supported these policies, but individual dairymen have sought to circumvent them by using various legal devices. It has been found that the Dairy Industry Act in its present form is somewhat inadequate in dealing with the particular devices which the dairymen have used to achieve virtually unfettered negotiability of quotas.

In 1981 a parliamentary Select Committee of inquiry was established to inquire into various aspects of the market milk industry, including the allocation and negotiability of market milk quotas. Because of the existence of that Select Committee, which subsequently became an Honorary Royal Commission, it is not appropriate for final legislative action to be taken until the committee's findings have been made known to the Government and acted upon.

In the interim, it was considered necessary to prohibit the transfer of quotas so that the situation did not get out of hand. However, the prohibition on the transfer of quotas has affected the genuine transfers as well as those which might have been proposed purely on the basis of a device to achieve negotiability of quotas. As a consequence, it now becomes necessary to provide for a temporary amendment to the Dairy Industry Act so that the prohibition on the transfers of quotas may be lifted without having to wait until the Honorary Royal Commission has presented its report and the Government has considered what action it might take as a consequence of that report.

The Bill now before the House proposes an amendment to the Act which will give the Minister discretionary power in relation to deciding applications for the transfer of quotas which could not be decided by the authority solely on the basis of the directions issued to it. This would enable the prohibition on the transfer of quotas to be lifted without pre-empting any recommendations which may be made by the Honorary Royal Commission. In the interim the Minister would exercise a discretionary power relative to the approval of applications for the transfer of milk quotas when such applications could not be dealt with adequately by the authority itself. The Bill would allow for the transfer of milk quotas without the approval of the Dairy Industry Authority provided that the Minister has granted his approval.

The interim nature of the proposed amendments to the Dairy Industry Act are recognised in this Bill by providing that they shall apply only to applications for the transfer of quotas made to the authority before 31 December 1983. This is in effect a sunset clause which ensures that this amendment would cease to have effect after that date.

I commend the Bill to the House.

Point of Order

Mr EVANS: In view of the Honorary Royal Commission's considering the full ramifications of

the problem to which reference was made in the Bill, and all other problems associated with the dairy industry, the debate of this legislation surely must impinge to some extent on the subject matter under consideration by the commission. I ask: Is it competent under the *sub judice* law in respect of Royal Commissions for the Minister to submit the Bill?

The SPEAKER: There is no point of order. The House has the power to legislate in the present circumstances; therefore the Bill may proceed.

Debate resumed

Debate adjourned, on motion by Mr Evans.

ACTS AMENDMENT (METROPOLITAN REGION TOWN PLANNING SCHEME) BILL

Second Reading

Debate resumed from 16 September.

MR JAMIESON (Welshpool) [4.53 p.m.]: I will address my brief remarks to the intent of clause 8, which provides for the inclusion of proposed section 27A. It grants the Metropolitan Region Planning Authority the power, with the approval of the Minister—in fact, the Minister has the final say on these things—to lease certain properties to individuals. Previously people have had the opportunity to lease land from local authorities, and this will continue along with the right to lease from the MRPA.

Recently it has been found that some of the land that has been acquired by the MRPA should be leased for certain purposes. One piece of land which I am aware comes into this category is at Cloverdale. In late 1953 or early 1954 the land was resumed for housing. It came into the hands of the MRPA from the State Housing Commission as public open space. An adjoining piece of land was made available to the local authority to construct a playing field, and further land was made available for a junior athletic stadium, a soccer field, and a tennis club—the Belmont Tennis Club. The remaining land has been used by the Metropolitan Water Authority as a junk yard. Pipes and various other things are stored on the land.

When a local bowling club was established in the district it approached the local authority and requested the use of the land used by the then MWBA. The club's request received quite an amount of support, but after inquiries it was determined the Act did not make provision for the MRPA to make public open space land available to clubs, as distinct from the general public—a local authority. The tennis club has been functioning in that area for some years, and the land has been leased to the club. However, the determination that the Act did not provide for this leasing has held up the bowling club for some considerable time from constructing its premises.

The land in question is about five hectares at most in area. It is in the shape of a square with easements through it vested in the Metropolitan Water Authority so that it can construct drains, etc. The land is not big enough for public open space, so the only way it can be developed in the future is to hand it to some local organisation for use as a local recreation area. I am sure that purpose was envisaged when the land was originally classed as public open space.

Whether it be the local bowling club, or a football or tennis club, which will use this land, it will be available to be enjoyed by residents of the area conditional upon their paying the required fees to obtain membership to the particular club. I am glad that as a result of this legislation the Cloverdale Bowling Club will be able to construct its premises. For many years the people involved with the club have been advocating the club's use of this land. A fund of issued debentures is in hand, although many of the holders of those debentures are quickly becoming beyond the age of being able to bowl; they could seek to get back their debentures before it is too late. However, I hope the club will be able to move to the site.

I made reference to this site at Abernethy Road, Cloverdale, because it is one of which I am aware. The MRPA informed me that a number of similar situations exist throughout the metropolitan area. The use of more land by local organisations will advantage all concerned. The land will not just be there to grow weeds or carry surplus pipes of the MWA. I support the legislation.

MRS CRAIG (Wellington—Minister for Urban Development and Town Planning) [4.59 p.m.]: I thank members of the Opposition for their general support of the Bill. I will reply to some of the queries raised by the member for Victoria Park, who commenced his remarks by canvassing the main provisions of the Bill, and raised questions in regard to the repealing of section 18A(4) of the Act. He said he envisaged with the repeal of that section that subcommittees could give themselves authority to do certain things; indeed, he asserted his belief that no restrictions would be placed on this use of authority. He informed the House that he had read the Bill in toto, and section 11 of the Act, but could not find a provision limiting the powers of these subcommittees. He omitted to refer to section 19 of the Act which overcomes the disability he saw as being created by the repeal of section 18A(4).

The necessity for the repeal of this section was raised by the Crown Law Department which gave me the clear indication that the provisions of the section overrode section 19 and therefore precluded the authority from delegating powers to committees. It is for that reason that this alteration has been made.

The member for Victoria Park canvassed the matter of the maintenance and management of regional open space and saw a need for the authority to be able to fine people and for those persons to be taken to court for any breach of the regulations or damage done to regional open space.

While I am speaking about that matter I will refer to the comments of the member for Welshpool whom I know was very keen to see this amendment because it has been a long wait for the people in the area mentioned for their bowling club. There was no possibility of their being leased that area until such time as this amendment were passed.

Another matter which was canvassed at great length was that of the change in the names of the four group committees that are representative of local government. Concern was expressed that Mr Burkett is no longer a member of the MRPA and it was asserted that he had at no time done anything that could have caused the authority to lose confidence in him.

I cannot agree with that at all and to substantiate what I say, I draw the attention of members to the annual general report of the MRPA for the year 1980. Inserted in that report is a section which relates to the confidentiality of MRPA business. It is a section which is very clear in its intent: It charges those people who become members of the authority with the clear responsibility to observe confidentiality and indicates the standing orders of the authority which look after any other matters where confidentiality must be observed.

The decision that the Mayor of Stirling be no longer a member of the authority is a fair one.

The member for Victoria Park referred to section 8 of the Metropolitan Region Town Planning Scheme Act which indicates that the Government asks for a panel of names from local government, within a defined area, and it does not ask for those names to be placed in any order. I was the recipient of a panel of names and it was determined to elect the member and the deputy who was referred to in this House during an earlier stage of the debate. It is a great sadness to me that a person who is willing to assume a responsible role—and we would all agree that Mr Burkett had been willing to assume a responsible role as the mayor of a large municipality—was unable to observe those rules and that responsibility.

Mr Brian Burke: Rubbish!

Several members interjected.

Mr H. D. Evans: You are besmirching a man's character.

Mrs CRAIG: I am replying to the accusations that were made against me and the chairman of the authority previously.

If it is asserted that there was no knowledge, on his part, of the rules which bound him, I would be very surprised that a person of his competency would not have read the standing orders under which the authority met and would not have looked at the legislation under which he was appointed. Indeed, if we accept that he did not know—at the time he accepted the appointment—it would be safe to assume that after the very first breach, when the matter was discussed, he would have been very well aware of his position and the fact that he had undertaken, by his membership of that authority, not to discuss matters that were before the authority or were matters of the committee of the authority.

It is important that the untruthful assertions that were made previously in this debate be straightened out for the record. I am glad to know that during the short time the Mayor of Stirling was on the authority he found it an interesting experience. I feel sure the benefits he obtained will serve him well in the future planning in the municipality of which he is a member.

Several members interjected.

Mrs CRAIG: I thank members of the Opposition for their general acceptance of the provisions of this legislation.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Trethowan) in the Chair; Mrs Craig (Minister for Urban Development and Town Planning) in charge of the Bill..

Clauses 1 to 4 put and passed.

Clause 5: Section 18A amended—

Mr DAVIES: This clause seeks to repeal section 18A(4). During the second reading debate I queried this amendment and unfortunately I do not understand the Minister's explanation. She says it is necessary to repeal this because of the power of delegation as given under section 19.

Section 19 was amended and section 18A was amended in 1979. We amended the delegation clause at that time and inserted section 18A(4) and now it is proposed to repeal that subsection because it is felt it is not necessary. Are we correcting a mistake?

Can the Minister tell us that if we repeal this subsection a committee appointed by the authority will be able to enter into a contract, commitment, or undertaking, without the express authorisation of the authority to do so? Will all such undertakings and contracts be binding on the authority?

As I said during the second reading stage, I have no objection to the repeal of the subsection if it will streamline the workings of the MRPA. We all know how bogged down it can be, particularly since we appointed a full-time chairman.

The Minister says that section 19 covers the situation, but at the time that section was amended we thought it necessary to place a restriction on the workings of a committee appointed by the authority. I do not understand the Minister's explanation, but if she is able to tell us that there is no danger of a subcommittee putting the authority at "risk", then I will be happy to let the amendment pass. I cannot see the logic of the Minister's argument because it was thought necessary to insert that provision in 1979.

Mrs CRAIG: I recognise that it is difficult to understand this amendment, but it is before this place on the advice of the Crown Solicitor who indicates that the powers of delegation under section 18A were provided so that power could be delegated, to the finance committee, to enable it to enter into transactions up to a designated amount. It was the view of the Crown Solicitor that, while the legislation is before the House, that section should be repealed; section 18A (4) defeats the purpose of section 19 in relation to the power to enter into contract. It is for that reason it was recommended that we repeal that subsection.

In reply to the member's concern that a situation may arise where the committees can, without proper authorisation from the authority, enter into contracts—he had the feeling that they might go mad—without having clearly defined areas in which they could operate. Section 19 and the remaining subsections of section 18, indicate the areas under which they can operate.

Section 19 of the Act states—

> 19. (1) The authority may, in relation to any particular matter or class of matters, by written authorisation, signed by the Chairman, delegate to any member, the members of a District Planning Committee, public authority or local authority, power to exercise any of the functions conferred or imposed on the Authority by this Act, except this power of delegation.
>
> (2) A delegation of power conferred by this section has the effect and may be exercised according to its tenor, but is revocable at the will of the Authority and does not preclude the Authority from exercising the power.
>
> (3) Where the Authority delegates any power under the provisions of this section, the Authority shall publish, or cause to be published, a copy of the instrument of delegation in the *Government Gazette*.

One of the reasons the amendment is necessary is that the finance committee of the authority meets once a month and it is not possible to be able to delegate to the finance committee the capacity to make decisions to enter into contracts on a fortnightly basis. Such delegation will relieve the authority of the difficult situation that has been referred to by the member for Victoria Park who insists that the MRPA is getting bogged down. The authority will now have the machinery to be able to have decisions made more quickly by virtue of the delegated authority, still with the authority having a supervisory role so that there will not be any backlog which could be disadvantageous to the community of Western Australia.

Mr DAVIES: I thank the Minister for that further explanation. The Act does not read quite as she says. The Minister left out part of section 19(1) which says—

> and the functions conferred or imposed on the Authority by Part IVA of this Act.

That was done under an amendment to the Act in 1978. I take it that the powers of delegation will set out specifically and expressly certain things that subcommittees can do. Subcommittees can do nothing beyond that which is delegated particularly to them. If that is the interpretation given by the Crown Law Department, I agree that this amendment can be proceeded with and that a certain safeguard will be placed on subcommittees. As I have said, the safeguard is that the subcommittees can do only those things which are delegated particularly to them.

Clause put and passed.

Clauses 6 to 11 put and passed.

Clause 12: First Schedule amended—

Mr DAVIES: I want to take the opportunity to discuss the matter of Mr Burkett's membership of the MRPA. I cannot agree that the facts as pres-

ented by the Minister are in accordance with what actually happened, but I do not believe this is the place to discuss an important issue like this. Because of interjections made by the Premier last week, and some research I have done since, and telephoning that has gone on here and there, I believe it is a matter that needs to be discussed in its own right. I will move accordingly in the House at an appropriate time.

Mrs CRAIG: It certainly is not a matter I would have raised in the House, but as the Opposition saw fit to think that this was the appropriate place to air a grievance I felt it was up to me to reply to it in careful terms, and endeavour not to injure the reputation of the person concerned.

Mr Davies: We will give you a further opportunity later.

Clause put and passed.

Clauses 13 to 17 put and passed.

Title put and passed.

Report

Bill 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 Mrs Craig (Minister for Urban Development and Town Planning), and transmitted to the Council.

FISHERIES AMENDMENT BILL

Second Reading

Debate resumed from 25 August.

MR BARNETT (Rockingham) [5.21 p.m.]: At the outset of my remarks I indicate that I have a couple of questions to put to the Minister, and as he is not here, I wonder whether another Minister has been delegated to handle the Bill?

Mr Rushton: He will be here in a moment.

Mr BARNETT: This Bill contains a number of what may be termed machinery updates to the parent Act. The ALP has given serious consideration to the import of all the amendments proposed by the Government and generally accepts the majority of them. I will move a number of fairly minor amendments, as is indicated on the notice paper, but in general terms we agree with the bulk of the Bill.

I have sought opinions from as many of the fishing organisations as it was possible to contact in the period between the introduction of the Bill and now. Apart from one small comment which I will relate to the House at a later stage, the professional fishing organisations generally accept the Government's intentions.

The Bill deals with five main points. The first is that the fishermen's representation on the rock lobster committee is increased. The Bill also moves to tighten restrictions on interference with professional fishing operations. It refers to foreign fishing boats and, in future, boats will be assumed to be foreign unless proved to the contrary. The Bill allows prosecutions to proceed within two years of an offence being committed, and it also gives the Minister power to stop convicted offenders from fishing on licensed fishing boats. I will pose a number of questions to the Minister in relation to these five points, and I am pleased to see he is now here.

I refer first to clause 5 of the Bill which gives the director authority to delegate his powers and functions to various officers within his department. I am a trifle concerned about this. While I understand the need for him to be able to delegate his powers, note that section 12C of the parent Act already gives this power to the Minister. The only difference I can see between the Act and this Bill is that the Act seems to relate the director's ability to delegate his powers to proclaimed fishing zones. I also am concerned that clause 5—containing proposed section 5A—is very general, and it seems to me from the wording of the Bill that the director will be able to delegate any or all of his powers under the Act to any or all of the people within his department. That sort of step needs to be taken carefully. I can understand that there are certain powers that the director ought to be able to give to all the people in his department, but I do not think he should be able to delegate all his powers to anyone within the department. Certain powers ought to be able to be delegated only to senior officers within the department. I would like the Minister to clarify that matter when he replies.

Another clause in the Bill increases from three to four the fishermen's representation on the rock lobster advisory committee, and the committee's size is increased by one. I am quite happy that the fishermen's representation on the committee will be increased, because four heads are better than three. However I am concerned that the committee is to be enlarged by one to cater for that. Would it not have been better to drop one of the department's representatives from the committee? I suspect the Minister has some good reasons for this proposal and I will be interested to hear them.

Clause 8, which is to be amended, allows the Governor to make certain regulations, most of

which would relate to the new laws which will be enacted as a result of the passage of this Bill. In this clause the words "molluscs and" are inserted after the word "crustacea". Will the Minister indicate whether this is meant to cover abalone as well?

The Bill also allows for the duties and obligations of skippers of fishing boats to be regulated by the Governor.

While I am on the subject of abalone, can the Minister enlighten the House as to the current situation? I understand that some months ago fishing for Roe's abalone in area 1 was prohibited for a period of time—three or six months—and that period has gone and I have not seen any Government notice to the effect that the area has been reopened for public fishing.

Mr Old: Is that the south-west area?

Mr BARNETT: No, the metropolitan area. Does the department consider the area still to be closed, is it open to fishing with new regulations, or is the Government about to permit a reopening under new regulations?

A later clause amends section 26 of the Act and tightens the penalties for interference with professional fishing operations. I will seek to amend this clause in the Committee stage. I can understand the need to tighten penalties for interfering with professional fishing operations. The livelihood of these people has to be protected. But after examination, the reasons given by the Minister do not appear to be as clear as I first thought them to be in his second reading speech. In that speech he said—

> During the last salmon season, threats to disrupt salmon fishing operations were made by some fishermen as a result of variations in quantities of fish caught on beaches west of Albany as against those east of Albany.

I was aware of some disruption there, but to my knowledge it did not relate to any disruption in the professional ranks. I contacted the professional fishermen's organisation there and asked whether it had experienced the trouble referred to by the Minister in his speech.

The association's answer to me was that it was not aware of any of these problems. I do not mind the Minister's introducing these sorts of things in the House; however, I believe real and genuine reasons should be given in support of any move. It may be, of course, that the association is hiding something from me; if that is the case, perhaps the Minister could enlighten me.

During the Committee stage, I will be pointing out that I believe an amendment is to be made to the wrong section of the Act. It is proposed to amend section 26 of the Act, which relates to interference of an environmental nature with fishing operations and which carries a fine of $2 500 for those who offend against it. Section 27 relates to physical interference with fishing operations, such as interference to net fishermen and their boats, and carries a fine of $750. I believe it would have been more appropriate to seek to amend section 27 of the Act.

Clause 13 of the Bill seeks to amend section 29A of the Act by providing that, in future, foreign vessels will be deemed to be "foreign" and the onus of proof that it is not foreign shall fall on the owners. While on the surface, that may appear to be contrary to the spirit of the laws we normally pass in this Chamber, I accept there is a very real reason for the amendment. The situation at present is that foreign fishing boats traverse our coastal waters without carrying papers, thereby making it extremely difficult for Government authorities to prove the vessels are foreign. Obviously, visually, the vessels are foreign, and are carrying foreign crews; however, they have no papers to that effect and it is necessary to amend the legislation to cater for that situation.

Clause 15 of the Bill seeks to amend section 53A of the Act to provide for prosecution to commence within two years of an offence. I see no valid reason for this amendment, and I am unhappy with it. The only reason for the amendment is either the department has insufficient staff, or it is not working to capacity. I have examined the parent Act, and I can find no other section which provides for a period of time within which prosecutions should commence. Indeed, in most other legislation which refers to this matter, a period of six months is provided for. I do not see why we should quadruple what to date has been the accepted period, just for the convenience of the Department of Fisheries and Wildlife. It seems to me that if a person breaks the law, action to commence proceedings against that person could reasonably be expected to commence within a period of six months. It does not mean the action must be completed within that period; it merely means it must commence within that time. I cannot see any reason that we should have to wait two years before the department decides whether it intends to take action, or what action it will take in respect of a particular matter. I will be seeking to amend this clause during the Committee stage.

In clause 16 of the Bill, the Government is seeking to amend section 55B of the parent Act by providing the Minister with power to prevent convicted offenders from fishing on a licensed

fishing boat. I am a little concerned about this provision. I do not propose to move to amend this clause, but I do see it as being potentially unfair to certain sections of the industry. Perhaps I can give members an example: If we take this clause to the letter of the law, and a licensed fisherman is convicted of an offence against the Act and is either fined or gaoled for the offence, he can be further punished for the offence in that the Minister may prevent him from carrying out his livelihood on his licensed fishing boat. That situation will apply to a professional fisherman. However, it seems to me the same situation will not apply to amateurs.

Thus, we could have a situation where a person in possession of an amateur fishing licence goes out and rips 100 crayfish from the ocean. He returns, and is caught on the boat ramp with the excessive number of crayfish, and is successfully prosecuted for committing the offence; he pays the appropriate penalty for the offence. Under this clause, nothing will prevent him from immediately going out and committing the same offence. It seems to me to be rather discriminatory and I cannot understand why the clause is so worded as to exclude amateur fishermen. I can understand why it should be thought necessary to include professional fishermen in this clause, but if we are going to apply this provision to professional fishermen, we should take the same action against the amateur.

The last point I raise with the Minister is that I sincerely believe a reprint of the Act is well and truly overdue. This is the third substantial Bill to amend the Act, and there are now far too many bits and pieces attached to various sections of the Act; it is particularly difficult to understand. For example, I refer the Minister to page 12 of the Act, where we see section 6 (1) (a), which goes through to paragraph (bg). Further on, we see paragraphs (ga) and (gb). Further, we see paragraphs (ja), (jb), (jc), and (je). Later on, we see paragraph (ma) through to paragraph (mo). I believe it is time the Act was reprinted and those provisions were redesignated so that they make sense, instead of being absolutely stupid as they are at the moment.

With those comments, and with a reminder that I have on the notice paper two amendments to which I will refer at the appropriate time, I support the Bill.

MR OLD (Katanning—Minister for Fisheries and Wildlife) [5.39 p.m.]: I thank the member for Rockingham for his comments, and I will attempt to answer the questions he has raised. As the member rightly pointed out, the matter of the delegation by the director of particular types of power to inspectors already is covered in another section of the Act. What is happening at present is that it is intended to restructure the department to bring in a deputy director of fisheries—which currently, we do not have—and a deputy director of wildlife. In order to make those officers fully responsible and able to assert the powers currently vested in the director, it is necessary for the director to be able to delegate those powers to his deputy. That is the reason some sections of the Act will not be proclaimed at the same time as the others; it will not be proclaimed until the restructuring of the department is carried out.

The increase in the membership of the rock lobster advisory committee is being carried out at the specific request of the industry itself. However, the request came mainly from the north coastal branch of the rock lobster fishermen. I met with these people some months ago and they raised this matter with me. I think the member for Geraldton also has mentioned this matter from time to time.

Mr Carr: Will this mean that a fisherman from the north coastal area will be appointed to the extra position?

Mr OLD: No. Currently membership comprises two fishermen from the southern area and one from the northern area and it is intended to increase the representation of the northern area by one. However, it will not necessarily be a member of the north coastal association. Frankly, I did not understand in the first place why there were two fishermen from the south of the State and only one from the north of the State. The Bill will rectify that situation.

Currently, two officers of the department sit on the committee, and it is not proposed to change this situation. I believe it is fair enough; it is quite well balanced, because when this amendment is passed, there will be only two departmental officers of a total of eight committee members.

The member for Rockingham referred to the inclusion of "molluscs" in the definitions clause. Presently, molluscs are excluded from the definition of "fish", and it is now a matter of just including it in the general definition. The deficiency became apparent when we were considering the closure of reefs to abalone fishing.

Mr Barnett: I was simply picking your brains there. I was not really sure whether abalone came under the definition of "molluscs".

Mr OLD: When we gazetted the closure of the abalone reefs, we had to include the word "molluscs", as they were not included under the definition of "fish".

As a matter of interest, the exclusion of fishing from those reefs still is in force, despite the fact it is obvious some people do not believe it is. I understand some activity is taking place on the reefs and, to this end, I have issued a Press release which should be made public shortly, advising interested parties that the reefs are still closed and will remain closed until the department considers the abalone have recovered sufficiently. Some of the reefs took a tremendous battering. We believe the average person who goes onto these reefs to collect abalone is responsible, and looks for abalone of an appropriate size. However, some people who obviously had no regard for the fishery, went through the reefs like vacuum cleaners.

Mr Barnett: The people to whom I have spoken generally are of the belief that the ban has been lifted. It would be appropriate for you to make some public comment on the matter.

Mr OLD: I appreciate that; however, I do not know from where they got that idea. No time limit was placed on the ban. That is the reason the matter is to be publicised—so that people will know the reefs still are closed.

In my second reading speech, I referred to the problem of interference to fishing which had arisen on the south coast. That reference was meant purely as an illustration, because I have received similar complaints from Mandurah estuarine fishermen. Perhaps it was not a good idea to give a specific example. However, problems have been experienced on the south coast, although I do not believe it has got to the stage of war being declared. Some of the salmon fishermen have complained that their activities are being interfered with, not so much by other fishermen, but by people in speedboats who are damaging their nets. Those are the people we are trying to bring to order by providing the inspectors with authority to prevent people from interfering unduly with fishermen going about their normal business.

Mr Barnett: That is also the one that I believe is in the wrong section. I wonder whether you want to comment on that now or later.

Mr OLD: We will deal with that during the Committee stage. I believe it is in the right section. I know the member does not, because he has placed an amendment on the notice paper.

This business of taking two years to bring forward a charge is covered by an amendment the member has placed on the notice paper, and I should not discuss that at this stage. If he went ahead with that amendment, he would delete the whole thing because, currently, the time limit is as provided under the Justices Act, which is six months. However, I have been told by the director and senior officers of the department that on occasions some time has elapsed before a complaint has been laid. Some time has elapsed before a breach of the law has been detected; and by the time evidence has been gathered, the officials are not able to proceed because of the limitation of six months. For that reason, I am asking the House to extend the period to two years.

Leave to Continue Speech

Mr OLD: In view of the time, I seek leave to continue my remarks at a later stage of the sitting.

Leave granted.

Debate thus adjourned.

QUESTIONS

Questions were taken at this stage.

Sitting suspended from 6.15 to 7.30 p.m.

FISHERIES AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR OLD (Katanning—Minister for Fisheries and Wildlife) [7.31 p.m.]: At the adjournment of the debate I was answering some points that the member for Rockingham had raised and one of the final ones was with regard to the penalty on a boat which is automatically transmitted to the licence holder of the boat. This has been a long-established practice and my understanding is that one offence is a warning and that should be enough warning for a skipper to know that he should not break the law.

Mr Barnett: I am sorry. The point I was trying to make is this: Once the new laws are passed there will be a situation where certain members of the crew on a boat will not have to hold licences. If those individual members of a crew commit an offence, they can be punished under the law for that offence and also by the Minister who can refuse them permission to fish on a licensed fishing boat.

Mr OLD: That is correct.

Mr Barnett: So that is a second punishment, but that second punishment does not apply to amateur fishermen.

Mr OLD: Okay, I have noted the member's point. I was coming to it. That applies, but the only difference is that a deckhand must be licensed individually and if he commits an offence, depending on the seriousness of the offence, he

can be excluded from the industry. That will continue because although deckhands will not be licensed, if they commit an offence, despite the fact that they are not licensed, they can still be excluded from the industry.

Amateurs who commit an offence and are charged and convicted also can lose their licences, and in a lot of cases they do. I will certainly take that matter up, if there is any differential between the treatment of an amateur fisherman and a professional fisherman. I take the member's point that it is not really satisfactory, and we certainly will clean that one up; at any rate, the machinery is there. For instance, if an amateur fisherman is caught overpotting, he will lose his licence. Similarly, taking an overquota of fish will be an offence. I know this is done. It also is done in the professional field in some instances, and it is a matter of who gets caught which, in turn, is a matter of the strength of the inspectorial staff we have.

I agree with the member for Rockingham that the reprint of the Bill is certainly long overdue. When I discovered two inserts in the Bill, I realise it is hard to follow and I will certainly do what I can to see that the Bill is reprinted.

I commend the second reading to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Watt) in the Chair; Mr Old (Minister for Fisheries and Wildlife) in charge of the Bill.

Clauses 1 to 10 put and passed.

Clause 11: Section 26B inserted—

Mr BARNETT: I move an amendment—

> Page 5, lines 12 to 14—delete the passage " After section 26A of the principal Act the following section is inserted—26B. " with a view to substituting the following—
>
> " Section 27 of the principal Act is amended by inserting after subsection (3) the following subsection (4)— "

Essentially, clause 11 provides for the tightening up of the laws relating to interfering with professional fishing operations, and the interference referred to obviously is of a physical nature. Interferences of a physical nature to professional fishing operations are covered extensively in section 27 of the Act and also will be further supplemented by clause 12 of the Bill we are now considering. I refer members to the wording of clause 11 which will insert a new section 26B as follows—

> A person shall not, without lawful excuse—
>
> (a) prevent a person from lawfully fishing; or
>
> (b) interfere with, hinder or harass a person in the conduct of lawful fishing.

I ask members whether they consider that clause should be placed in the part of the Act which relates solely and specifically to hindrances of an environmental nature to professional fishing.

Section 26A(1) states—

> Where in the opinion of the Minister any spraying, dusting, injection or other activity is likely, or if undertaken would be likely, to introduce into any waters, land or air any substance which might have a serious effect, whether at once or in the longer term, on any adjacent aquatic environment or the fish, aquatic plant or animal life therein, the Minister may, by an order in the prescribed form served on any person, prohibit that person or any other person under his control from undertaking, or continuing to undertake, that activity.

That is obviously and unquestionably referring to hindrances of an environmental nature to professional fishermen.

My argument is further supplemented by subsection (3) of section 26A which reads as follows—

> (3) A person aggrieved by an order of the Minister under this section may appeal against the order to the Director of Environmental Protection and the Minister shall have regard to any recommendations made to him by the Director of Environmental Protection.

There is no question in my mind that section 26 refers to environmental hindrances only and certainly not physical interference which is referred to in section 27 where I wish to insert the provisions in proposed section 26B.

Two provisions of section 27 of the Act already relate to interference with fishermen's nets in tidal waters and with fishing material in general, and also to interference with fishermen's operations by the placing or crewing of boats in such a position as to obstruct the fishermen from pursuing their lawful activities.

The next clause we will deal with complements section 27 and relates to any person who negligently, wilfully, or maliciously propels, steers,

drives or uses any boat so as to damage any net, pot, trap, line, or other implement. That relates to physical activities, and it is further to section 27 which deals with physical interference with people who are fishing lawfully.

I cannot see the reason that the Minister should want to place the provisions of clause 11 into proposed new section 26B. The only conclusion I can reach is the difference in fines. The fine for environmental interference with professional fishermen is $2 500—as is indicated in section 26—and the fine for physical interference with a fisherman going about lawful activities—as indicated in section 27—and for physically interfering with nets or boats, is $750 only.

Perhaps there is some obscure reason for this inclusion, or perhaps the draftsman has made a mistake. It is obvious to me that clause 11 relates to physical interference with a lawful fishing operation and does not relate to environmental matters. Therefore, it should not be placed in proposed new section 26B. This should be placed under section 27 of the parent Act where it rightfully belongs. I would appreciate the Minister's indicating the reason for placing clause 11 in proposed new section 26B of the Act.

Mr OLD: As the member has dealt with clauses 11 and 12—which relate to each other—I feel they should be dealt with together.

The Deputy CHAIRMAN (Mr Watt): I have allowed the debate to cover both clauses for that obvious reason.

Mr OLD: I point out that proposed section 26B and the amendment to section 27 flow on, although they are different offences under the Act. The member for Rockingham has pointed out that clause 11 should be housed in another section of the Act; however, I believe it has been put in its correct place.

Section 26 of the Act deals with the unlawful use of explosives, dynamite, etc. as being an offence under the Act. Section 26A—as the member for Rockingham has rightly pointed out—deals with environmental offences. Section 27 deals with the offence of obstructing people who are fishing lawfully, so we have three sets of circumstances. The draftsman has inserted proposed section 26B to cover a separate circumstance. I do not believe the matter of the severity of the fine comes into consideration. This insertion perhaps could have been a proposed section 27B, but what we have done does flow on within the Act. I am not saying that we would not achieve the same result with the member's amendment, but I do not see any need to change the situation that has been submitted by the draftsman.

Mr BARNETT: I have been in this place long enough to realise the Minister has more Indians than I, so there is no point in my arguing about something we both wish to have included in the Act. However, I put the suggestion to the Minister that this provision has been inserted in the wrong place. If it is likely to follow from section 26A as the Minister wishes, to become proposed section 26B, it would be incumbent upon the magistrate, who has to decide which fine to impose, to decide that it relates to environmental interference and therefore attracts a fine of $2 500. Section 26 deals with a physical offence and an amendment passed in 1979 approximately—I cannot remember the exact date—related to a new fine of $750.

If an offence relates to a serious environmental hazard which affects fishermen, the fine should be the substantial figure of $2 500, but when we are inserting an amendment to complement the section which deals with interference with fishermen, the fine should be compatible with the other section which deals with physical interference and which attracts a fine of $750. It may be that the Minister wishes to proceed with this matter now, but I hope that it can be tidied up in the other place.

Mr OLD: I am quite happy to have this matter checked by the Crown Law Department and, if the member's argument is valid, I undertake to have an amendment moved in the other place. If Crown Law say the argument is not valid, the fine will apply as it is.

Amendment put and negatived.

Clause put and passed.

Clauses 12 to 14 put and passed.

Clause 15: Section 52A inserted—

Mr BARNETT: This proposed section deals with a complaint for an offence against this Act to be made in a period not exceeding two years from the time the matter of the complaint arose. The Minister pointed out in his second reading speech that under the Justices Act it is expected that Government departments proceeding against offenders will do so within a period of six months. I concede the Minister's argument that often some time elapses between the time of the offence and the report which is made to the department as a consequence of that offence.

I submit that if a report were not made to the department within a period of 18 months after the committing of an offence, the nature of the offence must have been so insignificant that action was not necessary—in fact, it should not have been taken. If it takes 18 months to two years for someone to go to the department to advise that an

offence has been committed, most of the evidence, in this case, would have been eaten. I move an amendment—

> Page 6, lines 29 and 30—Delete the passage "2 years" with a view to substituting the passage "6 months".

I would like the period of six months inserted in the Bill, but I am prepared to accept a compromise on the part of the Minister for something between six months and two years if he can outline to the Chamber the reason he needs that extra time.

Two years is far too long to have to wait for an offender to ascertain whether the department is going to charge him with an offence. If the department cannot get its act together within a reasonable space of time it should not be allowed to proceed with a case. The Minister may have good reason to extend the period to 12 months. However, at the moment, without having the benefit of the Minister's reply, I would like it to remain at the situation that prevails under the current Justices Act; that is, a period of six months. I would be grateful if the Minister could indicate to me whether he has any substantial reasons for maintaining a two-year period as opposed to a 12-month or six-month period.

Mr OLD: Two years probably does seem a long time, but the member, during the second reading debate, mentioned that provided some action was taken within six months the case would take longer than that to finalise. My understanding is that it cannot. It is not a compensation claim; it is a charge in a civil court and I would think that most of those cases would be heard in a magistrate's court. A charge would have to be laid within six months of the offence being committed. Even during the short time that I have been the Minister for Fisheries and Wildlife, criticism has been levelled at the fact that the department has been unable to pin a charge and that is because our inspectors have not had the time to get the necessary evidence together.

The department's legal advisers have suggested that two years is reasonable. We must bear in mind that many offences are committed in the processing industry. We still have a carryover in the crayfishing industry of the processing boats. A great deal of criticism still is received in relation to these areas, but it has been inherited from the previous licensing criterion. It is easy for the law to be broken if processing is carried out at sea.

Mr Barnett: That is something that should be wiped out as quickly as possible.

Mr OLD: I agree, but it is like a town planning scheme where someone is sitting in the middle of a planned area with a non-conforming use. How can one justify the fact that one could have a processing licence today and not tomorrow. I am convinced that two years is a reasonable time. I do not think it is terribly draconian, especially in relation to our control of the industry. It is not unfair to ask the people concerned to play the game and if they do not play the game they should take the consequences.

Mr BARNETT: That is not my understanding of the law. My understanding is, and I am certain it is correct—

Mr Old; I saw you taking some advice and you may well be right.

Mr BARNETT: —that such action can be taken within six months. In other words, the writ must be issued during the six-month period, even if the case is not fully prepared.

Under the Justices Act a hearing date can be set before the case has been completed. I understand it could take up to 18 months before a case is heard under the current situation. Under the system put forward by the Minister a person could have to wait 3½ to four years after the offence has been committed before the case goes before the court.

I admit that it could take some time to get a case together but 3½ to four years is certainly not on. It is just not fair. By the same token, I would think that the witnesses involved would have spread to the four corners of Australia during that time and the costs of prosecuting a case would be enormous.

I draw these matters to the attention of the Minister and suggest that he seek the advice of his officers between now and when this Bill goes to the other place in the hope that the matter will be reconsidered and the length of time involved in relation to the actual issuing of the writ reduced. A period of two years is not required to issue a writ.

Mr OLD: I certainly will not enter into a legal debate because my friend on the other side has a practising lawyer sitting next to him who is obviously advising him in this case. I do not believe his advice is correct. What we want to do is to get the case before the court as quickly as possible. The member talks about 3½ years and that is not on. One needs to have the correct wording on the summons and ensure that the prosecution is carried out under the correct section of the Act; and in order to do this all evidence would need to be gathered to make sure the case is watertight. This has been the problem in the past and at times the department has been beaten on technicalities when it should not have been.

Amendment put and negatived.

Clause put and passed.

Clause 16 put and passed.

Title put and passed.

Report

Bill 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 Old (Minister for Fisheries and Wildlife), and transmitted to the Council.

ACTS AMENDMENT (MINING) BILL

Second Reading

Debate resumed from 25 August.

MR GRILL (Yilgarn-Dundas) [8.02 p.m.]: The Opposition submits that, by and large, the new Mining Act has failed. If we view objectively the criteria for the Act and ask what were its objectives, we can probably say they were threefold. The first was to bring the mining laws up to date; the second to facilitate the easier operation of the mining and exploration laws; and the third to encourage exploration and effectively bring more mines into economic production, and to regulate the operation of those mines. It would appear that the Mining Act has failed dismally if it is measured in terms of its criteria and especially the figures for the expenditure on exploration since 1 January 1982. During the period from 1 January 1982 to now, the numbers of tenements taken out by applicants under the new Act have fallen dramatically.

Mr Coyne: So has the price of metals.

Mr GRILL: That is so, but it would seem that in certain months of 1981 more tenements were pegged and applied for than in the whole of this year to date. I know those figures can be clouded by the fact that we are undergoing a recession, or depression, but that fact alone cannot explain the fall in the figures. We need to look elsewhere for a complete answer to the question. We need not look much further than the onerous conditions applying to the taking up and holding of tenements under the Act. Foremost among those are the onerous financial conditions under which persons and companies have to hold mining tenements.

That position has been exacerbated by the number of tenements that are being forfeited each month to the Mines Department for non-payment of rent. One has to look only at the *Government Gazette* to appreciate and be struck by the huge number of tenements being forfeited for non-payment of rent in each period.

Mr Coyne: Is that surprising?

Mr GRILL: Much less land is being held now under the new Mining Act than under the old Act. Although some of that can be put down to the recession, that is not the sole explanation. Active exploration efforts are still being made, drilling is going ahead, and people are working in the field, but in nothing like the numbers involved last year or the year before, or the year before that. It is at a very low ebb at present. When less land is held by prospectors or exploration companies, inevitably fewer mines come on stream in the long term. In the past, Western Australia has been well served by its prospectors. It has been well served also by the smaller mining companies, although that point has not been as well acknowledged as it might have been. Few large mining companies emanate from Western Australia. Perhaps Western Mining Corporation Ltd. is a Western Australian company although I understand it is incorporated in Victoria. Other than that company and a few middle-sized companies like Greenbushes Tin NL our mining activity has not gone much beyond the small company stage. Those small entrepreunerial companies are very important to Western Australia because there are quite a number of them and we can be proud of the record of quite a few.

Mr Coyne: This State offers the best climate for any mining company operating in Australia.

Mr MacKinnon: Hear, hear!

Mr GRILL: That has not been reflected in the experience this year.

Mr Coyne: Ask any mining company.

Mr GRILL: Mining companies, especially the small ones, find it hard to raise funds here, and find it more difficult each year to hold sufficient numbers of tenements to make a contribution to mining exploration.

Mr Coyne: Western Mining has walked out of the Northern Territory completely.

Mr GRILL: We are talking about small companies; Western Mining is a large company.

A balance needs to be struck in regard to the stimulation of mining exploration. If tenements are too cheap or too easy to apply for and hold, people will hold onto them, sit on them, and do nothing. That is one extreme. If they are made too onerous financially to hold, or the application for and holding of them is circumscribed with regulations and conditions as those which apply

under the new Mining Act, little land will be taken up by prospectors and explorers. That situation exists now. We submit that the Government has gone too far. The financial constraints are too onerous. The regulations and conditions are too onerous, the strictures in respect of the holding of tenements are far too severe; and, as I mentioned, the financial strictures in particular are far too strenuous.

It has been said by representatives of small mining companies—and I agree with them—that if one holds a mining lease today and abides by the conditions thereon, the expenditure conditions in particular, one needs to be assured of an economic mine in order that one can afford to hold the lease; not just a mine, but an economic mine. That is not the system under which we should be working. It is conceded that the provisions of this Bill, to some extent ameliorate the situation. The Bill will cut down slightly the plethora of conditions which apply to applications and the holding of mining tenements. For that reason the Opposition does not oppose the Bill because in our opinion it will improve bad legislation.

All members realise that this is the Government's second major attempt to correct an Act which was originally and which remains today highly bureaucratic. During the Committee stage I will develop this point.

Last year the Act was amended substantially, and some of the bureaucratic strictures were removed. I understand that the Bill before us will remove more of these strictures. Nonetheless, if we consider the history of this legislation, we see the Government has been very slow to learn. I recall that in 1978 a number of members in this House took part in the debate on the parent Act, a debate which continued for some time. Every argument put up by the Opposition and by the critics of the original legislation was rejected arrogantly by the Government.

Any person listening to the debate at that time would have thought that the Minister knew all about mining and the legislation covering the industry and that the critics of the Bill—including the Opposition—knew nothing. Every argument we put up was knocked back. The Government stubbornly and dogmatically rejected every amendment that was introduced—and quite a number of well thought out amendments were moved during the Committee stage. The member for South Perth will remember that debate as well as I do. At that time the Government was not prepared to listen to large sections of the mining industry, including people of good repute and with high standing within the industry.

I submit to the House that this is an imperfect Act. It can be made passably workable only by quite far-reaching amendments. It is our belief that when introducing the parent legislation, the Government missed a tremendous opportunity to bring up to date our mining laws. Despite the rewrite of the mining legislation, it is our belief that the 1978 Act is really quite old-fashioned. If we were to have new mining legislation, surely the Government should have considered a system of certainty of tenure for persons registered as holders of mining tenements. I am thinking of some provisions along the lines of the laws relating to land, or along the lines of the Torrens system where title, equitable claim, and caveats could be registered. People may peruse a title and know with certainty that if they deal with the holder so named on the title, they will obtain good title to the tenement. That is not the system we have today. No-one can rely on titles which are filed at the Mines Department, and no-one can rely on the certificates issued by the Mines Department.

Under the present Act, the purchaser of a mining tenement can place little value on a title. A tenement can be subject to all sorts of equitable claims which are not registered on the title itself, and to that extent there is no certainty with respect to a title registered under the Act.

Surely the Government could have introduced a system so that titles to tenements are registered immediately after a hearing in the Warden's Court. That does not happen now. It takes months and sometimes even years for the title of some tenements to be registered with the Mines Department.

Surely the Government could have looked at the South Australian system where the whole State is divided into grids, and where surveying and mapping is being undertaken all the time. In this State tenements are not surveyed for years, maps are out of date, and no gridding is carried out. Horrendous mistakes are made from time to time in respect of the position of mining tenements, and many of these mistakes go uncorrected.

All these things do not add up to a streamlined modern Act of Parliament to govern our mining laws. No thought seems to have been given to the introduction of new technology such as aerial and satellite photography to map the countryside for the placing of tenements.

As well as that lack of thought, the new legislation has major conceptual difficulties. I have mentioned some of these in the past, and probably I shall mention them again as time goes by.

Firstly, there is the open-ended discretion exercised by the Minister and his bureaucrats in respect of this Act. Secondly, as I mentioned before, there is no quick system of hearing and finalising an application for tenements. Thirdly, there is no system of judicial appeal from decisions of wardens or from arbitrary decisions of Ministers. These add up to uncertainty and delays. People are never quite sure of their actual position when Ministers and bureaucrats can overturn decisions made by the wardens without giving reasons for those decisions.

We appreciate that in the early part of this session the Government made certain promises in regard to amending the Mining Act, and no doubt the Bill before us was introduced in fulfilment of promises and commitments.

The Bill proposes amendments to four major areas of the Act. The first area relates to surety of tenure. Under the provision of the Bill before us, when a person applies for a mining lease on either a prospecting lease or an exploration lease held, either in his own name or in that of a corporate body, there will be much more certainty in the granting of that tenement.

At present, a mining lease upon a prospecting area or exploration licence is granted at the discretion of the Minister. If the Bill is passed, as long as the holder of the tenement, the prospecting licence, or the exploration licence has complied with the conditions of the tenement, he will be assured of being able to take and obtain a mining lease upon the licence.

The Government is lifting the restriction on the number of prospecting licences a warden may grant without having to obtain ministerial approval. The Opposition has no argument with that provision; but we point out that we have been saying now for four years, and we said it in 1978 when the present Mining Act was introduced, that there should not be any restriction on the number of such prospecting licences that the warden may grant. As I said before, it has taken the Government a long time to wake up!

Similarly, the Government is now prepared to remove the requirement that during the first six months of the holding of a prospecting licence the Minister must consent to the transfer of that licence. We could never see any reason for that restriction.

Prospecting licences presently are held for a period of two years. The intention of the Bill is that at the end of that period, a person may apply for and obtain an extension of that time for two years; and thereafter, if he puts up special reasons, he may obtain further extensions. We do not oppose that provision, either.

The last major amendment to the Act to be brought about by this Bill is to enable the granting of special prospecting licences upon existing prospecting licences where the special prospecting licences are for gold or for precious stones. We have called for such a provision for a long time.

A number of other minor, but nonetheless important, amendments are contained in this Bill. Those amendments were set out well by the Minister in his second reading speech, and I will not go through them again. They are not opposed.

The Government still has to face up to the gathering storm in respect of the private property provisions of the Act. It is our view that the Government acted pusillanimously in respect of these provisions when it removed the original compensation sections in 1981. The Government has not faced up to this situation at all. It has run away from it. I used the word "pusillanimously" quite advisedly. Nonetheless, the Government seems to be listening at last to the industry and its administrators.

The Act is doing damage to the mining industry, and it will continue to do so.

Mr P. V. Jones: So I am quite clear, going back to that private landholding provision, are you indicating you would go back to the original wording of the 1902 Act, or to the provisions that we removed? I just missed your drift. You said we had done something, but you did not indicate what, as you have with the others. Does the Opposition want those put back?

Mr GRILL: We intend to have a comprehensive review of the legislation when we get into power next year.

Mr P. V. Jones: Well, why criticise the Government for taking them out? How can you say we have acted pusillanimously by taking them out if you are not prepared to say what you would do? I do not mind whether you put them back or not. I just ask you to clarify what your view is.

Mr GRILL: We will conduct a review of the Act when we come into power.

Mr P. V. Jones: In other words, you are not prepared to say?

Mr GRILL: We will consider those provisions.

Mr P. V. Jones: We have had a review, and we are taking them out.

Mr GRILL: We will consider a change; but we are not committed to any form of change.

Why I say the Government's stand was pusillanimous—I do not think the Minister agrees with its stand—is that it made the position clear; it drew up the provisions in legislation amending the 1978 Act; it spelt out the compensation provisions; and then, without giving any real reasons in this House, or at all, it reverted to a situation where the farmers of this State, and the private property landholders, were given a veto over the mining of private land.

Mr P. V. Jones: I get the message. You are saying, first of all, that was wrong—I am just clarifying your view—and that you would consider giving it back?

Mr GRILL: We will review the Act when we get into power.

Mr P. V. Jones: So you would take away the veto?

Mr GRILL: We are making a review. I said I could not commit the Opposition as to what action it will take when in Government.

Mr Old: Very crafty!

Mr GRILL: I might indicate that although we have promised in the past that we would reintroduce the 1902 Mining Act, I will not give that pledge tonight. I simply do not know. It would seem to me that the time is fast coming when the old Mining Act could no longer be reintroduced. It would be far too disruptive for that Act to be reintroduced, as far as I can see.

Although we recognise the necessity to bring down better and more effective legislation, it appears to us now that the chances of bringing back the old Mining Act have come and gone.

With those comments, I indicate that the Opposition does not intend to raise any objections to the provisions of this Bill.

MR GRAYDEN (South Perth) [8.26 p.m.]: I have listened with interest to many of the comments made by the member for Yilgarn-Dundas. As members would know, I agree with many of them.

When the Minister for Mines introduced this amending Bill in August last, he made reference to the fact that he had given certain undertakings to mining companies following the proclamation of the Mining Act. Five undertakings were given, and they represented major changes to the Act. On that point, the Minister said—

> Following proclamation of the legislation, the Government gave an undertaking to the Parliament and the mining industry that amendments would be introduced during this current session to provide for—
>
> a greater degree of security of tenure for the holder of a prospecting licence, or an exploration licence, wishing to convert to a lease;
>
> the lifting of the restriction on the number of prospecting licences a warden can grant without having to obtain ministerial approval, together with the removal of the requirement for the Minister's consent to the transfer of a prospecting licence during the first six months of its term;
>
> the automatic right of extension of prospecting licences for a further term of two years;
>
> a prospecting licence for gold and/or precious stones over an existing prospecting licence after that licence has been in force for one year.

Those are the five undertakings given by the Minister to the various mining companies.

As mentioned by the member for Yilgarn-Dundas, when the Mining Act was dealt with in this Parliament in 1978, I moved specific amendments to cover those five points. Each amendment went to a division and at that time I had the support of the Opposition, the two National Party members, and the member for Subiaco.

However, what grieves me most is that, while we had a protracted debate on the amendments I moved in 1978 which were designed to minimise the effects of the provisions the Government sought to pass, each of those amendments was rejected unceremoniously.

Four years have elapsed since then and I cannot help thinking that mining companies throughout Western Australia must have been put to untold expense in respect of attending meetings and discussing these provisions. Various departmental officers would have been involved also, again at considerable expense, and yet, after four years, the Government seeks to amend the five provisions which I sought to amend previously.

If members look at some of the amendments the Government seeks to make now, they will see how farcical is the situation. The first undertaking is—

> to provide for—a greater degree of security of tenure for the holder of a prospecting licence, or an exploration licence, wishing to convert to a lease.

A protracted debate took place on that subject in 1978 and, at that time, I sought to amend the relevant clause by adding after the word "conditions" the words "equivalent to or". I

moved that amendment for a specific reason. The Minister said that if somebody applied for a prospecting licence, he could impose certain restrictions on it and, if the applicant refused the conditions, the licence could be awarded to someone else.

In moving that amendment, I used the following argument—

> I draw the attention of members to the wording of the clause, which states that where the holder of a prospecting licence is refused a mining lease or general purpose lease over the same land, then no other person shall be granted a mining lease or general purpose lease on conditions more favourable than those to which the holder would have been subject. I am saying no other person should be granted a mining lease or general purpose lease over that land on conditions equivalent to or more favourable than those to which the original holder of the prospecting licence would have been subject. There could be plenty of situations where somebody else could get that lease on conditions equivalent to those of the original holder. Without any question at all we should ensure that should not happen by accepting my amendment.

In other words, I was saying the clause was completely unsatisfactory.

The Minister has come along now—and I applaud him for doing so—and has, in another way, done precisely what I sought to do in 1978. Clause 12 seeks to give a greater degree of security of tenure to the holder of a prospecting licence wishing to convert to a lease. Clause 19 seeks to achieve the same purpose in relation to an exploration licence.

The proposed new section 49 contained in clause 12 reads as follows—

> 49. (1) The holder of a prospecting licence has—
>
> (a) subject to this Act and to any conditions to which the prospecting licence is subject; and
>
> (b) while the prospecting licence continues in force,
>
> the right to apply for and have granted to him one or more mining leases or one or more general purpose leases or both in respect of any part or parts of the land the subject of the prospecting licence.

The section of the Act which proposed new section 49 will replace is totally unsatisfactory. The proposed amendment covers the situation, but that could have been done when I moved my amendment four years ago.

The Minister's undertaking to the mining companies reads as follows—

> the lifting of the restriction on the number of prospecting licences a warden can grant without having to obtain ministerial approval,

When the Mining Bill was debated in 1978 a protracted debate took place in relation to this provision. The Minister insisted that a person could peg only 10 prospecting licences without obtaining ministerial approval; so I sought to ensure that, if the Minister would not lift the restriction altogether, at least a person could peg 10 mineral claims in any mineral field and I moved an amendment to that effect as follows—

> That the amendment be amended by adding after the word "licences" in line 2 the words "in any one mineral field".

That amendment would have ensured that a person could peg 10 mineral claims in any mineral field in Western Australia and I worded my amendment accordingly for the simple reason that the Minister insisted that the number be restricted to 10.

Debate proceeded in the Committee stage on that amendment and covered 24 pages of *Hansard*. All members know that only a fraction of what is said in the Committee stage is actually recorded in *Hansard* and yet debate on that particular amendment covered 24 pages.

Three divisions were called for. On page 4860 of *Hansard* of Tuesday, 14 November 1978, a division is recorded and was decided in the negative when the Chairman exercised his casting vote with the Noes. Another division is recorded on page 4906 and the result was in the negative, once again on the casting vote of the Deputy Chairman.

Mr Pearce: Are you on a nostalgic kick or are you going for a *Guinness Book of Records* entry on "I told you so"?

Mr GRAYDEN: A division was recorded also on page 4903 of *Hansard*; the Committee was evenly divided and the Chairman's casting vote decided the division in the negative. Therefore, it can be seen three divisions took place on this proposed amendment which was considered to be so offensive four years ago.

Since that time, all sorts of things have occurred. Mining companies have held numerous meetings and many delegates have travelled long distances to discuss this matter. Departmental officers have been involved in lengthy discussions

at considerable expense, simply because this Chamber chose to ignore completely the arguments put forward four years ago. Debate took place over an extended period as to whether restrictions should apply to the number of prospecting licences granted. The Chamber did not accept my amendments and yet, four years later, this Bill seeks to lift all restrictions on the granting of prospecting licences.

The ACTING SPEAKER (Mr Tubby): Order! I ask the member for South Perth to restrict his remarks to the general principle of the Bill and reserve his comments on the clauses to the Committee stage.

Mr GRAYDEN: I am trying to do that, but the only way I can achieve that effectively is to give a degree of detail, otherwise my argument will not be accepted. It was not accepted previously when debate was recorded on 24 pages of *Hansard* and if I gloss over it now, it will not be accepted again.

I will be as brief as possible. My amendment was relatively brief and it was, "A person may be granted more than one prospecting licence." That is what we sought in 1978.

Mr Pearce: Are you supporting these amendments?

Mr GRAYDEN: Yes.

We then come to the third major undertaking given by the Minister in his second reading speech last August. I moved an amendment four years ago for the removal of the requirement for the Minister's consent to the transfer of a prospecting licence during the first six months of its term. Again it was defeated by the casting vote of the Chairman.

At the time I moved to delete clause 53. The Chairman said that the appropriate way to achieve my objective was to have the Chamber vote against the clause. I gave my reasons for wanting the clause voted against and then the vote was taken. I was attempting to do precisely what the Minister is doing now because the relevant part of this Bill removes the requirement for the Minister's consent to the transfer of a prospecting licence during the first six months of its term.

We then come to the fourth undertaking made by the Minister to the mining companies, which was the automatic right of extension of prospecting licences for a further term of two years. Again I took exception to that clause because of the limitation. I moved an amendment which appears on page 4877 of the 1978 *Hansard*. I moved to delete the word "two" with a view to substituting another word. Again we had a division and the amendment was defeated on the casting vote of the Chairman.

The next major undertaking in respect of the parent Act given by the Minister dealt with a prospecting licence for gold and/or precious stones over an existing prospecting licence after that licence had been in force for one year. On page 4839 of that 1978 *Hansard* can be found an amendment I moved which was to add after the word "hectares" the words "for minerals other than gold and ten hectares for gold". That in effect is what we are doing now. At the time I used all sorts of arguments to have members agree to my amendment. I said—

> I wish to do this because if there is no line of demarcation between gold and base metals in the Bill, several things will occur. It is certain that huge areas of Western Australia will be blanketed out . . . These areas will be blanketed out by means of prospecting licences, mining leases, and exploration leases. In addition, we will have large areas being tied up for indefinite periods, which is the antithesis of the intention of the Act.
>
> The Minister has indicated that one of the main objects of the Bill is to ensure there will be a turnover of ground, but unless we draw a line of demarcation between gold and base metals, the opposite will occur.

My argument, the argument of the Opposition members, and the argument of members of the National Party was along those lines, but the amendment was rejected.

I have read the five undertakings the Minister gave and I have pointed out the amendments I moved in 1978 to rectify each of those matters. It is terribly unfortunate that arguments are put forward in this House and irrespective of their merit they are disregarded completely. That is precisely what happened during the passage of the Mining Bill in 1978.

The 1978 Bill was introduced to streamline the parent Act, and this has been accomplished. However, it was introduced also to ensure that ground was worked. Instead, it has had precisely the opposite effect. The Government abolished labour conditions and replaced them with expenditure conditions.

The old labour conditions for goldmining were always applied and they ensured that ground was worked. However, expenditure conditions have the effect that very large areas of ground can be blanketed out and locked up virtually indefinitely, which is precisely what is happening now to the mining areas of Western Australia. I defy any member in this House or any person in the mining

areas of Western Australia to visit any areas where gold has been found in this State, where work has occurred and the areas are known, and find anything worth pegging.

Previously, if the mineral claims, mining leases, or PAs were not worked, anyone could walk in and take over an area quite legitimately and have the Wardens Court award the area to him. It was always stressed that when gold was involved one had to abide by the conditions of the Act. That did not apply to such an extent to many other minerals.

Now, if one goes to Broad Arrow, Yalgoo, Meekatharra, or anywhere else that gold has been found, one will find pegs in the ground where areas have been surveyed but are not being worked and never will be worked. In many cases they are mining leases which can be held for 20 years with the opportunity to hold them for further periods of 20 years. No work will be done on them until some distant time in the future because all people have to do is say that they drove up there three times last year and spent a week on each of the mining leases. They can say that their labour is worth so much. Those people would have met the expenditure conditions and yet all they did was pick out the eyes of the deposit.

So the 1978 legislation has had the reverse effect to what was indicated as the intention. Instead of causing ground to be worked, mining companies are now in a position to pick out the eyes of deposits. They have done this and they are securing areas indefinitely. This renders the surrounding ground worthless. It is for these reasons that the number of exploration licences, prospecting licences, and other tenements has fallen off.

Earlier someone mentioned that this is what we could expect during a recession. However, during the last recession goldmining in Western Australia received a tremendous fillip. Many people who could not find jobs went out into the outback and prospected for gold, which is what people are doing now. If a person were to go to any area in Western Australia where gold has been found he would find it would be like St. George's Terrace, because vehicles are travelling backwards and forwards all over the place. Tremendous activity can be seen in these areas, more activity than I have ever seen in the past.

However, the people are not taking up large areas, and nor will they in future. They simply pick out the eyes of deposits and lock up the areas. Unfortunately, people in towns like Broad Arrow, Yalgoo, and Meekatharra will have to sit there for years and watch the good areas surrounding those towns being locked up without any work taking place. No work will take place because those areas are locked up, and only a small expenditure is required to maintain the licences. No work is required to be done; only the condition that a certain amount be spent is imposed.

I reiterate that the Act has had the opposite effect to that which it was intended to have. One of the basic aspects of the old Act was that the number of mineral claims a person could take up was unlimited. The limiting provision for prospecting licences in the new Act will now be repealed; no limit will be placed on prospecting licences, exploration licences, or leases.

Added to the serious effects I have mentioned resulting from the change to the new Act is the loss to this State of mining activity. Undoubtedly the State is the loser. The upheaval which has occurred is equivalent to or greater than the change from sterling to decimal currency.

I deeply regret that in 1978 those five amendments to which I have referred were not accepted. I do not blame anyone in particular. Such occurrences are not peculiar to this Parliament. They happen in every Parliament of Australia. Some considerable time ago an article appeared in the *Daily News*. It was a quotation of the words of Sir Isaac Isaacs. As members know, he was first a lawyer, then a State member of Parliament, a Federal member of Parliament, a Federal Attorney General, and in 1905 was elevated to the bench of the High Court of Australia, and later became the first Australian Chief Justice. The article reads—

> "The Parliament is the very core of our constitutional system. It has behind it traditions and a fundamental ground-work that, unless denied by a written Constitution, appertain to every British legislature.
>
> "In Parliament, the people are supposed to be present to make their laws and generally to watch over and direct their national affairs. That is representative government. It is the high water mark of democracy.
>
> "The Cabinet is a body constitutionally subordinate to Parliament and selected from the representatives, to conduct the daily business of the nation, under the supervision, control and direction of the Parliament.
>
> "That supervision, control and direction cannot be abandoned or surrendered by the Parliament without a breach of the trust it undertakes to the people it represents."
>
> Sir Isaac said there was a growing necessity for the Parliament to exercise not less, but greater and more constant vigilance and

greater care to maintain in its own hands the power to fulfil the trust implied by the Constitution.

Common sense

This was a duty dictated by tradition and common sense and one that every elected representative undertook.

Parliament should not be silent.

Then there are these incredibly significant words—

"Why should it consent to be deaf, dumb, blind and impotent at the will of its own administrative officers and so reverse the relative positions the Constitution intends them to occupy?" he asked.

"It is a breach of a fundamental right. How long will a sensible people tolerate it?

"How long will Australians stand by and see their national Parliament function like a Trilby to sleep, wake, sing or be silent at the dictation of whatever Svengali happens to be in control for the time being?"

He was referring to the Commonwealth Government, but the words are applicable to every Parliament of Australia. It grieves me to think that we can come to this place to put arguments of consequence and find they are completely ignored. The 1978 debate of amendments to the Mining Act is a classic example of the situation to which Sir Isaac Isaacs referred. The issues were debated, and the arguments put forcibly; virtually there was a division on party lines, and the arguments were rejected, all at considerable cost to the State. That rejection meant that mining in Western Australia and Western Australians generally were the losers.

MR I. F. TAYLOR (Kalgoorlie) [8.55 p.m.]: Meaning no disrespect to the member for South Perth, I state his speech is a fairly hard act to follow. It is probably an indictment of the British system of government that a member of Parliament has to rise four years after a debate and say, "I told you so." In fact, the member for South Perth went point by point through the amendments he moved in 1978, amendments which in general terms are being accepted now by the Government. Perhaps we would not have had so much difficulty with mining and mining legislation had the Government of the day accepted the amendments moved by the member, and listened to his arguments with its eyes wide open.

Mr Pearce: The Opposition supported him at the time.

Mr I. F. TAYLOR: That is quite right.

During the debate on the disallowance of regulations under the Mining Act, the Minister referred to a number of commitments the Government had made in relation to the Act, commitments which would be implemented. As the member for Yilgarn-Dundas has said, the Minister has accepted the commitments. The Opposition is not disappointed by the results.

The first commitment, although not a commitment in the true sense of the word, relates to private landholder provisions in the Act. It was suggested there could be no change at this stage. It may be interesting for members to hear what the Chamber of Mines of Western Australia has to say. I received a letter yesterday from that organisation, and I will read it more for the record than for any other purpose. It states—

However, there are still several important issues to be resolved before complete acceptance of the Act is possible. The most significant and pressing of these relates to the Private Land provisions.

The new Act, with respect to Private Land, permits a single section of the community to have the unassailable power of veto over the exploration for and mining of minerals. The present wording of the Act is in fact contrary to the principles of Crown ownership of minerals.

The Chamber of Mines recognises that Private Land owners have the right to legitimately follow their chosen way of life and supports the compensation provisions of the Act whereby the land owner would be compensated for all loss and damage suffered as a result of a mining tenement being granted on his land. It does insist however, that in negotiating for the right to mine with a Private Land owner, such negotiations should be based on the land as an agricultural asset and should bear no relationship to its mineral potential, the rights to which were specifically withheld by the Crown at the time of the original sale.

The Government along with the Opposition realises the great difficulties involved in coming to grips with this issue. It may be in a few years that problems currently arising will become greater, and if that happens either this Government or, certainly, the Australian Labor Party if in Government, will have to examine those problems. At this time the matter should be set aside so that we can wait to see exactly what happens.

The second commitment raised by the Minister relates to security of tenure. This matter was ad-

dressed by the member for South Perth. The Minister said the Government has adopted the principle of ensuring life tenure is written into the Act. Little doubt remains that the amendments grant security of tenure to most landholders covered by the Mining Act.

The third commitment was in respect of a limit on the number of prospecting leases agreed to, together with the granting of additional small goldmining leases. From what the Minister has put before us, it seems this has been implemented already and the Opposition agrees with that.

The Government also has given the mining industry the right to trade in prospecting licences and transfer them within the first six months of their being granted without again having to refer to the Minister for his consent.

A couple of other areas are of concern, one of them being the right of appeal and ministerial discretion. This continues to be a burning issue, as it was in relation to the 1904 Act, and the Government has not seen fit to come to grips with this matter. It is necessary that the Minister should be subject to no doubt whatsoever in the decision making process in which he is involved.

I refer to the Association of Mining and Exploration Companies Inc. submission on the Mining Act of 31 March 1982. In respect of excessive ministerial discretion in the Act, the association said—and the Opposition agrees with it—

> Whereas the ultimate power of the Minister in most matters is not in dispute there is cause for concern in some of the new clauses where ministerial influence has been expanded, and many of his powers delegated to the bureaucracy.

There can be no doubt that the new Act has extended the Minister's influence over the mining industry in this State and that in itself is problem enough; but in addition bureaucrats involved have seen fit to see that the Government can delegate to them many of the ministerial responsibilities under the Act, and that could be a problem; perhaps it is already.

Last year I referred to the Minister a matter concerning discretion with the Bond Corporation or a company associated with that corporation in the eastern goldfields, and there was some doubt then that the Minister may or may not have made the right decision. As it turned out, even the Bond Corporation more or less admitted that perhaps it had gone too far; the prospector concerned is now able to work the lease in question.

The association I referred to a minute ago also said "Of major concern is the use of ministerial discretion in the granting, cancelling, or forfeiture of a mining title without the miner having the right of appeal." It says later, "There is an inherent danger of preferential treatment."

During the last debate on this subject in April this year the matter of the right of appeal was brought before the House and it was suggested by the member for Yilgarn-Dundas that a chief mining warden should be appointed and that there should be right of appeal for prospectors and mining companies. That right of appeal could be granted by way of the establishment of a small mining court perhaps along the lines of the Workers' Assistance Commission or the Workers' Compensation Board in respect of which the costs involved are not particularly great. It would mean that perhaps the small mining companies and small prospectors would be able to get on a level with the large companies, and we would need to ensure that they were able to compete with the large companies in respect of the fees involved in appeals.

We also must ensure that the companies involved cannot go as far as the Supreme Court or the High Court because there is no doubt that in Australia today our legal system is such that the costs involved effectively prevent justice being done. Even though many people believe that the law is on their side, they are not able to take the matter as far as they possibly could because they cannot afford the expenses involved. We do not suggest for a moment that that should be the case with the establishment of a mining appeal court.

Mr P. V. Jones: Is such a court to adjudicate on matters of law or matters of administration?

Mr I. F. TAYLOR: Matters of administration relating to the Act. There could be a problem in adjudicating matters of law because precedents are established and probably there would need to be a further right of appeal. I am thinking in terms of administrative matters that come within the Minister's discretion.

Mr P. V. Jones: Even if a Mining Warden is a magistrate he is sitting as an arbitrator in matters of administration rather than determining points of law, isn't he?

Mr Grill: That is only the way the Act is structured now.

Mr P. V. Jones: I am trying to clarify that a Mining Warden is determining matters and exercising an administrative function rather than a legal or judicial function.

Mr Grill: That is true, as the Act is now structured.

Mr P. V. Jones: So that the appeal court that you are thinking of would be an administrative appeal court?

Mr I. F. TAYLOR: Off the top of my head, certainly it would be. We could have to go further, but perhaps we could start with a court along those lines and if it seemed to be efficient, good; but if it turned out to be inadequate in relation to examining the ministerial or administrative decision making powers, we would need a court with greater powers than the administrative type court.

A prospector brought to my attention a matter in relation to the issue of explosive permits. The prospector claimed that now that the issue of these prospectors' permits has been transferred from the Police Department to the Mines Department, before a licence or permit is granted the prospector himself is required to establish how much he will have to use in the way of explosives for a full year, and of course it is very difficult for some of the smaller prospectors to know exactly how much they will require in the way of explosives for a full year. It may be that the order or permit grants them less than they require and therefore they find themselves in difficulty in respect of obtaining an additional permit later in the year.

I refer to the State batteries which are associated with the mining industry and, to some degree, with this Act. State batteries are currently under review by this Government and Mr Field.

Mr P. V. Jones: That has been completed.

Mr I. F. TAYLOR: I look forward with interest to hearing the Government's decision. It was during the member for Fremantle's visit to Kalgoorlie a few weeks ago—a visit that happened to coincide with the raid on the two-up establishment—that I took Mr Parker and the member for South-East Province to the State battery in Kalgoorlie, and I think the member for Fremantle was duly impressed with the batteries and also with the application of the people who run the State battery in Kalgoorlie. The overall impression he was left with was that these people work under extreme and adverse conditions and make the best of their situation. He was amazed to see one of the workers actually roasting gold ore out in the open over an open fire, and this practice apparently has been going on for many years. The only time it comes to a stop, of course, is when it rains. Perhaps the Minister will look at spending some money at the Kalgoorlie State battery to bring it up to a more suitable standard.

In concluding my remarks, I congratulate the Minister for coming forward with the goods, so to speak, in respect of his promise to this House in April this year. I also express some concern about the point raised by the member for South Perth; that even now the Mining act is not exactly what is required by the mining industry. I look forward to 1983 when the Australian Labor Party is in Government and we completely review the Mining Act and bring it up to date.

Mr Pearce: Hear, hear!

MR TRETHOWAN (East Melville) [9.09 p.m.]: I remind the House of the importance to Western Australia of the industry governed by this Act.

Mr Pearce: You have to lift your profile.

Mr TRETHOWAN: It is certainly true that the burden of the future growth of this State rests in the development of the primary sector and principally it is the mining sector that holds the greatest promises for continued future growth, continued development, and prosperity in this State. As the member for Yilgarn-Dundas correctly pointed out, the development of operating mines depends upon continuous mining exploration. The exploration must come first in order to find the minerals, and there must be economic reserves before the operating mine can be implemented.

This is an important Act which governs the industry and must be seen to be efficient in its operation. It must be seen to be effective to encourage exploration. The amendments in the Bill will bring the Act into good operating condition. That does not mean that I do not believe that in the future—as with any ongoing legislation of this House—with the change of circumstances there may not be a further need to amend particular conditions or operations under the Act. The mining industry is subject to circumstances of change, particularly in the level of activity which may be required in the future.

I take issue with the assessment of the member for Yilgarn-Dundas of the impact of this amendment upon the exploration side of the industry. I do not believe the current downturn in exploration is due primarily to the difficulties with the legislation. As I have stated already, I believe the Act provides a very good set of grounds under which exploration can take place.

It seems to me there are two interrelated factors that have resulted in a considerable downturn of activity in the area. The first and primary factor is the major downturn in world metal prices. When world metal prices are low it is obviously true that operating mines find it more difficult to generate surpluses. It is true also that the larger amount of exploration carried out in this State is

done by those companies with operating mines. Most of the major mining companies of Australia experienced poor profit results in the last half-year.

In a number of cases they have reported losses, so obviously one of the first areas which needs to be curtailed is the area of exploration which is not immediately necessary to the earning of export sales income for the company. I suggest that economic conditions have been responsible primarily for the downturn of exploration within the State.

I suggest further that this State has suffered less overall in terms of the drop in exploration carried out by these companies than most other States of Australia. There is good reason for this: Not only does this State provide a mining Act which is effective and clear in its operation—unlike the opinion of the Opposition—and provides a considerable reduction in the administrative load compared to the 1904 Act, but also the State Government provides an operating environment for the mining industry in which the ground rules are clear and are not changed constantly. That means that a company entering exploration in Western Australia knows precisely where it stands under the Act and under the policy of this Government for the mining industry.

This is important and encouraging for mining companies which wish to explore because exploration is a costly and risky process. Anyone undertaking exploration—

Mr Grill: You know between 1978 and 1982 most major companies did not know where they were going or whether your Government would decide whether to implement or promulgate another Act. Most of the companies you are talking about were operating under the old Mining Act, not the new Act.

Mr TRETHOWAN: The point raised by the member for Yilgarn-Dundas in his opening remarks was that since 1 January this year the downturn in exploration resulted from this Act.

Mr Grill: When you look at the figures—

Mr TRETHOWAN: I do not believe that is the case. The downturn is related directly to market conditions.

Mr Grill: It is partly.

Mr TRETHOWAN: It is not only the operation of the Act which makes Western Australia a place where exploration companies and mining companies wish to spend their money and encourage the mining industry; it is also because they have a positive environment where the ground rules are clear and they know precisely where they stand in relation to Government policy.

Mr Grill: The ground rules have never been clear. There have been two major sets of amendments, one was even before the Act was promulgated and one was this year within eight months of promulgation of the Act.

Mr TRETHOWAN: I was referring to ground rules in addition to the Act itself. May I illustrate this, because it goes to the nub of the point I wish to make: Exploration requires confidence, confidence of the mining companies that there are minerals likely to be found; confidence that if minerals are found they will have the ability to develop them in a straightforward and commercial manner without being unduly restricted or interfered with by the Government and without having onerous costs placed on them by the Government.

Mr Grill: I do not think you have been talking to the companies because that is not the story I got from them.

Mr TRETHOWAN: That is the story I received. The confidence which is necessary in the mining industry is generated by this State Government. Confidence has not been present in any Government supplied by the Opposition for some very good reasons—

Mr Grill: Empty words.

Mr TRETHOWAN: —the statements in the ALP policy and the requirements for a 15 per cent equity in the Ashton Joint Venture. I believe that when a Government says that it will require equity within a mining project, it attacks the fundamental confidence of the mining industry.

Mr Grill: Do you believe all the companies are concerned with that?

Mr TRETHOWAN: Opposition members agreed to the Bill when it was passed in this House but now the agreement has been passed they have indicated that they wish to go back on their agreement.

The ACTING SPEAKER (Mr Crane): Order! *Hansard* is having difficulty hearing the member on his feet. I ask members to give *Hansard* some consideration.

Mr TRETHOWAN: The question I raise is where the funding for such an equity comes from because I believe it would be only an additional imposition upon the taxpayers of Western Australia. The requirement for a 15 per cent equity in Ashton Joint Venture would be in the vicinity of $150 million.

Mr Grill: We do not have a policy for a 15 per cent equity.

Mr TRETHOWAN: What is the Opposition's policy?

Mr Grill: We have a policy which asks us to seek an equity in Ashton Joint Venture equivalent to that held by any foreign Government.

Mr TRETHOWAN: What is that at the present time?

Mr Grill: I do not know. The Press is bandying around the figure of 15 per cent.

Mr TRETHOWAN: Does the member for Yilgarn-Dundas suggest that that is an accurate percentage?

Mr Grill: I think it is less.

Mr TRETHOWAN: Would it be 14 per cent?

Mr Pearce: This has nothing to do with the Bill.

Mr TRETHOWAN: It has a lot to do with the Bill. The Bill governs the mining industry in this State and the mining industry will continue to grow and exploration will take place only as long as there is confidence in the Government.

Mr Pearce: What did the Afro-West business do for confidence in the Government? Mining companies can't even be confident they can keep what they find.

Mr TRETHOWAN: Even the member for Gosnells would agree that lack of confidence is a very serious charge to make against any Government in relation to a high risk industry such as the mining industry.

The second point I wish to make in relation to confidence concerns the development of uranium mines within Western Australia. It seems to me the Act provides that when someone explores and finds minerals, he is entitled to a tenement, and to mine the minerals. To threaten them with the repudiation of their rights is a significant attack on the confidence of the whole industry.

I suggest it is somewhat ironical for members of the Opposition to talk about the lack of confidence the current Act gives to the industry when their own policies seek to socialise part of the mining industry by demanding an equity and seek also to prevent the development of an existing potential mine within this State.

Mr Pearce: Does the name "Afro-West" ring any bells?

Mr TRETHOWAN: I would prefer to talk about Yeelirrie. I wonder if the member for Gosnells would prefer to talk about Yeelirrie and prefer to explain his opposition to those people who could be industriously employed in the mining industry in the development of that mine. I would like to hear his point of view in relation to what effect the prevention of the development of a mine such as Yeelirrie would have on the confidence of exploration in this State.

Mr Herzfeld: The member for Gosnells would not remember what happened to oil and gas explorers back in the days of Rex Connor.

Mr TRETHOWAN: I thank the member for Mundaring for his comment because it illustrates what I was saying. If one looks at the rate of exploration within the whole of Australia under the policies of the Labor Federal Government one would see the degree of downturn in exploration due to the fact that the industry did not know the ground rules under which it was operating and it did not have the confidence that if it found economic deposits it would be able to mine them.

Mr Herzfeld: Rex Connor threatened nationalization by promising to take over North-West Shelf gas at the wellhead.

Several members interjected.

Mr TRETHOWAN: It is extremely important to this State that this Act is seen to work effectively, as I believe it will with the inclusion of these amendments. The Act, with these amendments, will continue to generate confidence in the industry, as will the other ground rules, under a State Liberal-Country Party Government. With confidence in the ground rules the mining industry can look forward to future growth that can be maintained and we will see continued exploration and development of operating mines.

I believe confidence is the key issue and that these amendments will increase the confidence of the industry in the operation of this legislation, which I certainly support.

MR COWAN (Merredin) [9.25 p.m.]: I am amazed that members on this side of the House can claim with some pride that they have contributed greatly to providing and supporting amendments to the Mining Act. These amendments need never have been brought before this place had they listened to the member for South Perth and the other people who expressed opposition to the 1978 Bill. Had the Government listened to those people these amendments would have been made in 1978. It strikes me as being odd that members on this side can tell us that these amendments will generate confidence and the Government should be congratulated for something it should have done five years ago. If this is the type of mentality we have on the back bench, God help us all!

There is no question as to the reason these amendments have been brought before this place. It is simply because the Opposition moved to disallow the regulations made under the 1978 Mining Act, and in order to obtain the numbers

to ensure those regulations were not disallowed the Government gave a commitment that it would amend the Act. I am quite certain no pressure would have been applied from within the Government to make any changes to the Act.

Despite the fact the amending Bill is quite large and contains a great number of clauses the Government has addressed itself to only one of three matters which concern the National Party and, certainly, the member for South Perth and members of the Opposition.

The Government has addressed itself quite seriously to the matter of security of tenure which it offered to prospectors holding mining tenements. I believe the industry would be quite satisfied with the changes that have been made in relation to tenure of mining tenements and also to the extra number of tenements which are available, particularly in regard to special gold prospecting licences.

The other two matters about which the National Party was very concerned related to the amount of ministerial discretion that prevailed right through the 1978 Act and the need also for an appeal to an impartial body. Both of those matters are contained in my party's policy document and neither has been addressed by this Government. We believe that is one of the inadequacies of the Act and certainly is an inadequacy of this amending Bill.

I find some other matters quite interesting. Discussion has taken place in the Press and other quarters about provisions relating to private land.

Various mining representative groups are starting to agitate and lobby for these private land provisions to be changed once again. It always strikes me as rather odd that from 1904 to 1980 when the old Mining Act, as it is termed, was in force, there was never any concerted or combined approach by mining industry representative groups opposed to the section relating to private land provisions. Now that the new Act has been promulgated these groups suddenly are starting to campaign against these provisions. We all know that the provisions in the Act are those which were given to private landholders in the 1904 Act. I hope the Minister can give us a guarantee when he replies to the debate, that while he is Minister and particularly one who represents the NCP, private landholders will enjoy the right to farm rather than be subject to or witness someone exercising the right to mine.

Obviously there is a conflict of interest in land use and I would prefer to see farmers holding land in fee simple being able to carry out farming practices rather than be subject to the desires of the mining industry. The Bill deals seriously with only one of the three matters which we regard with some concern and which caused us to support the disallowance of the Mining Act regulations. The Bill deals with security of tenure, but there is still the matter of excessive ministerial discretion and the lack of appeal to an impartial body. These matters will have to be dealt with at some future date. While we object to some of the sections in the Mining Act, we support the Bill before the House.

Debate adjourned, on motion by Mr Nanovich.

BILLS (2): RETURNED

1. Act Amendment (Agricultural Products) and Repeal Bill.
2. Local Government Amendment Bill (No. 3).

Bills returned from the Council without amendment.

House adjourned at 9.33 p.m.

QUESTIONS ON NOTICE

CONSUMER AFFAIRS

Drummond Cove Project

1350. Mr TONKIN, to the Minister for Consumer Affairs:

(1) Has the bureau received complaints with respect to the Drummond Cove project?
(2) Is there substance in the complaint?
(3) What avenues are open to the bureau to require the developers to fulfill the terms of their prospectuses?
(4) If there is insufficient statutory backup for the bureau in this matter, is it the Government's intention to introduce legislation to remedy the situation?

Mr SHALDERS replied:

(1) and (2) Yes.
(3) As no official prospectus was issued for this project the bureau has no statutory power over the matter.
(4) At this stage the Government is not contemplating legislation since the promoter has indicated that a new proposal will shortly be put to investors involving the formation of a unit trust in exchange for interests now held in the land.

INSURANCE

Beneficial Insurance Brokers

1388. Mr PEARCE, to the Minister for Consumer Affairs:

(1) What action has been taken to assist people who lost money through the col-

lapse of Beneficial Insurance Brokers in March 1981?

(2) Is it a fact that Beneficial Insurance Brokers has not been liquidated?

(3) If so, why has no action been taken to liquidate this company?

(4) Has it been ascertained if this company has any assets?

(5) Is it a fact that some directors of this company are continuing to operate as insurance brokers?

Mr SHALDERS replied:

(1) I am not aware of any action taken, but in any event it would be a matter between the company and the persons concerned. Since Beneficial Insurance Brokers ceased operation the Government has implemented legislation—the General Insurance Brokers and Agents Act—to regulate this particular part of the industry. This included the establishment of the Insurance Brokers' Licensing Board.

(2) Yes.

(3) The company appears to have ceased trading in March 1981. Neither members nor creditors have taken action to wind up the company.

(4) No. This information would become available in the event that members or creditors take action to wind up the company.

(5) Not to the knowledge of the Insurance Brokers' Licensing Board.

CELEBRATIONS

Albany, Bunbury, and Collie: Assistance

1395. Mr T. H. JONES, to the Premier:

(1) What was the amount Albany received for the 150th Celebration?

(2) What was the amount Bunbury received to assist in the City status celebrations?

(3) What other towns have received Government financial assistance in connection with special celebrations?

(4) As Collie will be celebrating the 100th anniversary of the discovery of coal in October 1982, does not this significant event in the history of Western Australia warrant his Government's financial backing?

(5) If "No" to (4), would he please give reasons?

Mr O'CONNOR replied:

(1) $110 000.

(2) $50 000.

(3) None that I can recall.

(4) and (5) The Government is aware of the value of the discovery of coal at Collie to the subsequent development of Western Australia. However, there are many significant events of this kind in the State's history which will be celebrated by local communities and the Government is not in a position to provide financial support for all of them.

FUEL AND ENERGY: COAL, NATURAL GAS, AND OIL

Contracts: Quantities

1396. Mr GRILL, to the Minister for Fuel and Energy:

(1) For the supply of what future quantities of—

(a) fuel oil;

(b) coal;

(c) natural gas,

had the State Energy Commission entered into contractual arrangements as of 1 July 1982?

(2) (a) Had the commission entered into contracts for future supply of any other fuels as of 1 July 1981; and

(b) if so, what fuels and quantities were involved?

Mr P. V. JONES replied:

(1) and (2) The State Energy Commission has a number of contracts with various companies for the supply of fuel oil, distillate, motor spirit, coal, and natural gas. Most of the contracts allow for some flexibility in the quantity to be taken. As of 1 July 1982 existing contracts provided for the supply of some 60 000 tonnes of fuel oil, distillate, and motor spirit deliveries as required, and coal and natural gas in accordance with purchase contracts of which the member is already aware, and which have been the subject of previous Parliamentary questions.

1397. *This question was postponed.*

TRAFFIC: DRIVERS

Drink-driving Offences

1398. Mr JAMIESON, to the Minister for Police and Prisons:

(1) What were the total fines for drink driving offences during the last financial year?

(2) How many of these offenders were second offences or more for this offence?

(3) How many of these offenders held probationary drivers' licences?

(4) How many probationary drivers' licences were issued during the last financial year?

Mr HASSELL replied:

(1) No information is available on the total fines collected. However, the total number of persons fined for drink driving offences during the last financial year was 10 840.

(2) 2 340.

(3) 747.

(4) 25 678.

TRAFFIC: MVIT

Committee

1399. Mr TONKIN, to the Minister for Local Government:

(1) Who are the members, and what "interests" do they represent, of the committee established pursuant to section 31 of the Motor Vehicle (Third Party Insurance) Act?

(2) When did the committee last meet?

(3) What remuneration is paid to members of the committee?

Mrs CRAIG replied:

(1) Mr E. J. Hurst, chairman, nominated by the Institute of Chartered Accountants; Mr D. I. Broome, member, and Mr D. E. Pascoe, member, both nominated by the participating approved insurers; Mr A. G. Brooks, member, an officer of the State Treasury Department; and the Manager of the State Government Insurance Office.

Mr H. C. Stewart, who was nominated by the Royal Automobile Club of WA (Incorporated) resigned recently. Action to fill that vacancy has not yet been completed.

(2) 3 May 1982.

(3) Chairman, $64 per meeting.

Members, other than Government officers, $48 per meeting. No fee is payable to Government officers who serve on the committee.

BUILDING INDUSTRY

Uniform Building By-laws

1400. Mr I. F. TAYLOR, to the Minister for Local Government:

(1) Further to question 1334 of 1982, is it fact that the so-called sound basis for the decision of the building advisory committee not to allow the use of single hollow concrete block construction in the districts of the Shire of Boulder and the Town of Kalgoorlie, was that such construction is only allowed in areas where rain is infrequent and temperature ranges high?

(2) If "Yes"—

(a) could not the climate in the Eastern Goldfields be described in exactly those terms and, if not, why not;

(b) on what climatic data was the decision based?

Mrs CRAIG replied:

(1) The building advisory committee's opposition to a relaxation of the requirement for habitable rooms to have cavity walls where masonry construction is used, is not based purely on meteorological statistics.

Although I had originally understood that climatic conditions were the determining factor and had advised Boulder brick and tile to that effect on 23 June 1982, that advice was corrected in my further letter of 10 September 1982.

(2) Answered by (1).

HEALTH: MINERS

Silicotic: Lump Sum

1401. Mr I. F. TAYLOR, to the Minister representing the Minister for Labour and Industry:

Further to question 1336 of 1982, could the Minister please explain the procedure instituted by the Workers Assistance Commission which will assist in identifying trust funds held on behalf of deceased estates?

Mr YOUNG replied:

The Workers Assistance Commission provides an annual advice to widows setting out the balance of funds held in trust on their behalf and the income earned for that year. When any advice is returned, the commission investigates

the reasons for this and it is anticipated this action will assist in identifying trust funds held on behalf of deceased estates.

POLICE: TRAFFIC PATROL OFFICERS

Number: Reduction

1402. Mr GRILL, to the Minister for Police and Prisons:

(1) Since re-amalgamation of the Road Traffic Authority and the Police Force, has there been any reduction in either the number of patrolmen employed in road traffic patrols or in the number of hours spent by patrolmen on the road?
(2) If "Yes", what reductions have been made?

Mr HASSELL replied:

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

FUEL AND ENERGY: ELECTRICITY

Transformers

1403. Mr BRIAN BURKE, to the Minister for Fuel and Energy:

(1) Further to question 1258 of 1982 concerning supply to power transformers, were transformers obtained from Taiwan?
(2) If so, what was the name of the company?
(3) What was its tender price?
(4) What were the tender prices of other operators?

Mr P. V. JONES replied:

(1) to (4) Equipment was purchased from Hazemeyer Holec (Aust.) Pty. Ltd., acting as local agents for a Taiwanese company.
As indicated in my previous answer, misleading inferences were embodied within the question being asked, and if the Leader of the Opposition would indicate any specific area of concern, or detail any representation which he wishes to make on behalf of Westralian Transformers Pty. Ltd., I would be pleased to consider his inquiry.

FUEL AND ENERGY: ELECTRICITY

Debt Collection

1404. Mr BRIAN BURKE, to the Minister for Fuel and Energy:

(1) Further to question 1257 of 1982 concerning method of debt collection, has the Crown Law Department given advice on the method of debt collection referred to in question 1075 of 1982?
(2) If so, will he table that advice?
(3) If "No" to (1), will he seek Crown Law information on the legality of this method of debt collection?

Mr P. V. JONES replied:

(1) No.
(2) Not applicable.
(3) No. The Crown Law Department advises the commission on the legality of each individual claim when submitted to that department for collection.

HOUSING

Single Males

1405. Mr BRIAN BURKE, to the Minister for Housing:

(1) Further to question 1280 of 1982 relating to unmarried males, will he ascertain the number of persons referred to in part (1) of that question who were allocated State Housing Commission accommodation this year?
(2) If not, why not?

Mr SHALDERS replied:

(1) and (2) The information sought is not kept in any statistical form and can be obtained only by way of an individual survey of approximately 27 000 tenancies throughout the State.
I am not prepared to divert staff resources which are already fully committed to such a task.

HOSPITAL

Bentley

1406. Mr JAMIESON, to the Minister for Health:

(1) Is there to be any capital expenditure on the Bentley Hospital complex this financial year?
(2) (a) What other metropolitan hospitals will have extensions built this financial year; and
(b) what are the nature of these extensions?

Mr YOUNG replied:

(1) and (2) The information sought by the member will be revealed when the Prem-

ier presents the capital works programme for 1982-83.

COMMUNITY WELFARE

Family Policy Advisory Committee

1407. Mr BERTRAM, to the Minister for Community Welfare:

(1) Will he table or make available to the Opposition the reports thus far received by him from the 10-person family policy advisory committee?
(2) If "No", why?

Mr SHALDERS replied:

(1) I have not yet reached a final decision regarding advices so far received from the family policy advisory committee. Further inputs from other sources relevant to the areas dealt with are awaited and the total information provided will be considered jointly in due course.
(2) Not applicable.

1408. *This question was postponed.*

QUESTIONS WITHOUT NOTICE

LOCAL GOVERNMENT: BOUNDARIES COMMISSION

Wanneroo Shire Council

512. Mrs CRAIG (Minister for Local Government): I seek leave to make an explanation.

Leave granted.

Mrs CRAIG: I would like to clarify certain information I gave when answering question 473 which was asked without notice on 14 September 1982. In that answer I indicated that I had notified the Shire of Wanneroo and the petitioners that the first meeting of the Local Government boundaries commission was to be held on 9 September 1982.

Having checked the position I find that, although I made a Press announcement about the meeting on 9 September, advice of the meeting was not specifically conveyed to the shire or the petitioners. However, I am able to say that both have now been given detailed advice about the hearings to be held by the commission, including the dates and the venue.

I also would like to make it clear that the boundaries commission has been requested to give consideration to, and report on, the proposal for portion of the Shire of Wanneroo to be created as a separate municipality as contained in a petition submitted by certain ratepayers. There is presently no intention to provide the commission with any further terms of reference.

INCOME TAX: AVOIDANCE

Legislation

513. Mr BRIAN BURKE, to the Premier:

As the Premier and Federal Treasurer have now revealed details of the planned retrospective legislation in respect of tax avoidance, can he say whether his Government supports the Fraser Government's plans?

Mr O'CONNOR replied:

I made it very clear right at the start that I would make a decision on this issue once I had seen the Federal legislation. The Leader of the Opposition would be aware that often issues are included in this type of legislation which are not apparent until it has been examined properly.

I reiterate that I will make a decision on this once I have seen and read the legislation involved.

RAILWAYS: FREIGHT

Joint Venture: Close of Operations

514. Mr GREWAR, to the Minister for Transport:

Considering the fact that the new freight policy is working well in Esperance and the surrounding areas, will the Minister indicate to me the facts relating to the question without notice asked by the member for Avon on Thursday, 16 September?

Mr RUSHTON replied:

I seek leave to table the letter that I wrote to the member for Avon in response to his question 511 on Thursday, 16 September.

The paper was tabled (see paper No. 429).

Mr RUSHTON: In answer to the member for Roe, I indicate that the Opposition has made constant and scurrilous attempts to discredit Total West. It made many wild accusations that, when subsequently checked out, have proved to be completely false. For example, last Thursday in this place the member for Avon claimed that towns such as Norseman have a food shortage because of non-delivery of foodstuffs by Total West. If the member for Avon checked his facts, he would find that no such problem exists at Norseman, nor indeed in any other town, as a result of the provision of transport services.

Mr Brian Burke: It is on its last legs. Everybody knows that.

Mr RUSHTON: My advice is that the businesses in Norseman are fully stocked with food supplies, and no-one is going hungry in Norseman. One small businessman is having problems with his suppliers, but these have nothing to do with transport.

Mr Grill: Do you know that in Norseman you no longer have an agent? Westrail no longer has an agent.

The SPEAKER: Order! The member for Yilgarn-Dundas!

Mr RUSHTON: The Opposition appears to be intent on bending the facts regarding Total West, and coming out with emotion-charged attacks on the company. It claims Total West is failing because the lights are on at 11.00 p.m. The lights could be on for any number of reasons, including the fact that the company is hard at work!

Mr McIver: They were not on when Westrail was there.

Mr RUSHTON: No, because it closed at 4.30 p.m., and it did not give any service after 4.30 p.m.

Mr Brian Burke: The Minister for Transport is criticising his own department.

Mr RUSHTON: The Leader of the Opposition need not worry.

The Opposition claims Total West's service is breaking down all over the State; yet I have just completed a series of meetings with people in country towns and, as far as I am aware, there is now general satisfaction with the company's operations after the teething problems which were experienced in the first few weeks.

The Opposition claims that Total West is not paying its country agents. It was advised previously that some computer difficulties were experienced in this regard, but that these problems had been attended to.

All we have heard from the Opposition is completely negative criticism of the private company, Total West. The new company had barely commenced operating when the Opposition launched its unjustified attacks. In fact, the Opposition was attacking Total West even before it started.

Mr Barnett: You should hand in answers like this.

Mr RUSHTON: One can conclude only that through its denigrations, the Opposition has a vested interest in bringing down the new company, Total West.

It is clear that the Opposition is playing politics and blowing any individual problems out of proportion in the hope that it can achieve its prophecy of a joint venture close down. I find this very disappointing and upsetting because the Opposition is doing harm to a company which is trying to get on with running its business and, ultimately, it could interfere with the livelihoods of the many people involved with Total West.

The Opposition displays its lack of understanding of the transport policy. Transport regulation has been lifted on most goods, excepting the bulks, from 1 July 1982; and several transport operators, including Total West, are now competing for these traffics. The Opposition appears incapable of facing up to this fact or to the benefits of user choice and the many instances of lower freight rates brought about by competition.

Put briefly, Westrail recommended a joint venture proposition to retain a share of the smalls business in a deregulated competitive market. This is a new ball game after more than 50 years of the previous regulated system. Yet here we have the Opposition attempting to destroy Total West before it has been properly tried. This is a reprehensible action.

I shall receive a report shortly from the Commissioner of Transport on the first

three months of the third stage of the new land freight transport policy, and I hope to release it. This will be a factual report on the State's transport, not the distorted view which the Opposition is putting up.

RAILWAYS: FREIGHT

Joint Venture: Close of Operations

515. Mr BRIAN BURKE, to the Minister for Transport;

(1) Will he give this House an assurance that Total West will continue to operate for the next 12 months?

(2) If he cannot do that, would he give us an assurance it will continue to operate for the next six months?

Mr Davies: Bring it down to a fortnight!

Mr RUSHTON replied:

(1) and (2) As the member for Avon will find in the letter I have sent to him, Total West is a proprietary company which is subject to the same commercial pressures as is any other private company.

Mr Brian Burke: Can you give an assurance or not?

Mr RUSHTON: I do not control Total West. As far as I am concerned, the company will prosper and it will be in business for 12 months and more, and well and truly into the future. The Opposition should not try to denigrate the company, destroy the confidence in it, and give advantages to its competitors.

RAILWAYS: FREIGHT

Joint Venture: Mail Deliveries

516. Mr STEPHENS, to the Minister for Transport:

(1) Is he aware that recently small towns such as Kendenup, Tenterden, and Narrikup have had their mail services reduced from five a week to three a week because of the operations of Total West?

(2) If so, how does he equate that with his statement in this House that country people would receive a better service from Total West?

Mr RUSHTON replied:

(1) and (2) I am indebted to the member for Stirling for asking that question. I am aware that with the introduction of the joint venture and the new freight policy, Total West won a contract with Australia Post. At the same time, Australia Post took the opportunity to rationalise many services.

Mr Stephens: That is not correct. Australia Post had to rationalise because of the lack of service from Total West.

Mr RUSHTON: Obviously we have another member who wants to destroy a company doing a good job.

I have been made aware that some services have been changed. If the member would like to give me the details of his claim, I will investigate it for him.

I advise the House that Australia Post continued to vary its services at the beginning; and it took that opportunity when the change took place.

I will be happy to investigate the points made by the member; and I am happy to hear his question.

RAILWAYS: FREIGHT

Joint Venture: Mail Deliveries

517. Mr CARR, to the Minister for Transport:

(1) Is he aware that last Friday Total West approached the post office in Geraldton with the advice that as from Monday—yesterday—the closing time for surface mail would have to be brought forward, as a result of which the surface mail in Geraldton now closes at 2.00 p.m. instead of 4.30 p.m.?

Mr Stephens: It is 1.30 in Albany!

Mr CARR: To continue—

(2) How does this variation relate to his claim that the Total West service would not be to the detriment of the country people?

(3) What, if anything, is he able to do about this situation?

MR RUSHTON replied:

(1) to (3) If the member wants me to deal positively with what Total West is doing for country people, I will just recite some of the freight rates that have been supplied to me—

Mr Carr: Actually, the question was not about rates. The question was about services, and a specific service.

Mr RUSHTON: I will just give the House one or two freight rates. I will not prolong the agony.

Mr Brian Burke: You do not know anything about your own department. You are a shocker!

Mr Carr: I am talking about the mail at Geraldton.

The SPEAKER: Order! The member for Geraldton!

Mr RUSHTON: I will deal with that matter in a moment.

Mr Tonkin: You do not know anything about running a company.

Mr RUSHTON: The member for Geraldton actually claimed that I said everything would work well, and there would not be any problems. That is not true. Obviously problems always will be experienced when changes are made.

I wish to indicate that some people are receiving a considerable advantage right through the State, including those in the member's town of Geraldton. He ought to listen to the people in Geraldton who are telling me that this is better than anything else we have ever done.

Mr Carr: Would you like to tell me the answer to my question?

Mr RUSHTON: At Augusta, the old rate for groceries—

Point of Order

Mr BRIAN BURKE: On a point of order, there are conditions and rules governing questions and their answers. I fail to see the link between whatever the Minister is going to explain happened at Augusta and the closing time for surface mail at Geraldton.

The SPEAKER: The Minister for Transport is an experienced member of this House. He would be as aware as anyone of the requirement that his reply be relevant to the question asked.

I have indicated that the Minister will answer this question in accordance with the practices of this House.

Questions (without notice) Resumed

Mr RUSHTON: I will use one case so that, if the member for Geraldton gets enough impact from it, it should last him for a while.

Point of Order

Mr BRIAN BURKE: On a point of order, Mr Speaker.

Mr Pearce: The Speaker has been very fair to the Minister and—

The SPEAKER: Order! The member for Gosnells should remain quiet.

Mr BRIAN BURKE: Unless I miss the mark, I heard you imply to the Minister in a very thinly-veiled way that he should answer the question in a fashion relevant to the nature of what was asked. However, the Minister proceeded to do exactly what he had been impliedly warned from proceeding with by you. We have had problems previously with this Minister. If we want question time to proceed without untoward extensions, the Minister should obey the conditions and rules of relevance.

The SPEAKER: I reiterate that which I said earlier. The Minister is an experienced Minister who knows the Standing Orders and the practices of this House. The fact that he is attempting to refer to something about Augusta leads me to assume only that it relates in some way to the question asked by the member for Geraldton.

I say to all Ministers of the Crown that my job is made exceedingly difficult if Ministers do not play the game when answering questions. We had a case last week where, in my view, a requirement of mine was not adhered to and on this occasion I ask the Minister to have regard for the job I have to do. I will not have my credibility torn to bits because members on either side of the House do not do what they know they should do.

Questions (without notice) Resumed

Mr RUSHTON: In conformity with your suggestion, Mr Speaker, and for my experience, the point I was trying to make to the member for Geraldton, who was making statements that there had not been benefits from the services to country areas—

Mr Carr: I asked about the deterioration of a specific service.

Mr RUSHTON: I was making the point that in Augusta the freight rate had fallen from $47.60 to $28. If I had not been

interrupted that would have come out much quicker. Referring directly to mail services—and already we have heard a question on this from the member for Stirling—Total West is acting in a commercial way and obviously is doing the bidding of Australia Post in the running of its own commercial operation. If the member for Geraldton would give me the facts surrounding his problem—

Mr Carr: That is what the question was; I told you what happened.

Mr RUSHTON: The daily operations of this commercial company are not my responsibility. If the member would like to make direct representations to Total West or to me so that I could do something, I would be only too happy to oblige.

RAILWAYS: FREIGHT

Joint Venture : Benefits

518. Mr HERZFELD, to the Minister for Transport:

As I am one member of this House who is interested in how the Total West operation is going, would the Minister give to me some examples of the benefits that the company has brought to country people in this State?

Speaker's Ruling

The SPEAKER: Order! I have been extremely tolerant with respect to questions relating to Total West, bearing in mind that the setting up of this private company has been a result of the implementation of a specific Government initiative. However, I remind all members of the House that Ministers of the Crown cannot be held responsible for the operations of a private company. Up until this point and because of the fact that Total West is the result of a change of policy and the implementation of a new Government initiative, I have allowed questions to be asked about the operations of this private company. Under normal circumstances, as members would know, Ministers of the Crown should not be asked questions directly related to the operations of companies. I do not want to be restrictive unnecessarily, but I point out that that is the practice of the House. Whilst I have been lenient on this matter so far, it may be necessary for me, in the interests of the practices of the House, to be a little firmer in my interpretation of those practices and of Standing Orders.

Point of Order

Mr McIVER: I seek clarification of your ruling, Mr Speaker, in your reference to Total West. It has to be kept in mind that Total West involves a 50 per cent investment by Westrail, a Government instrumentality; therefore public moneys are invested in the company. It is the prime responsibility of members of the Opposition, as custodians of that public money, to ask questions; therefore I feel we are justified in continuing to ask questions on the operations of Total West. I would like to hear your views on that point.

The SPEAKER: The point made by the member for Avon is taken. I have not said I will not permit questions to be asked about the operations of this company. I have drawn the attention of members to the practices of this House. I have done this in the interests of ensuring that I do not allow us inadvertently to deviate from the practices and customs of the House.

Questions (without notice) Resumed

Mr McIver: I would like to ask a question of—

The SPEAKER: Order! The Minister for Transport is answering a question from the member for Mundaring.

Mr RUSHTON replied:

I have been asked a question by the member for Mundaring—

Mr Brian Burke: This is the bit about Augusta.

Mr RUSHTON: —about a point which members of the Opposition do not seem to understand, which is that the main thrust of the question relates to the new freight policy, something for which we are responsible.

Mr Speaker, what you have said about Total West bears a lot of relevance because it is a private company—although, as mentioned by the member for Avon, Westrail does have an investment in it. But the point I want to make very strongly is that the new freight policy really is working too well, if I could put

it that way. The new freight policy is directed towards freedom of choice, deregulation, and competition.

Mr Brian Burke: And no service!

Mr RUSHTON: If the Leader of the Opposition believes there is no service from 10 transporters to Manjimup or that freight rates have dropped by 30 per cent, those are things for which he will have to answer. He will get egg all over his face. The new freight policy is working too well, because the degree of competition and the degree of the drop in freight rates is considerable. Last week in Wagin the general storekeeper said he had been paying $30 a tonne for heavy goods and is now paying $12. I suppose if the freight rates rise from $12 to $15, members of the Opposition will claim there has been a rise in freight rates.

Mr McIver: For what?

Mr RUSHTON: For general hardware.

Mr McIver: He was misleading you if he was referring to Westrail.

Mr RUSHTON: If I wanted to make further points I would just prolong the agony for members opposite. Before me I have other points I could make about freight rates, but I will not say any more now. I am happy to equip the member for Mundaring with information of the advantages brought about by the introduction of this service. When the Commissioner of Transport's report comes forward I will see that the member receives a copy.

HEALTH : NURSING HOME

Penn-Rose : Inquiry

519. Mr BERTRAM, to the Minister for Health:

(1) Will he produce to the Opposition or table in the House the transcript of the evidence taken by him and any documents produced to him in the course of his Penn-Rose investigation?

(2) If not, is it his intention to conceal this material?

Mr YOUNG replied:

(1) and (2) I would have to seek the advice of the Attorney General, and I will do so. I will give the member for Mt. Hawthorn a written answer.

RAILWAYS: FREIGHT

Joint Venture: Norseman and Mail Deliveries

520. Mr McIVER, to the Minister for Transport:

I refer to the Minister's replies today to questions regarding Total West, and ask—

(1) Is he aware that Total West does not have an agent at Norseman, a situation which has a retarding effect on consignments from that town? Will he make arrangements with the Commissioner of Transport to improve that situation?

(2) Further to the question of the member for Stirling, is the Minister aware that Total West refuses to deliver mail to Tenterden, which is in the Cranbrook shire, yet the Total West truck which delivers mail to Cranbrook must pass Tenterden on its way to Albany with the rest of its consignment?

(3) As he has received correspondence from Mr Kevin Pearce of Watsonia regarding carriages for the hire train which has created great interest throughout Western Australia, and a reply to that correspondence has been outstanding for several months, will he expedite a reply?

Mr RUSHTON replied:

(1) It is the responsibility of Total West to determine the agents it appoints, and as far as I am concerned that is where the responsibility will remain. I understand a good deal of competition exists with services into Norseman.

Mr McIver: There's none at the moment, despite what you claim.

Mr RUSHTON: It is the responsibility of Total West to appoint an agent. The member does not know what it is all about.

Mr McIver: Nobody wants to deal with them because of their incompetence.

Mr RUSHTON: If the member wants to destroy Total West, he should say so. I do not tell TNT and Bell Freightlines Pty. Ltd. what to do with their freighting arrangements. Options are available to the people of Norseman.

(2) I am not aware of the way the postal service at Cranbrook is conducted. I will look into the matter.

(3) The correspondence from Mr Kevin Pearce related to train excursions, and I have for some time interested myself in that matter, historical train societies, and historical train museums. I must say that what appeared in the weekend Press attributing remarks to me was totally false.

Mr McIver: It was two years ago.

Mr RUSHTON: I will ensure the member for Gosnells receives his reply quickly.

INDUSTRIAL ARBITRATION AMENDMENT BILL (No. 2)

Opposition

521. Mr GRILL, to the Premier:

(1) Is he aware of the widespread opposition of employers and unions to the proposed amendments to the Industrial Arbitration Act introduced recently in another place?

(2) Will the Premier consider deferring that legislation until after the State election to be held within the next six months?

Mr O'CONNOR replied:

(1) and (2) No employers have contacted me regarding this matter. All I have read is that which has been written in the Press. The legislation intends to give freedom of choice in regard to unionism, and I thought the ALP would support that freedom of choice because it has stated in its platform that it does. As well, that intention is stated in section 22 of the International Labour Organisation Convention. The legislation will provide for that which we thought already was provided in the Act, as did unions and employers, until recently when the Act was challenged. I am always ready to talk to people about these matters, but at this stage I am not prepared to give an undertaking not to proceed with the Bill.

GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES

Mr Syd Corser and Mr Denis Horgan.

522. Mr PEARCE, to the Premier:

(1) Are Mr Denis Horgan and Mr Syd Corser members of any State Government boards and authorities, or other State Government bodies?

(2) If so, which ones?

Mr O'CONNOR replied:

(1) and (2) I am sure the member does not expect me to be able to give an off-the-cuff answer. If he puts the question on notice I will endeavour to provide an answer.