is the expression he used. He said, as reported on page 6433 of *Hansard* on the 14th December, 1973—

> I am not convinced that sufficient research has been done into the sexual laws of this State.

That was the justification of a Liberal member in seeking the appointment of a Select Committee at that time; it is the justification for us to appoint a Select Committee at this time. A case has been made out for it and I hope that, notwithstanding the directives of the Premier and the Minister and the fact that the Country Party is for some reason still determined not to stand on its own two feet, this motion will be carried.

Question put and a division taken with the following result—

Ayes—21

Mr Barnett	Mr Hartrey
Mr Bateman	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr May
Mr B. T. Burke	Mr McIver
Mr T. J. Burke	Mr Skidmore
Mr Carr	Mr Taylor
Mr Davies	Mr A. R. Tonkin
Mr H. D. Evans	Mr J. T. Tonkin
Mr T. D. Evans	Mr Moiler
Mr Harman	*(Teller)*

Noes—26

Mr Blaikie	Mr O'Connor
Sir Charles Court	Mr Old
Mr Cowan	Mr O'Neil
Mr Coyne	Mr Ridge
Mr Crane	Mr Rushton
Dr Dadour	Mr Shalders
Mr Grayden	Mr Sibson
Mr Grewar	Mr Sodeman
Mr P. V. Jones	Mr Stephens
Mr Laurance	Mr Thompson
Mr McPharlin	Mr Watt
Mr Mensaros	Mr Young
Mr Nanovich	Mr Clarko
	(Teller)

Pair

Aye	No
Mr Fletcher	Mrs Craig

Question thus negatived.

In Committee

The Chairman of Committees (Mr Thompson) in the Chair; Mr O'Connor (Minister for Police) in charge of the Bill.

Clauses 1 and 2 put and passed.

Progress

Progress reported and leave given to sit again, on motion by Mr Clarko.

House adjourned at 12.14 a.m. (Wednesday).

Legislative Council

Wednesday, the 27th August, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

TRANBY SCHOOL

New Teaching Areas: Petition

THE HON. LYLA ELLIOTT (North-East Metropolitan) [4.31 p.m.]: I wish to present a petition from the residents of the Belmont district relating to the provision of six new teaching areas at the Tranby Primary School. I move—

That the petition be received.

Question put and passed.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [4.32 p.m.]: The petition contains 553 signatures, and bears the Clerk's certificate that it is in conformity with the Standing Orders. I move—

That the petition be read and ordered to lie on the Table of the House.

Question put and passed.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [4.33 p.m.]: The petition reads as follows—

> To the President and Members of the Legislative Council of the Parliament of Western Australia.
>
> We the undersigned residents of the Belmont district hereby humbly petition the Honourable Members of the Legislative Council of Western Australia to do all within their power to have six Teaching Areas built at Tranby Primary School to house classes which are at present in temporary, 23-year-old Bristol classrooms, and your petitioners will ever pray that their humble and earnest petition may be acceded to.

The petition was tabled (see paper No. 280).

QUESTIONS (10): ON NOTICE

1. CULTURAL CENTRE PLANNING COMMITTEE

Meetings

The Hon. R. F. CLAUGHTON, to the Minister for Cultural Affairs:

(1) What was the last date on which the Cultural Centre Planning Committee met?

(2) In the planning for a theatre complex for the above area, what procedures are being adopted for consultations with theatre users (i.e. performers) in the design stages?

The Hon. G. C. MacKINNON replied:

(1) 6th December, 1973.

(2) The theatre users are represented by the W.A. Arts Council.

The Executive Officer of the Council, in collaboration with a theatre consultant from Sydney, has had discussions with major theatre users and their report will be on the agenda for the meeting

of the Cultural Centre Planning Committee called for 16th September, 1975.

2. BIRDS

Organisations

The Hon. W. R. WITHERS, to the Minister for Education representing the Minister for Fisheries and Wildlife:

(1) How many bird organisations are party to the body known as the Combined Bird Organisations?

(2) What are the names of those organisations?

(3) How many persons are financial members of each organisation?

The Hon. G. C. MacKINNON replied:

The information requested by the Member has been sought from private organisations and I am advised as follows—

(1) Eleven.

(2) Avicultural Society of Western Australia Incorporated.

South West Avicultural Society.

Melville Districts Caged Birds Improvement Society.

Midland and Districts Caged Birds Society.

Northern Districts Caged Birds Society.

Budgerigar Society of W.A.

West Coast Budgerigar Society.

Geraldton and Districts Avicultural Society of W.A.

Goldfields Avicultural and Wildlife Association.

Canary and Caged Birds Improvement Society of W.A.

Rockingham Caged Birds Society.

(3) The number of persons who are financial members of each organisation is not readily available. The Chairman of the Combined Bird Organisations estimates that membership would be between 4 500 and 5 000 persons.

3. WEATHER CHARTS

Televising

The Hon. D. J. WORDSWORTH, to the Minister for Education, representing the Premier:

(1) How often each day, and at what times, are weather charts issued for Western Australia?

(2) Which weather chart is shown by television stations each night?

(3) If these evening television charts are not the latest available, why not?

The Hon. G. C. MacKINNON replied:

(1) For the sake of uniformity throughout the Commonwealth, one weather chart is prepared daily in Melbourne from the latest information received from throughout Australia and vessels at sea.

The weather chart is transmitted from Melbourne at 12 noon W.S.T.

(2) and (3) From inquiries made with the three television channels in Perth, the following information was supplied:—

Channel 2—use the chart.

Channel 7—a chart is drawn freehand from the chart supplied, highlighting the various "highs" and low pressure areas.

It is not shown in its entirety.

Channel 9—do not use a weather map.

For the information of the Member, all television stations receive regular weather bulletins from the Bureau of Meteorology during the day, and the information contained in these bulletins is incorporated in their weather programmes.

4. LOCAL GOVERNMENT

Rates and Charges: Inquiry

The Hon. LYLA ELLIOTT, to the Minister for Education representing the Treasurer:

(1) Has the inquiry into local government rates and charges been completed?

(2) If so, is the report available to the public?

(3) If the answer to (1) is "No" when is it anticipated the inquiry will be finalised?

The Hon. G. C. MacKINNON replied:

(1) Yes.

(2) No. The report has yet to be received and considered by Cabinet.

(3) Answered by (1).

5. FARM TRACTORS

Licenses

The Hon. T. O. Perry for the Hon. H. W. GAYFER, to the Minister for Health representing the Minister for Police:

(1) Why is it necessary when completing a "Declaration and application to license a farm tractor or tractor plant" (Form M.R. 18) to state—

(a) size of farm; and

(b) type of farm?

(2) Is it correct that the weight of all tractors requiring a concessional license must be declared?

(3) If the answer to (2) is "Yes" why is this necessary?

(4) Is it also requisite that the concessional license papers must be at all times carried by the tractor driver when the tractor is crossing a roadway or proceeding from one paddock to another if the movement involves use of a roadway?

The Hon. N. E. BAXTER replied:

(1) In order to determine the requirement that the applicant is engaged in the business of farming or grazing.

(2) On the application to license, not on the application for concession.

(3) Answered by (2).

(4) Yes.

6. BUILDERS REGISTRATION BOARD

Complaints

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

(1) How many complaints have been lodged with the Builders Registration Board in—

(a) 1974; and

(b) 1975?

(2) Of the above complaints, how many were shown to be of a frivolous nature?

The Hon. I. G. MEDCALF replied:

(1) (a) 1974—504 complaints.

(b) 1975 to date—247 complaints.

(2) 1974—12.
1975 to date—8.

7. CONSUMER PROTECTION

Motorways Leyland Pty. Ltd.: Car Sale

The Hon. D. W. COOLEY, to the Minister for Education representing the Minister for Consumer Affairs:

(1) Has the Minister knowledge of a complaint to the Consumer Affairs Bureau regarding the sale of a P76 Leyland motor car by Motorways Leyland Pty. Ltd. of Collier Road, Morley, as a demonstration model to a Mr George Shaw, 180 West Road, Bassendean, formerly of 21 Altone Road, Lockridge?

(2) Has the Bureau received a statutory declaration in respect to the sale of the car signed by a Mr Trevor Bishop, a former salesman employed by the vendor?

(3) Does the declaration state that—

(a) Mr Reginald McKinley, the Sales Manager of Motorways, Mr Kramer, the Service Manager of the same firm, in collaboration with Bishop, arranged for the odometer of the car to be turned back from the figure of 5 817 miles to 2 087 miles prior to the sale made to Shaw;

(b) when the car was sold to Mr Shaw, Messrs. McKinley, Kramer and Bishop were fully aware that it had serious mechanical defects, such as, brakes, oil consumption, and body rattles;

(c) the car had been damaged prior to sale requiring panel beating and repainting;

(d) two previous attempts were made to sell the car but the prospective buyers became aware of the defects and declined to purchase it; and

(e) Bishop had knowledge of two other occasions when the odometer of cars sold by this firm were wound back to show a lesser mileage on McKinley's instructions?

(4) When this matter was referred to the Criminal Investigation Bureau, did the Fraud Squad—

(a) discover that the car had received a 6 000 mile service prior to its sale to Shaw; and

(b) obtain statements from two persons who gave the car road tests that the mileage was well above that shown on the odometer?

(5) What action was taken by the Fraud Squad?

(6) Did the CIB indicate to Shaw that he had good grounds for a civil action against Motorways Leyland Pty. Ltd.?

(7) (a) Has the Consumer Affairs Bureau obtained legal opinion on Mr Shaw's behalf regarding a claim for damages against the firm;

(b) if so, will the Minister table the opinion?

(8) Has the Bureau conducted any investigations in respect to the manufacture of the car and its roadworthiness?

(9) If so, has Leyland Motors, the manufacturers, been requested by the Bureau to give some form of redress to Shaw?

(10) Will the Minister advise when he will acknowledge correspondence on this matter forwarded from my office on the 15th April, the 17th April, the 4th June, and the 22nd August, 1975?

(11) Will the Minister table all the relevant information he has which is pertinent to this case?

The Hon. G. C. MacKINNON replied:

(1) Yes.

(2) Yes.

(3) (a) The statement does not allege collaboration by Bishop. It states that McKinley instructed Kramer to wind back the odometer.

(b) Yes.

(c) Yes.

(d) Yes.

(e) Yes.

(4) (a) Yes.

(b) Yes.

(5) A full investigation was made by the Fraud Squad.

(6) No, but the officer stated in his report that "the situation that remains therefore is a case of civil action by the Shaws against Motorways Leyland Pty. Ltd."

(7) (a) Yes.

(b) No. The matter is still under investigation.

(8) Yes.

(9) No, but a cheque for $200 was obtained from Motorways and handed to Miss Shaw by an officer of the Bureau on 11th July, 1975.

(10) The letters of 15th April and 4th June were acknowledged on 21st April and 9th June, respectively. In addition I understand that a senior officer of the Bureau has been in direct contact with the Member, keeping him advised of progress in this complex investigation.

(11) No. The matter is still under active investigation.

8. CADETS

Training Policy

The Hon. T. O. Perry for the Hon. H. W. GAYFER, to the Minister for Education representing the Premier:

In the event of the Australian Government vacating the field of responsibility in sponsoring cadet training, is it possible that the Western Australian Government could take over and continue this important facet of youth education?

The Hon. G. C. MacKINNON replied:

Cadet training is undoubtedly a facet of youth education and, thus, it might be advocated that it could be incorporated within existing Education Department youth programmes.

It must be accepted, however, that cadet training is strongly orientated towards the Department of the Army and it is reliant on highly trained military personnel, the use of specialised equipment and facilities which are only available to the Commonwealth Government. Further, in order to maintain the *esprit de corps* and sense of pride associated with a distinguished and honoured Australian uniform, access would be necessary to Commonwealth supplies of military clothing.

Under the present restrictions in finance, trained personnel and specialised equipment, only available from Commonwealth sources, and the obvious reluctance of the Commonwealth to continue the scheme, it would appear that maintenance of existing traditions in cadet training is not within the resources of individual States.

The State Government has always supported cadet training, which has been very strong in Western Australia. We view with grave concern the Commonwealth decision to abandon cadet training.

We regard the Commonwealth decision as short-sighted and made without a proper appreciation of the value of cadet training and in opposition to the recommendation of the Millar Report.

9. LOCAL GOVERNMENT

Scarborough Property: Retaining Wall

The Hon. R. F. CLAUGHTON, to the Honorary Minister representing the Minister for Town Planning and Urban Development:

(1) Is the Minister aware that the occupier of 77 Pearl Parade, Scarborough, alleges that you promised in respect of a retaining wall with the adjoining property—

(a) that the wall would be built;

(b) Mr Kent would do the work;

(c) his mother (Mrs Kent) would pay for it; and

(d) the City of Stirling would ensure the work was performed?

(2) Does the Minister affirm that all or any of the above statements are true?

(3) Does the Minister believe that sufficient powers are presently contained in the Local Government Act to ensure that the retaining wall is built?

(4) If the answer to (3) is "No" is it possible to amend the Act retrospectively to require Mr Kent to build the retaining wall?

(5) If the answer to (4) is "No" what remedy is available to the above occupier (Mrs Kensitt)?

The Hon. I. G. MEDCALF replied:

(1) No.

(2) No.

(3) No.

(4) and (5) The question of an amendment to the Local Government Act to extend a council's powers in respect of the provisions of retaining walls is currently receiving attention.

10. CITY OF STIRLING

Works Programme

The Hon. R. F. CLAUGHTON, to the Honorary Minister representing the Minister for Local Government:

Would the Minister advise what is the programme of works within the City of Stirling for which funds have been allocated by the Australian Bureau of Roads for the financial years—

(a) 1974-1975; and

(b) 1975-1976?

The Hon. I. G. MEDCALF replied:

This information is not kept in the records of the Local Government Department but no doubt the information can be obtained by the Member making a direct approach to the Council of the City of Stirling.

LEAVE OF ABSENCE

On motion by the Hon. V. J. Ferry, leave of absence for nine consecutive sittings of the House granted to the Hon. N. McNeill (Lower West—Minister for Justice) on the ground of parliamentary business overseas.

LONG SERVICE LEAVE ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by the Hon. D. W. Cooley, and read a first time.

JUSTICES ACT AMENDMENT BILL

Third Reading

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [4.50 p.m.]: I move—

That the Bill be now read a third time.

I desire to provide the information requested by the Leader of the Opposition during the second reading debate. He asked whether the legislation will be along the same lines as that which will be introduced in the other States. He is of course referring to those provisions of the Bill which refer to the interstate enforcement of fines against companies since the other provisions are of State or domestic importance only. The uniform provisions emanating from the Standing Committee of Attorneys-General relate only to the interstate enforcement of fines against companies.

All members of the Standing Committee have agreed to recommend to their respective Governments the enactment of this uniform legislation.

Queensland and Victoria have already passed the legislation and those Acts are identical with the scheme and principles of the Western Australian Bill. Only differences of nomenclature appear; that is, Victoria refers to magistrates, whilst Western Australia refers to justices. This in no way detracts from the uniform operation of the provisions.

At the request of South Australia, the Minister for Justice has, this week, sent them a copy of the Western Australian measure.

It is expected that the remaining States —namely, New South Wales and Tasmania—will follow the uniform provisions.

The Hon. R. Thompson: Thank you.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

MEDICAL ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by the Hon. N. E. Baxter (Minister for Health), and transmitted to the Assembly.

CHICKEN MEAT INDUSTRY COMMITTEE BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [4.53 p.m.]: I move—

That the Bill be now read a second time.

The main purpose of this Bill is to establish a chicken meat industry committee to improve stability in the broiler chicken industry in this State.

The arbitrated price agreement between processors and growers in Victoria, which was entered into with effect from the 1st April, 1974, for a period of 12 months, was regarded as an interim measure pending negotiations with other States with a view to uniform legislation to stabilise the broiler chicken industry.

It was expected that there would be a flow-on of the 1974 arbitrated Victorian price to other States, but this did not occur owing to economic difficulties in the broiler industry following the collapse of red meat prices last year. As a result, the Victorian broiler industry has been at an economic disadvantage in comparison with the broiler industry in neighbouring States.

The Australian Agricultural Council has given consideration to draft legislation submitted by Victoria, and to a number of principles provided by South Australia, as

a basis for a draft Bill. No firm decision has been reached and it is not yet certain that all States will agree to enact uniform legislation.

The Government considers that it is necessary to proceed with legislation as in Victoria to improve the stability of the broiler chicken industry in this State, although it may still be desirable to defer its operation until legislation is enacted at least in neighbouring States.

The Bill now before the House embodies a number of principles suggested by South Australia, and establishes what may be regarded as a broiler industry negotiation committee. This committee will provide a forum for discussion and negotiation between poultry processors and broiler growers, and the opportunity for co-operation in the overall interests of the industry which has experienced many difficulties in recent years.

The Bill proposes that the committee to be established under clause 5, and under the chairmanship of an officer of the Department of Agriculture, would include six representatives, three representing processors and three representing growers, all of whom would be appointed by the Minister.

It is intended that, as far as possible, no processor will have more than one representative on the committee and, similarly, each representative of growers will come from a different processor/grower unit.

Provision is made for a written agreement between the processor and the grower, except where the grower and processor are the one person. The committee will set guidelines to assist processors and growers in the drawing up of agreements between one or more processors and one or more growers relating wholly or in part to the receival, purchase, sale, and supply of broiler chickens for processing. The committee will examine agreements and, where they appear to be satisfactory, approve of the agreements.

The committee will mediate in disputes between processors and growers, including disputes over prices. It will negotiate prices between processors and growers.

In setting guidelines for the drawing up of agreements, the committee will ensure that the guidelines are of sufficient detail and form so as to assist in or provide for—

- a continuity of contract;
- a basis for determining and reviewing the prices paid to ensure that efficient growers have a satisfactory return; and
- the participation of efficient growers in the benefits of any growth expansion of a processor's output.

The guidelines will also provide for the discounting of efficiency where the failure of a grower to be an efficient grower is due to the quality of the chickens or the feed, to disease, or to any other cause whatever, which is beyond the control of the grower. Under the Bill, an efficient grower is defined as one who meets the criteria for an efficient grower laid down from time to time by the committee.

The Bill further provides that where the committee is unable to settle a dispute between a processor and a grower, including a dispute as to the price to be paid by the processor, the fact shall be reported to the Minister who, after consultation with the committee, may refer the matter to a single arbitrator. Penalties are specified for contravention of, or failure to comply with, any of the provisions of the proposed legislation.

I commend the Bill to members.

THE HON. R. T. LEESON (South-East) [4.58 p.m.]: We on this side of the House support the Bill. In the main the committee will be involved in negotiating proper prices between producers and growers. As in most agricultural industries, this is very necessary because growers usually do not manage to obtain a proper price for their produce—the middle man seems to skim the cream. It is hoped that this committee will be able to negotiate a fair price for growers in the chicken meat industry.

In his second reading speech the Minister said the committee would have the opportunity for co-operation in the overall interests of the industry which has experienced many difficulties in recent years. I hope the Minister will explain to us what some of these difficulties were. I have had a little to do with the chicken meat industry in my particular electorate where we have a few small growers, but I am not conversant with many of its facets. Therefore, I would ask the Minister to elaborate on his statement about the many difficulties this industry has faced in recent years. I support the Bill.

THE HON. G. E. MASTERS (West) [5.00 p.m.]: I wish to support the Chicken Meat Industry Bill which is specifically designed to create greater stability in an industry which has a great record of efficiency and growth over recent years. Although its growth in Australia generally has been great, Western Australia leads the field in production efficiency and marketing expertise. Over the last 10 years, chicken meat consumption has increased dramatically. In 1963-64, some 9.7 lbs. of chicken meat per head of population was consumed in Australia; by 1971-72, that figure had increased to 27.3 lbs. It appears that this increase in consumption has been achieved at the expense of the beef industry, which has experienced a downturn in consumption approximately equal to the increase in chicken meat consumption.

The Hon. D. K. Dans: It is too dear!

The Hon. G. E. MASTERS: That is a possibility. Nevertheless, I would imagine that another reason is that the chicken industry is a more efficient industry employing better marketing techniques. The fact is that sales of chicken meat are still increasing. In 1974, 14 million chickens were produced in Western Australia, realising 16 000 tonnes of chicken meat, most of which was consumed in this State.

Over the past decade, the price of chicken meat has reduced, in contrast to the present situation generally where we see rapidly increasing prices; this again enhances the efficiency of the industry. Chicken meat now is no longer regarded as a luxury but is accepted and is within the reach of every family.

As we know, two groups are involved in the chicken industry, the processor and the grower. In Western Australia, the three largest processors control about 90 per cent of the broiler industry; in fact, one processor controls more than 50 per cent of the industry. The processors supply the growers with day-old chicks, feed, medication, processing facilities and marketing expertise. The growers simply supply an acceptable standard of housing —which necessarily is very high because of the efficiency demands placed on them —and the labour over a period of about 10 or 12 weeks—that is, until they are ready for the market.

For this operation, the growers receive something like 15c a bird, on average. Naturally, the grower's investment is extremely high, which has been encouraged by the processors over the past years, for a number of reasons. The processor recognises the advantages of the family business, which generally is the manner the grower operates. He and his family are prepared to work long hours over the year simply for the advantage of being self-employed. The processors, of course, also save capital because they do not need to purchase land, construct buildings, or supply equipment. The only trouble with this system is that the grower is entirely dependent upon the processor; he controls neither the source of feed nor the marketing outlets. I suppose it could be said that the grower is the meat in the sandwich.

The Hon. A. A. Lewis: The ham in the sandwich!

The Hon. G. E. MASTERS: No, the chicken in the sandwich in this case. In past years disagreements have occurred, mainly in relation to insufficient returns to the grower. In fact, there was a considerable disagreement extending over about 18 months, based on the grower's request for an increase of 1.5c per bird. After 18 months of negotiation and pressure they managed to achieve their aim, and it is as a result of that disagreement that this legislation has been brought forward. The legislation provides quite simply that a committee shall be appointed representing the growers, the processors and the Department of Agriculture.

The Hon. Clive Griffiths: How many growers are there in Western Australia?

The Hon. G. E. MASTERS: I do not know.

The Hon. Clive Griffiths: How many processors are there?

The Hon. G. E. MASTERS: Three major processors control 90 per cent of the market.

The Hon. Clive Griffiths: And they are going to have three representatives on the committee?

The Hon. G. E. MASTERS: Not the three processors particularly; all processors will be represented by three members on the committee.

The Hon. Clive Griffiths: You do not know how many growers there are?

The Hon. G. E. MASTERS: No; there are quite a number.

The Hon. Clive Griffiths: And they are to have three representatives?

The Hon. G. E. MASTERS: That is correct; in addition, there will be a representative from the Department of Agriculture, no doubt chairing the committee.

The Hon. Clive Griffiths: Do you not think that the major component of the industry is the consumer? Do you not find it strange that he will not have a representative?

The Hon. G. E. MASTERS: Not at all; we are talking about the marketing of this product, and the return on investment; that is clearly stated in the Bill. The aim of the Bill is to enable the parties to reach agreement by joint discussion, thus saving any argument, and to obtain a more efficient industry.

The Hon. Clive Griffiths: Do you not think the consumer should be represented?

The Hon. G. E. MASTERS: I think the Bill covers the situation very well. The consumer is able to make his feelings known in a number of ways, not the least of which is the amount of chicken meat he purchases at the shops. He has plenty of opportunities to refuse to buy the product; there are many alternatives available to him such as beef, pork, lamb—

The Hon. G. C. MacKinnon: Fish and chips.

The Hon. G. E. MASTERS: Yes, that is another alternative.

The Hon. Clive Griffiths: In other words, you are suggesting the consumer should not be represented.

The Hon. G. E. MASTERS: I do not suggest that at all; I merely say that I am happy with the formation of the committee. Certainly, the processors and growers are quite happy, and I assume that Mr Clive Griffiths also is happy.

The Hon. A. A. Lewis: The consumer may not be happy about it; how do you know whether he is happy if he has no say?

The Hon. G. E. MASTERS: Of course he has a say; he can refuse to purchase the product.

The Hon. A. A. Lewis: Do you believe that principle applies in all marketing?

The Hon. G. E. MASTERS: In the main, yes. The Bill lays down that if, after discussion within the committee, they are unable to reach a decision, the Minister may appoint an arbitrator. I emphasise that the operative word is "may"; he is not required to appoint an arbitrator. If the Minister considers the committee has not given enough thought to the matter, he may simply return the matter to the committee and ask it to give further consideration to the issue before he decides to appoint an arbitrator. I believe this legislation will protect both sides and will permit the grower and the processor to share equitably in the increase or decrease in demand for their product. I support the Bill.

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [5.07 p.m.]: I appreciate the support given to this Bill by the Honourable R. T. Leeson and the Honourable G. E. Masters. Mr Leeson asked what problems had affected this industry and beset the producers. Basically, the problems relate to disorganised as opposed to organised marketing. We all know that where one group is at the mercy of another, problems will occur; such problems can easily occur in this industry. Problems of a far more severe nature have occurred in the Eastern States than in Western Australia; indeed one of the reasons that it is felt necessary to appoint a committee is to avoid the problems of the Eastern States being imported to Western Australia. The main problem has been one of overproduction in the Eastern States. We do not want the local markets swamped with Eastern States' birds.

The Hon. D. K. Dans: Speak for yourself!

The Hon. I. G. MEDCALF: For this reason it is felt necessary to appoint a committee to control the situation. However, other problems have also occurred, one of which relates to the domination of growers by processors. This could easily occur in almost any industry, and it occurs particularly where growers are geared to produce the broilers of a particular processor. They become dependent on that processor, and it is possible that that processor could exploit the grower and use the position where he is producing for him alone to reduce the price.

Of course, as far as the general public is concerned, reducing the price is quite beneficial in many cases; however, it may result in putting the grower out of production altogether. Indeed, there have been cases in some parts of the world where growers, quite efficient by all standards, have been actually in debt to the processor because of the continual renegotiation of prices. For this reason, it is considered wise to place our industry in a safe position whereby growers can negotiate freely with the processors with what we might call an adjudicator—an independent officer from the Department of Agriculture—present as the seventh member of the committee.

In answer to the other question raised, I understand that at present there are 51 growers and 12 processors in Western Australia and that two of the processors handle 70 per cent of the market. Thus, we can see there is an obvious need for some committee to negotiate between these parties. In regard to consumers, we have a very effective Consumer Affairs Bureau and Act to which the consumers can complain at any time in respect of any problems which might arise affecting consumers. I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

DOOR TO DOOR (SALES) ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.15 p.m.]: I move—

> That the Bill be now read a second time.

This Bill to amend the Door to Door (Sales) Act of 1964 makes some significant changes to further regulate the activities of salesmen at the door. The Consumer Affairs Council of Western Australia has considered various facets of the Act and presented a number of recommendations which in the main have been included in this measure.

Although there are reputable firms dealing in reputable products whose representatives in door to door selling have an established and satisfied clientele amongst householders, the activities of many other salesmen leaves a lot to be desired. Complaints forthcoming from time to time justify a further tightening of legislative control measures related to their operations.

The tendency to take advantage of the human frailties of old persons and pensioners, gullible housewives, and persons of less than average intelligence, indicates a need for further consumer protection in methods of selling at the door.

The existing laws which came into operation in 1965 cover only the sales of books, engravings, lithographs, pictures or like matter whether illustrated or not.

This amending Bill proposes to extend application of the Act to all "goods" subject to trade, manufacture, or merchandise and to all "services" provided for fee or reward by a person in carrying on a business undertaking. The definitions of these are similar to their interpretation in the Consumer Protection Act. Provision is made however to exclude certain "exempted goods" and "exempted services" from the provisions of the Act except for the permitted hours of visiting, as explained in the proposed new section 7A.

"Exempted goods" are defined firstly as such goods as flowers or other things of a perishable nature and secondly as other goods as may be declared by the Minister at his discretion from time to time to be exempt from the Act.

"Exempted services" are those services also declared by the Minister at his discretion from time to time to be exempt for the purposes of the Act.

The Minister may declare approved religious or charitable institutions to be "exempt institutions" with the effect that persons selling at the door on their behalf will not have to comply with the provisions of the Act relating to permitted hours of visiting. However, they will be required to conform to other requirements if soliciting an offer or taking part in a dealing leading to an agreement to which the Act applies where the purchase price is $20 or more. Such persons will be required to produce an "identification card" and leave it with the purchaser if a sale of $20 or more is made.

The existing provision that a credit purchase agreement shall not be rendered unenforceable at any time or be subject to termination by a purchaser at the expiration of a cooling off period, if the agreement was made at the purchaser's residence as a result of the purchaser requesting the vendor to visit his residence to negotiate the particular transaction resulting in the agreement is retained.

The new term "agreement to which this Act applies" means any agreement respecting the sale or bailment of goods or provision of services excepting those listed in the definition.

"Credit purchase agreement" on the other hand means an agreement to which the Act applies but excludes one under which the whole of the purchase price is paid at or before the time at which the agreement is made, or not later than the end of the month next following the month in which the agreement is made. In effect it does not include any agreement to purchase goods or have services provided which are settled by payment immediately or shortly thereafter. A credit purchase agreement is intended to cover those cases where periodic instalments are made over a period of time. It is important to note also that any sales at the door of less than $20 are not to be subject to an agreement to which the Act applies.

The permitted hours of visiting private homes are to be amended so that any salesman will be required to conform to the hours fixed unless a resident invites him at some other time. As the Act stands at present, only salesmen selling books, etc., as previously mentioned are controlled as to visiting hours and although these hours are to be slightly extended, the Bill will regulate virtually the unlimited hours which exist for the majority of salesmen at present.

Section 7A of the Act is to be repealed and re-enacted so as to alter the "permitted hours" for salesmen to enter private residences for sales at the door but not to restrict entry to private homes at any time outside these hours provided—

(a) The salesman is acting on behalf of and with the authority of the holder of a licence under the Charitable Collections Act or an exempted religious or charitable institution under the Door to Door (Sales) Act.

(b) The visit is at the invitation of a resident.

These regulated visiting hours will apply in the case of a person dealing in any goods and services—which includes any exempted goods or exempted services under this Act—and will have application to—

(i) Sales or offers to sell which may lead to an agreement to which this Act applies.

(ii) Sales or offers to sell any goods or provide any services for cash, credit, or other consideration whether the price to be charged is under or over $20.

(iii) Displaying, exhibiting, demonstrating, or providing information or taking orders for any goods or Services.

A new section 7B is to be added to provide for salesmen at the door—except when dealing in "exempted goods", "exempted services", or negotiating an agreement to which the Act does not apply, namely where the price to be charged is less than $20—to produce identification of themselves and the firm being represented.

Even persons selling with the authority of religious and charitable bodies declared as exempted institutions under this Act will need to comply with these identification provisions, as the section does not exempt such persons from adhering to the requirements.

If a sale of goods or services over $20 is effected, the salesman is required also to leave the identification card with the purchaser. However, should the salesman be at the residence at the request of the

resident, identification requirements mentioned are not necessary, as it is expected the resident would already have knowledge of such details.

The tendency to sell at a person's place of employment, or at an educational establishment where a student is attending, has not been in evidence in recent years as employers and principals of colleges no longer seem to tolerate this type of business in the precincts of their premises. These words are therefore to be deleted.

A new section 4A will be inserted into the Act to allow a credit purchase agreement made at a place of residence to be confirmed so that a vendor can provide the goods and services promptly. To obtain this quick confirmation, the vendor will be required to post to the purchaser a statement in the form as inserted in the second schedule. The purchaser may then complete and return the notice of confirmation by post to the vendor. These transactions could be completed within a few days and the goods or services quickly supplied, but the confirmation has to be obtained by postal facilities to be enforceable, as this will allow the customer to decide upon the purchase in the comfort of his own home without pressure from any visiting salesman. Once confirmation is given, the purchaser forfeits his right to terminate the agreement under the cooling off provisions.

I believe at this stage it is necessary for me to foreshadow an amendment, as there has been some argument in regard to this matter. As pointed out in answer to a letter from the Law Reform Committee of the Law Society, the Parliamentary Counsel has considered this matter and has recommended a strengthening of clause 7 to protect the consumer from harassment or influence after he has indicated at his residence agreement to purchase. At present he is protected only from the posting of the statement as shown in new section 4A (3). I give this indication now so that there will be no argument later on this question. I have a copy of the amendment which I will let the Leader of the Opposition have.

In section 5 of the Act provision is already made as to the rights and obligations of the parties so that the original position of each can be restored when a credit purchase agreement is terminated before the end of the cooling off period or otherwise is unenforceable by reason of the vendor not complying with certain requirements of the Act. Where goods are concerned there may be no real problem in returning the position to its original state but the purchaser shall be liable to pay compensation to the vendor for any damage done to the goods whilst they have been in his custody other than loss or damage arising from circumstances beyond his control.

With services restoration of the position could present some difficulties particularly if work has already been performed. Section 5 of the Act is therefore to be amended to permit the vendor to make and recover a reasonable charge for services provided, if an agreement is terminated in the cooling off period. It is quite likely that work done in the circumstances could have been of an urgent nature and have been done in good faith and would justify a reasonable charge being made.

The widening of the scope of the Act necessitated amendment of the regulation making powers to enable any necessary new regulations to be promulgated.

THE HON. D. K. DANS (South Metropolitan) [5.25 p.m.]: I have examined the Bill very closely. As I recall, this measure was introduced during the last session of Parliament.

I am particularly interested to note that the Consumer Affairs Council has closely considered various facets of the Act and has presented a number of recommendations which, in the main, have been included in the amending Bill.

I am also interested to hear the Minister foreshadow that he proposes to move a further amendment. This makes me particularly happy. We support the Bill both in principle and, I hope, in detail.

If there is anything we might care to challenge or ask questions about the Committee stage will be the appropriate time to do this. I support the Bill.

The Hon. G. C. MacKinnon: Thank you.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. G. C. MacKinnon (Minister for Education) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7: Section 4A added—

The Hon. G. C. MacKINNON: Before I move the amendment I foreshadowed I would say in explanation that there has been some criticism and it is recommended that clause 7 should be strengthened to protect the consumer from harassment or influence after he has indicated at his residence agreement to purchase. At present he is protected only from the posting of the statement as shown in the new section 4A (3). It is considered he should be protected also from the time he indicated agreement until the statement is posted and as well until he returns by post the notice of confirmation. Any contact in those periods by the vendor to suggest confirmation, other than by posting the statement, would cause the purchaser to retain his seven-day cooling off period, even though he signed a notice of confirmation.

The Commissioner for Consumer Affairs supports the latest proposed amendment and I trust the Committee will agree to it. I therefore move an amendment—

Page 7, lines 15 to 18—Delete all words after the word "If," down to and including the word "bailee" and substitute the following passage—

"at any time after a credit purchase agreement has been made at the place of residence of the purchaser or bailee, the vendor or dealer contacts the purchaser or bailee in any manner (other than by posting a statement, or a statement with an explanatory letter, pursuant to and in accordance with subsection (1) of this section)".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 to 15 put and passed.

Title put and passed.

Bill reported with an amendment.

RADIATION SAFETY BILL

Second Reading

THE HON. N. E. BAXTER (Central—Minister for Health) [5.33 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to replace the existing Radioactive Substances Act. I shall explain the reasons for the replacement of the Act and give details of the provisions of the Bill, trusting that members will see fit to support the proposals put forward.

The Radioactive Substances Act was passed in 1954 and amended in 1960 and 1964. The purpose of the Act was to deal with dangers which might arise from the use of radioactive substances and X-ray apparatus and it was drafted on the basis of advice received from the Commonwealth Government.

In 1954 the uses of radioactive substances and X-rays in Australia differed little from the pattern set in the preceding 20 years.

With a few exceptions, the main uses of X-rays were in medical and dental radiology and in radiotherapy, and the most readily available radioactive substance was radium which found its main application in medicine.

From 1945 onwards, however, it became evident that atomic energy research would make available a wide range of radioactive substances for use in medicine and industry, and that these would be available in quantities which could, if not controlled, present a hazard to their users and to the public.

The dangers of excessive exposures to X-rays and the careless use of radium already had been demonstrated in previous years, pioneers in Australia and other countries paying a harsh penalty.

There was virtually no legislation in use in other countries to control radioactive substances and X-ray equipment in 1954, and so the Acts passed in Australia were breaking new ground.

Today there are uses of radioactive substances and X-rays in medicine, industry, and research which were scarcely envisaged in 1954. The existing Act has served well under the circumstances, but it cannot be expected to deal with the advances in technology which have occurred in the past 21 years.

Furthermore, the Act has become increasingly cumbersome to administer in a satisfactory manner and there has, at times, been serious concern as to whether its provisions could safeguard adequately the general public and workers using X-rays and radioactive substances.

The present act deals with radioactive substances and apparatus which produces X-rays. Radioactive substances produce a number of different types of radiation and these, together with X-rays, because of their special properties, are termed ionising radiation. There are other types of radiation which are described as non-ionising.

Examples of these are visible light and radio waves, and when they are used in their traditional manner they are not harmful. But during the past decade, extremely powerful and concentrated sources of visible and invisible light as well as high frequency radio waves have been made available by technology and are finding increasing applications in the domestic, medical, commercial, and industrial situations. These sources of radiation can be harmful if used carelessly or without proper safeguards.

In other countries, dangers from some of these new devices became evident in the 1960s, but at that time there were few legislative safeguards. In the USA the Radiation Control for Health and Safety Act of 1968 was passed to deal with them.

An example of the new devices is the microwave oven in which radio waves are used for heating food. If not provided with proper safety features and if not properly maintained, these ovens can leak excessive quantities of microwave radiation.

Microwaves and short wave radio waves are also used for medical and industrial purposes, while laser beams, which are concentrated beams of visible or invisible light, are used by surveyors and for other applications in industry and research.

I shall now explain the provisions of this Bill and trust that members will see fit to support it.

Clause 5 provides for the orderly transition from the Radioactive Substances Act as amended to the proposed Act so that licenses, registrations, and exemptions in effect under the old Act continue to be valid.

Clause 6 sets out the three types of radiation source to which the Act will apply. These sources, which I referred to in my introductory remarks, are radioactive substances, irradiation apparatus such as X-ray equipment, and electronic products which is the name given to the broad range of radiation producing equipment not included in the first two categories.

The clause also provides for the granting of exemptions from the provisions of the Act by a radiological advisory council to be set up under clause 13.

Clause 7 allows the Commissioner of Public Health or officers authorised by him to handle or deal with the three sources of radiation in the carrying out of their duties, but in all other respects the Act will bind the Crown.

Clause 8 envisages the possibility of a potential or grave danger arising, and the need to establish special procedures or precautions to deal with it. The Governor, on the recommendation of the radiological advisory council is empowered to make regulations to deal with the danger. The clause also provides that regulations relating to these situations of danger or potential danger may provide that the penalty to be imposed will be such amount as appears to the court to be just, having regard to all the circumstances and the need to ensure that the public interest prevails.

Clause 9 states that any proceedings taken under the Act will not interfere with or lessen the right or remedy by civil proceedings of any aggrieved party.

The second part of the Bill deals with administrative provisions. Clauses 10 and 11 deal with the duty of the Minister for Health and the functions of the radiological council. The Minister will be charged with the duty of protecting the public health and safety against the dangers of radiation, but he will be obliged at all times to have regard to the expressed views of the radiological council.

The council's functions will be to implement the scheme of licensing and registration which will be created by this Act, to inquire into any alleged contraventions, suspend, or cancel licenses and registrations, to advise the Minister, and to make recommendations with regard to technical aspects of radiation safety matters and the methods for minimisation of dangers and to investigate and prosecute for offences.

Another function of the council is to advise the Minister on the preparation of regulations. Clause 10 also provides for the cost of administration of the Act to be paid out of moneys appropriated by Parliament.

Clause 11, as well as providing for the carrying out of further duties entrusted to it under the Act, provides that the council shall also perform other functions in respect of which the Minister gives any general or specific direction.

For instance, the council may encourage and promote studies, investigation, and research into problems associated with radiation and must, on request, provide the Minister with such information on the subject as is available to it.

The council must co-operate with departments of the Public Service and other bodies, instrumentalities, and agencies of the Comonwealth and the States and territories of the Commonwealth, and may make use of the services of any officer of another department, instrumentality, or agency with the consent of the appropriate Minister.

There is provision that a person may be appointed by the council to act as its secretary.

Clause 12 provides for appeals by persons who are aggrieved by an act of the council. A person whose application for a license or registration has been refused or whose license or registration has been revoked or suspended, or whose license, exemption, or registration has had conditions, restrictions, or limitations applied to it may appeal to the Supreme Court.

Clause 13 provides for the establishment of the radiological council. The clause sets out the membership of the council which will consist of a medical practitioner who will be the chairman, appointed by the Governor on the recommendation of the Commissioner of Public Health, and not less than five nor more than seven other persons appointed by the Governor.

These persons are to be selected because of their expertise in the uses, dangers, or methods of production of radiation and one will be representative of tertiary educational institutions.

Clause 14 deals with the tenure of office of council members.

Clauses 15, 16, and 17 deal further with membership of the council and its proceedings. There is provision for the appointment of deputies and the filling of casual vacancies.

Clause 16 deals with the proceedings of the council in a manner which is similar to other statutory bodies.

Clause 17 provides that the council may co-opt any person having relevant special knowledge or experience. The council, subject to the Minister's approval, may also invite or engage any body or person in an advisory capacity.

Clause 18 deals with the powers of delegation and allows the council, with the Minister's approval, to delegate certain of its powers and duties to a council member and, in particular, the power to grant or renew licenses may be delegated to the chairman of the council. This is an important provision since it will allow expeditious handling of applications for licenses and registrations. The existing Act does not have such a provision and this disability has been a source of much inconvenience

to industry, the medical profession, and other applicants for licenses and registrations who have had to await a council meeting to deal with their applications. Such delays will be avoided under the new Act.

Clause 19 allows the council to appoint investigatory and advisory committees and, subject to the Minister's approval, to delegate certain of its functions to such committees. The council will retain full responsibility for any decisions of the committees. At least one member of any committee must be a member of the council.

There is provision for persons appointed to the council and to committees to be paid such remuneration and allowances as the Governor may determine. However, clause 20 provides that remuneration or allowances paid to persons to whom the Public Service Act, 1904, applies will require the prior approval of the Chairman of the Public Service Board.

Clause 21 provides for the transfer of property from the Radiological Advisory Council established under the Radioactive Substances Act to the new radiological council proposed to be established under this Bill.

Clause 22 provides that the council will keep the Minister informed of its overall activities by presenting an annual report of its operations before the 31st March in each year.

Clause 23 provides that in the event of a difference or dispute arising between the council and any department of the Public Service, or any instrumentality of the State, such disputes will be finally and conclusively determined by the Governor.

Members of the council could be inhibited in their consideration of applications for licenses and other matters which might come before them if they believe that they might be personally liable in civil proceedings for any decisions that they might make. Clause 24 accordingly provides, in a similar manner to other statutory bodies, that members of the council or its committees, and officers acting with the authority of the council, will not be personally liable in civil proceedings.

The third part of the Bill deals with licensing and registration.

Clause 25 makes it an offence for a person to operate, use, manufacture, store, transport, sell, possess, install, service, maintain, repair, or otherwise deal with a radioactive substance, irradiating apparatus, or electronic product unless an exemption under the Act applies or a license has been issued. It should be noted, however, that the Bill will apply only to those types of electronic products which are prescribed by regulation.

Clause 26 details the various categories of license which may be granted. These include the various areas of medical, dental, and veterinary diagnosis and therapy, chiropractic diagnosis using X-rays, and industrial, research, and other applications.

Clause 27 makes it an offence for a person to administer a radioactive substance or any prescribed radiation to any other person unless the first person holds a license under the Act, and is a medical practitioner, dentist, chiropractor, or physiotherapist registered as such under State laws and engaged in his professional practice. There is provision for exemption to be granted from this clause for persons acting lawfully under the direction and supervision of a person licensed to administer radiation. A later clause deals with the criteria which the council will consider when dealing with applications for licenses.

While it is of the greatest importance that radioactive substances and apparatus which may produce radiation be used only by suitable qualified, competent persons, it is also important that the premises or equipment which they use shall not be of inferior standard or otherwise give rise to a radiation hazard.

Clause 28 provides for the registration of premises where radioactive substances are manufactured, used, or stored; where irradiating apparatus or electronic products are used or operated; or which are likely to be affected by radioactive waste or otherwise from any of the three sources of radiation. The clause also provides for the registration of irradiating apparatus and electronic products generally. There is provision for exemption, and, for example, it is not intended to require householders to register such items as microwave ovens of a type which complies with acceptable safety standards.

It has been a weakness of the existing legislation that sellers of X-ray apparatus have not been obliged to notify the council when new apparatus or replacement apparatus is supplied to a customer. Clause 29 will oblige the seller to satisfy himself that the purchaser is the holder of an appropriate license or exemption, and the seller must also notify the council of the sale. The existing council has had no jurisdiction over sellers of X-ray equipment who operate outside the State, and this has been a further weakness under the present Act. Where a purchase is made from outside the State, the purchaser will under this legislation be obliged to notify the council and apply for registration or an exemption from registration.

Clause 30 gives criteria which the council shall follow in granting or refusing registration. The primary criterion is that equipment should be so manufactured, constructed, shielded, and installed that it can be used without injury to the health of any person.

Clause 31 places a continuing responsibility on the council to keep under review

the range of manufactured or assembled articles which could be prescribed as electronic products, or otherwise made subject to the Act. Should it be in the public interest, the council would prepare regulations for the purpose of preventing or minimising any dangers which might arise. I would like to point out that any innovations which come within the category of electronic products may give rise to actual or potential radiation hazards which may not have been evident to the manufacturer. This Bill will allow the necessary action to be taken should such hazards arise.

I have already mentioned that the Bill lays down criteria for the council to take into account when considering applications for licenses, registration, or exemption. The council will be obliged under clause 32 to refuse a license, exemption, or registration unless it is satisfied that the person concerned is a fit and proper person having regard to the objects of the Act, that the premises are properly safeguarded, and that no person will receive a radiation dose in excess of prescribed levels. If the council is satisfied in all respects, clause 33 provides for a license, exemption, or registration to be granted.

If a license or registration has been refused of if a licensee dies, or if a piece of equipment is no longer required, any attempt to dispose without permit of equipment or radioactive substances subject to the provisions of the Bill would be illegal. Clause 34 provides for disposal permits to be issued which allow the radiation source to be disposed of in a manner satisfactory to the council.

There have been occasions from time to time when companies, lecturers, etc., have visited the State for a short period and have wanted to use a radiation source in the course of their work. This is usually only for a short time and the issue of a license or registration may not be warranted. Clause 35 provides for temporary permits to be granted in such cases.

Many of the applications of radiation in medicine, industry, and research involve complex equipment and elaborate procedures, and may involve various parts of the premises. The fact that a person may be competent in the use of one type of radioactive substance or one type of X-ray equipment for a particular purpose does not necessarily mean that he is competent to use other sources of radiation for other purposes, and it has been found necessary to restrict licenses, exemptions, and registrations so that they are quite specific to a particular place, source of radiation, usage, and the persons who are authorised to use them.

Clause 36 provides for such restrictions, conditions, and limitations to be applied to any license, exemption, or registration. There is provision for varying the conditions, restrictions, or limitations, and for revoking a license when a person is convicted of contravening or failing to comply with any condition, restriction, or limitation. There is also provision for suspending the operation of a license, exemption, or registration for up to six months, or, where the public interest warrants it, to revoke a license, exemption, or registration.

Clause 37 provides that licenses, exemptions, and registrations shall, unless sooner revoked or suspended, remain in force for a period specified by the council of not less than one or more than three years. It is the intention to allow licenses for the less hazardous uses of radiation to have a currency of three years. However, it is considered desirable that the more hazardous uses should come under regular review and for this reason a currency of one year will apply.

It is not uncommon for a person using radiation to alter the circumstances of that usage, to extend the scope of his work, or to use additional parts of the premises. Clause 38 will oblige the person to notify the council of any such changes in circumstances of a license, exemption, or registration.

There have been many occasions when an application for a license under the existing Act has not been accompanied by sufficient information to permit the council to make a decision on the matter. Clause 39 will empower the council to call for such additional information as it may need. This information may include experimental or other proof of claims made in relation to the application.

Should a license, exemption, registration, or temporary permit be revoked or suspended, the relevant certificate must be surrendered to the council under the provision contained in clause 40.

It is usual for statutory bodies and licensing authorities to keep registers of licenses, and clause 41 provides for the keeping of registers in relation to the granting of licenses, exemptions, and registrations.

In legislation of this nature, it is necessary to make provision for enforcement. Part IV of the Bill deals with enforcement. To assist with enforcement, the Commissioner of Public Health may appoint persons as authorised officers. Members of the council automatically become authorised officers with the same powers as those persons appointed by the commissioner.

Clause 42 deals with the powers of entry and inspection by authorised officers. They will have fairly wide powers to carry out their duties in relation to the Act, but at the same time there are safeguards of the rights of the occupier of premises. Authorised officers may enter, inspect, and search premises; stop, board, inspect, and search vehicles, vessels, or aircraft; inspect, examine, test, or calibrate anything which might be used or reasonably believed to be

used in connection with a radiation source; they may take without payment such things or samples as may be required for examination and inquiry as necessary to ascertain whether the Act is being complied with, and examine records required to be kept under the Act.

Except in the case of an emergency, an entry to premises shall only be with the consent of the occupier or under the authority of a warrant. An authorised officer must properly identify himself and, as far as possible, shall not interfere with the ordinary business of the premises. If entry to premises by an authorised officer is refused, a warrant may be sought from a justice under clause 43.

Clause 44 elaborates on the powers of inspection, and allows the authorised officer to be accompanied by a professional or expert adviser or interpreter.

Clause 45 places an obligation on the owner of premises to assist the authorised officer in the carrying out of his duties. It is an offence to obstruct an authorised officer or the person acting as his professional or expert adviser, interpreter, or other assistant.

There have been in the past, and there will doubtless be in the future, occasions when an authorised officer, in carrying out an inspection, finds a situation which requires immediate action to remove a source of danger. If an authorised officer finds that a source of radiation is defective or dangerous, or in the interests of safety requires to be repaired, modified, or renewed, clause 46 empowers him to direct the owner to stop using the relevant equipment until it is repaired or modified. The owner may also be directed to stop using a source of radiation otherwise than in accordance with any limitations, restrictions, or directions given by notice in writing. The same actions may be taken in respect of the premises themselves if they are considered to be unsatisfactory for work using the radiation sources concerned.

Clause 47 augments clause 46 by giving power to withdraw, revoke, or otherwise vary any direction, notice, or request or take such further action as may be necessary.

Clause 48 provides that a person shall not assault, resist, impede, delay or in any way obstruct an authorised officer; or fail, without lawful excuse, to answer questions; he shall not furnish false or misleading information, or fail to produce any register, record, notice, or other documents; he shall not fail to allow an authorised officer to inspect, examine, test, calibrate, or take any thing or sample which the authorised officer has reasonable ground for believing to be a radiation source, or fail to permit any inspection of premises lawfully required under the Act, or fail to furnish assistance required under the Act.

There is provision in clause 48 to safeguard the rights of the individual, so that if a person making a statement objects to doing so at the time of making it on the ground that it might tend to incriminate him, the statement will be inadmissible in evidence in any prosecution against the person for an offence other than one contravening the provisions of clause 48.

In the past, it has been necessary for authorised officers to visit industrial premises where secret processes may be carried out, and medical practices where confidential information is recorded. Clause 49 will make it an offence for a person to disclose any information given to him or obtained by him under the proposed Act unless the disclosure is made with the consent of the person carrying on or operating the business to which the information relates or it is for the purpose of giving effect to the objects of the Act and in performance of a duty under the Act. A fine not exceeding $2 000 or imprisonment for 12 months, or both, is provided in this case.

So that a person may see that he has been fairly treated in any matter relating to a license, registration, or exemption, inspection documents and other records relating to that person will be made available for inspection by him and he may take copies of those records. However, the records will not be made available when they relate to an accident involving a source of radiation, or when they contain or refer to design information submitted by another person.

Clauses 51, 52, and 53 deal with offences under the Act, and penalties. Proceedings in respect of offences under the Act will be heard by a Court of Petty Sessions. It will be an offence to contravene a provision of the Act, to fail to furnish within a reasonable time information requested by the council or an authorised officer, or to furnish false or misleading information.

Unless a specific penalty is provided, the person who commits an offence against the Act will be liable to a fine of $1 000 and, if the offence is a continuing one, to a further fine of $50 for every day on which the offence has continued.

In addition to any other penalty, the court may order that any source of radiation to which the offence relates may be forfeited to Her Majesty. Items so forfeited may be sold and the proceeds of sale paid to a person specified by the court.

I have already indicated that much more powerful sources of radiation are in use today than were envisaged 20 years ago. Some of these represent a significant danger to life or health if they are misused.

Clause 54 provides for an authorised officer to seize and detain any source of radiation which he has reasonable grounds for believing constitutes a danger to the life or health of any person. Anything

seized under this clause may be held for six months or until the conclusion of proceedings taken under the Act. A person who is aggrieved by such a seizure or detention may, within six months of the seizure, appeal to a Court of Petty Sessions.

Where the danger cannot be dealt with by the provisions of clause 54, clause 55 provides for the Commissioner of Public Health to issue an order requiring the person concerned to take such action as the commissioner thinks necessary, or if the circumstances so require, the commissioner may take such action or cause such action to be taken as he thinks necessary to meet the emergency. An example of this is the occurrence of radioactive contamination as a result of a radiation accident when it may be beyond the resources of a licensee or other person to deal with the danger himself.

The purpose of clause 56 is to establish the liability of employees or other persons in relation to matters under the Act, and in relation to offences. For example, any person on whose behalf the sale of anything is made is deemed to be the person who sells it, and every agent or employee making the sale is liable to the same penalties as the person on whose behalf he makes it.

A person who arranges in any way with another person to contravene a provision of the Act commits an offence punishable in the same way as in the provision contravened.

It will be no defence in relation to proceedings taken against a person to prove that he was the agent of another person unless he satisfies the court that he had acted without knowledge and could not reasonably be expected to have known that a provision of the Act had been contravened or had not been complied with. Subclause (4) provides for officers of a corporate body to be proceeded against in certain circumstances.

However, in relation to clause 56, it is a defence for a person who would otherwise be liable, to prove that he had taken all reasonable means to enforce the provisions of the Act and that any contravention or noncompliance occurred without his consent or connivance and that he exercised all due diligence to prevent it.

Clause 57 deals with the machinery by which any proceedings may be taken in the name of the council by a duly authorised officer of the council.

Applications of radiation are so varied and so complex that it is not possible for details of safety measures, safety standards, maximum permissible doses of radiation, and general precautions to be dealt with in the Act. It is intended that, as has been the case elsewhere, extensive regulations will be made under the Act. While it is usual for legislation to give broad powers to make regulations as may be necessary for giving effect to the legislation, it is also desirable to refer to specific areas where regulations will be needed.

Clauses 58 and 59 empower the Governor to make regulations in regard to matters for which regulations are prescribed or contemplated by the Act and all such other regulations as he may consider necessary or expedient for giving effect to the provisions and for the full execution and administration of the Act. Many of the powers listed have been carried over from the existing Act, but additional powers have been included in the Bill in the light of developments in the use of radiation and to ensure that there is no misunderstanding or confusion about the ability to make regulations.

An important addition is to permit the incorporation in the regulations of standards, rules, codes, or specifications of such bodies as the Standards Association of Australia, the British Standards Institution, the National Health and Medical Research Council, and the International Atomic Energy Agency. All these bodies produce standards, rules, or codes which deal with equipment or the manner of use of equipment, or the safe handling of sources of radiation. The incorporation of such documents will ensure that there is national as well as international uniformity in safety standards.

I commend the Bill to the House.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [6.05 p.m.]: I rise to support this Bill, and I would like to point out first of all that it is well drafted. I pay a compliment to its draftsman. From time to time we are critical of the Statutes we have to deal with, and we are particularly critical of Statutes which have been amended frequently and become very difficult to understand.

The Bill before us has been around for quite some time and everyone has had sufficient time in which to study it fully. It is well drafted and simple to understand. Similarly, the explanatory notes read by the Minister dealt in great detail with the clauses of the Bill and did justice to them.

We support the Bill. The only question I would ask is whether the legislation is of a uniform nature, because technology is changing constantly and I think uniformity is necessary in this field. We now have microwave ovens, and who would have thought of using a laser beam 10 years ago? These sorts of things are coming into everyday use. Lasers are used in the field by surveyors and other sophisticated types of radiation are used professionally. However I do not think we need have any fear in respect of that because professional people are responsible people.

I would like to offer a suggestion to the Minister in respect of microwave ovens installed in domestic homes. He said the owners of these ovens will not have to be licensed. However, the point is that earlier this year we saw a firm fined heavily under a Commonwealth Act for false advertising in connection with a microwave oven. The firm claimed the oven met the standards laid down by the Australian Standards Association. but the oven had never been examined by the ASA.

The Hon. N. E. Baxter: A person would not know whether or not the oven had been examined.

The Hon. R. THOMPSON: That is so. I do not think it would be practical to require a householder or anyone else to obtain a license for a microwave oven, because anyone may use that oven. It might be a case of Dad making a cup of coffee and putting a chicken in the oven for supper; or the oven could be used by his young daughter, or anyone else in the household. On the other hand, I feel a register should be kept of microwave ovens.

The Hon. N. E. Baxter: This will be covered by the inspection of ovens for sale to ensure there is no leakage.

The Hon. R. THOMPSON: That is right, but let us say I buy a microwave oven from a store, and in 12 months' time I dispose of it to someone else. That person could fiddle with the oven.

The Hon. N. E. Baxter: That is an offence.

The Hon. R. THOMPSON: Yes, it may be an offence but the fact that it is an offence will not prevent people from being harmed or killed. I commend the Bill, and this is the only weakness I can see in it.

The Hon. Clive Griffiths: You can see some people going around without hands.

The Hon. R. THOMPSON: In my opinion a register should be kept of microwave ovens, and it should be an offence to sell an oven without a proper transfer. One cannot sell a gun, and a microwave oven is virtually as lethal as a gun. Any fool can tamper with a gun and blow himself up. Similarly, a person could tamper with a microwave oven without knowing whether he was doing the right or wrong thing. I think this is a weakness and that is why I suggest the keeping of a register of owners of these ovens and making it an offence to sell an oven without the necessary transfer.

The same procedure could be adopted in respect of the other sophisticated household implements which may be manufactured in the future. I think we should be very conscious of the fact that we are dealing with a very dangerous thing.

Clause 13 of the Bill establishes the radiological council. This is to be a professional body, and I do not think we could better it. However, I draw attention to subclause (2) (b) (vi), which states that two members of the council may be nominated by the Minister with the advice of the other members of the council as being persons having special knowledge of the problems of radiation hazards. Whilst I would not like to see any professional people removed from the council, because a matter of this nature should remain under the control of professionals, I would like consideration to be given to the appointment of an electrician. I would like to hear Mr Clive Griffiths' views on this matter. I feel an electrician would be an advantage because he is the person who will be carrying out repairs to these ovens.

I think it would be beneficial in two respects if an electrician were to be one of the two members of the council to be nominated by the Minister; firstly, because he would know what is going on in the trade he could advise the council, and secondly because he could also advise the trade since he is part of the trade. In my opinion an electrician would be a most valuable member of the council.

As I said at the commencement of my speech, this is a well prepared Bill. To the best of my knowledge the Public Health Department has been considering this matter for quite some time, because it was considering it for three years under the previous Minister. This is not a political Bill, nor should it be treated as such, because it has been considered by two successive Governments of different political colours.

The Hon. G. C. MacKinnon: This was started when I was the Minister.

The Hon. R. THOMPSON: Yes, it has been improved upon progressively. I would like the Minister to tell me whether comparable legislation is being enacted in other States. If it is not, I think the Minister should take his Bill to the next conference of State Ministers for Health with a view to recommending the implementation of uniform legislation.

The Hon. N. E. Baxter: I cannot answer that at the moment, but I imagine it will be uniform.

Sitting suspended from 6.14 to 7.30 p.m.

THE HON. V. J. FERRY (South-West) [7.30 p.m.]: My contribution to the debate on this Bill will be brief. I feel I must join the Leader of the Opposition in applauding the Bill for what it sets out to do. I must admit it appears to be a fairly complicated measure in some respects, and yet most of its clauses are explained and set out in quite a clear manner.

One of the features of the Bill which caught my eye was that it clearly lays down the avenues to be followed by any person who considers he has a right of appeal. That is most important, because this legislation is breaking somewhat new

ground and we need to recognise and appreciate the need to have these types of guidelines for all forms of radiation. Similarly, it is necessary that there be appropriate rights of appeal so that those who may be aggrieved will have that avenue to follow if they so desire.

Therefore I am pleased to find in the Bill that there is a right of appeal to a body such as the Supreme Court for those persons who may be aggrieved in a number of ways. This has particular reference to the provisions relating to the revocation or suspension of a license, etc. It seems to me the Government is recognising that there is a genuine desire to ensure that all people coming under the superintendence of this type of legislation will have the right of redress to no lesser place than the Supreme Court of Western Australia.

There is also provision in the Bill for a person aggrieved in another circumstance to appeal to a Court of Petty Sessions constituted by a stipendiary magistrate sitting alone. In this instance the right of appeal is available to a person who may be aggrieved by the seizure or detention of anything under the provisions of the relevant clause in the Bill, provided he does so within six months of the seizure of the goods or articles.

I therefore wish to record my appreciation that the Government, in introducing this legislation to the Parliament, has recognised it is breaking new ground. Here again I refer to the remarks made by Mr Thompson when he requested the Minister to examine the possibility of achieving some uniformity with this type of legislation throughout Australia. With those few remarks I have much pleasure in supporting the passage of this legislation.

THE HON. G. C. MacKINNON (South-West—Minister for Education) [7.35 p.m.]: I appreciate the support given to this measure. Actually, the Leader of the Opposition was quite correct; this is a Bill that has taken quite a few years to prepare. You, Mr President, may recall that at one time, when we were previously in Government, it became obvious there was some need for this legislation because of advanced technology. I raised the question then that the committee that had been established to inquire into radiation substances and to control them had, as Mr Baxter pointed out, been constituted to deal with little more than X-ray apparatus, and that the problems confronting industry in general as a result of the wide use of the kinds of appliances dealt with in the Bill made it obvious that further controls and additional restrictions were necessary.

Work was progressing along those lines during the regime of the Government led by Sir David Brand and also during the term of the previous Government led by the Hon. J. T. Tonkin, and this Bill is the result of all that work. Matters raised by the Minister will be brought to the notice of the council referred to in clause 13 of the Bill, two members of which may be nominated by the Minister with the advice of other members, as is laid down in subparagraph (vi) of clause 13(2)(b). Personally, I would not know whether an electrician would be required to have the same knowledge as a physicist has. Nevertheless that is an aspect that can be brought to the attention of members of the council.

The Hon. R. Thompson: They are the practical people in the trade.

The Hon. G. C. MacKINNON: I know, but I did hear Mr Dans say that the proof of the pudding was in the eating. I think the honourable member is correct; I do not think anybody has had his hands burnt in a microwave oven.

The Hon. R. Thompson: There have been many cases in America.

The Hon. D. K. Dans: There are different standards of leakage of radiation in microwave ovens.

The Hon. G. C. MacKINNON: It is quite a problem. Nevertheless I am not sure what we can do about it. There have been laws on the Statute book for quite a long time dealing with murders, but people still continue to be murdered.

The Hon. R. Thompson: A person cannot buy a murderer but he can buy a microwave stove.

The Hon. G. C. MacKINNON: That is correct, but there will always be weaknesses in legislation which would still not change our minds about its passage through Parliament.

The matter raised by the Leader of the Opposition about the sale and resale of an article, and the smart aleck who thinks he can fiddle around with these complex appliances is one which I can assure the House will receive attention.

A matter raised by both the Leader of the Opposition and Mr Ferry was the desirability of having this legislation made uniform throughout the Commonwealth. All I can say is that standards are set by both the National Health and Medical Research Council—which is a body which reports not only to the Federal Government, but also to all State Governments through the Health Ministers—and the Standards Association of Australia. Both those bodies set standards for the whole of the Commonwealth. I understand that at the present moment there is no suggestion in regard to introducing uniform legislation throughout Australia. However, the two bodies I have mentioned are embroiled in the total matter.

The Hon. R. Thompson: That is a good word.

The Hon. G. C. MacKINNON: I have no doubt that legislation of a reasonably uniform nature will eventuate. Nevertheless the point raised by the Leader of the Opposition and Mr Ferry that this matter should be brought to the attention of Ministers at a conference is quite sound, and I can assure them that it will be referred to the appropriate authorities.

I thank the two members who have spoken to the debate for their interest and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

ACTS AMENDMENT (JUDICIAL SALARIES AND PENSIONS) BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [7.47 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes to increase the salaries of judges by 25 per cent, with effect on and from the 8th August, 1975.

Salaries payable to judges of the Supreme Court and District Court were last fixed by Parliament in 1974 and they became operative from the 1st July, 1974. As foreshadowed when introducing the Bill in 1974 to amend the salaries of judges, the Salaries and Allowances Tribunal has been established, and it has issued a recommendation covering the proposed increases.

As members will realise, the Salaries and Allowances Act provides for the tribunal to make a report on the remuneration of judges of the Supreme Court and District Court of Western Australia, but not a determination, it being the view of the judges that their salaries should finally be fixed by the Legislature and not by the tribunal, hence the necessity for this legislation.

In its recommendation the tribunal has referred to guidelines laid down by the Australian Conciliation and Arbitration Commission in its judgment delivered on the 30th April, 1975, in the national wage case, and to the necessity for any increase in salaries to be justified on the grounds of "catch-up" with community wage movements.

However, the tribunal did not consider that "catch-up" community movements as expressed in the national wage judgment required it to base its decisions on any comparison with the salary movements of similar groups in other States. It therefore noted rates of salary paid to judges in other States, but did not consider that relativity in remuneration with other States should be a relevant factor at this time.

It was the view of the tribunal that it was more important that the justification for "catch-up" should be found in a comparison with salary movements generally. In this respect, a review of judges' salaries last year revealed that an increase in the order of 33 per cent effective from 1st July, 1974, was fully justified in the light of other salary movements prior to that date. However, in view of a call by the Prime Minister for restraint in salaries and wages increases, the Government brought down legislation limiting the increase to 20 per cent.

No similar restraint was placed at that time on other groups within the ambit of the tribunal and as a result judges' salaries were depressed by comparison with those of other groups. Judges therefore had a strong case for an increase in salary on the grounds of "catch-up" both in respect of salary movements prior to and after 1st July, 1974.

In addition, regard has been held for the special position of judges in the community and to their traditional place in a democratic system. It is essential that judges should not only be independent, but should be seen to be financially independent.

These are the reasons advanced by the Salaries and Allowances Tribunal for an increase of 25 per cent in judges' salaries. On this basis, the following new scale of annual salaries, if approved by Parliament, will be payable on and from the 8th August, 1975—

	$
Chief Justice	40 500
Senior Puisne Judge	37 125
Puisne Judges	36 000
Chairman, District Court Judges	31 320
District Court Judges	29 150

Members will, of course, have access to the report on the remuneration of judges, tabled in the House and containing a schedule of the remuneration payable to judges in other States as at the 1st July. This was also recorded in *Hansard* when this measure was outlined in another place on Thursday, the 14th August, 1975.

I commend the Bill to the House.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [7.49 p.m.]: I support this legislation, the provisions of which have been outlined by the Minister. As he said earlier this year, the Salaries and Allowances Tribunal was established in a way that would take into account all submissions that are made to it. The purpose of that tribunal was to look into the salaries of judges, magistrates, top civil servants, and members of Parliament.

I do know what the judges are to receive under the proposals in the Bill and whether or not they are happy. I am not aware of any submissions they might have made, but if submissions were made I hope the tribunal did not take them into consideration in a manner similar to that in which they took the submissions of members of Parliament into consideration. If the tribunal acted in the same manner then the judges would receive the same treatment as members of Parliament received. At the time when the determinations were made I was overseas. I did not make any submissions, so I do not have anything to complain about on my own behalf.

We see a great difference between the salary payable to the Chief Justice of New South Wales, who receives $47 100 per annum including an allowance which the Chief Justice in Western Australia does not receive, and that proposed to be paid to the Chief Justice of Western Australia under the terms of the Bill; namely, $40 500. Of course the scale of salary payable to the judges in Western Australia is lower than that for the other States.

If we want justice in this State we have to pay for it. Although it was the request of the judges that this Parliament, and not the tribunal, should determine their salaries, we find the Government is prepared to bring forward a Bill which does not take into consideration the difference between the salaries payable to judges in Western Australia and those payable to judges in the other States. Are the judges in Western Australia considered to be inferior to the judges in New South Wales or those in the other States? These comments of mine apply not only to the judges of the Supreme Court, but also to the judges of the District Court.

I thought the Government would have been a little more generous, seeing it has the final say in introducing a Bill of this nature. The "catch-up" principle should have been taken into consideration by the tribunal, and greater interest should have been shown by it in bringing down this determination.

The Government in bringing down a Bill to fix the salaries of judges here at a lower level than the salaries of judges in other States is not acting in a responsible manner. However, as has been explained previously, the judges and in particular the District Court judges are pretty lonely persons. On one occasion Mr Medcalf made this very point in the House. In general judges cannot mix with other members of the community. They do not have very many friends or much social life.

The District Court judge who has to travel to the country centres is virtually a prisoner in a hotel room, because he cannot mix with the other members of the community for fear of any reflection being cast on him. I support the legislation although I am not very happy with the proposals contained in it.

THE HON. D. K. DANS (South Metropolitan) [7.55 p.m.]: I merely wish to make one short comment on the Bill. I too support the legislation, but I wish to go on record as saying that the tribunal which has been set up to look into the salaries of judges, members of Parliament, and others is, in my opinion, a very peculiar tribunal.

I am not challenging the quantum of increases the tribunal has granted; I merely say it has departed completely from the general principles of wage fixation. I think this was outlined in the Minister's second reading speech when he said the tribunal departed from what he termed comparative wage justice and wage relativity.

I would like to learn at some stage the criteria upon which this tribunal acts in determining the salaries payable to the different groups of people in respect of whom it is charged with the responsibility of fixing salaries.

THE HON. G. C. MacKINNON (South-West—Minister for Education) [7.56 p.m.]: What I intend to say may have a familiar ring to Mr Dans. I believe the tribunal has certainly departed from what has become the traditionl method of salary fixation. In respect of its determination I think the tribunal has shown courage by the action it has taken.

For many years past we have seen, firstly, one State, say, Queensland, granting an increase of $X; then New South Wales would grant the same increase plus another $500. Victoria, not to be outdone, would grant the same increase plus another $1 500. Western Australia would then say that it was as good as any other State, and it would grant a salary at the level of the Queensland salary. By that time the salary in Queensland would be $1 500 below that of Victoria; and so the whole process would start again. Mr Dans will know what I mean when I say my words have a familiar ring.

The tribunal saw fit to do something different on this occasion. Rather than suggest that the judges of Western Australia are inferior—

The Hon. R. Thompson: That is what it suggests.

The Hon. G. C. MacKINNON: —I think the tribunal has suggested that our judges share the general concern of the population in regard to wage fixation and the dog chasing its tail. They have been happy to set an example to the rest of the community. This might not be as bad as it appears at first glance, especially when one works out the income tax that is payable on increases.

I am sure that notice will be taken by the tribunal of the comments of Mr Thompson and Mr Dans. I ought to point out that the tribunal was set up by this Parliament, and it had only a limited time to arrive at a determination. It tends to be forgotten by some that the tribunal is a continuing body.

The Hon. R. Thompson: That is obvious from the lack of information in its report.

The Hon. G. C. MacKINNON: The tribunal made clear the fact in its report that it was pushed for time. It appreciates the fact that it is a continuing body. It was brought to my attention and to the attention of other members as late as yesterday that the tribunal is continuing its investigation, and can see nothing wrong in bringing down modifications during the year.

The Hon. D. K. Dans: What the tribunal should do is to set down the criteria under which it works.

The Hon. G. C. MacKINNON: To some extent it has done that. I appreciate the fact that the legislation has been supported by the two honourable members. The points they have made are valid, and of course these will be noted by the tribunal which is only too anxious to get any reaction to its report. I am sure that the members of the tribunal will study the reaction with a great degree of interest.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

CRIMINAL CODE AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [8.02 p.m.]: I move—

> That the Bill be now read a second time.

The need for a right by the Crown in Western Australia to appeal against criminal sentences has been illustrated from time to time by some apparently inadequate sentences imposed in respect of criminal trials in the superior courts.

Crown Law Department advice supports the general views which have been put forward by the police, the Law Society, and the public for something to be done about wide variations in criminal sentences.

In considering appropriate legislation to cover the situation, other related amendments to the Criminal Code have been found desirable, as has clarification of a jurisdiction which has been the subject of contention in a number of cases where persons have been charged with offences in offshore waters. For convenience, I shall deal with the five main areas of the Bill individually, commencing with offences committed off the Western Australian coast.

As the Criminal Code is currently framed, its provisions extend by section 12 to persons who are in the geographical limits of Western Australia at the time of the commission of an offence. They also apply, by section 12, where an offence comprises several elements, to cases where one such element or act occurs in Western Australia or the person afterwards comes into Western Australia.

Section 13 applies the Code to persons who, while out of Western Australia, procure persons within the State to commit an offence and then come into Western Australia. Section 14 applies the Code to persons who are in Western Australia and procure an offence to be committed outside the State which is an offence not only in the place where committed, but also in Western Australia.

These sections leave a hiatus with respect to the control which may be exercised over persons who commit offences off our coastline, on the high seas adjacent to our territory. The hiatus exists because basically the provisions of our Code extend only to the territorial limits of the State. Clause 2 of the Bill which enacts a new section 14A is designed to overcome the hiatus, and to extend the operation of our criminal law so that protection may be given and control may be exercised over persons who operate fishing boats, for example, which emanate from this State, or who are generally involved in boating, spear-fishing, offshore exploration, or research, and who have a connection with this State.

At present our courts can exercise some jurisdiction in such cases, but only by an application of the English Law of Admiralty. That law only applies with respect to British subjects, which includes Australians by birth or naturalisation, whether or not at the time the offence was committed such persons were on British ships. If the persons involved are not British subjects the law extends to them only if they are, at the time of the offence, on British ships which briefly, are those owned by British subjects. The Law of Admiralty would therefore not extend to persons who are ordinarily resident or domiciled in Western Australia but who are not naturalised, and who were not born here. Nor does the Law of Admiralty offer protection with respect to all the sorts of offences which are contained in our Criminal Code. The admiralty law has equivalent offences for only some of our Code offences, and there is general uncertainty as to how far admiralty law does apply.

What is sought to be done in clause 2 of the Bill is to enact a new section 14A to extend the protection of our criminal

law to persons who are connected, by residence or domicile, or the activities engaged in by them, with Western Australia.

The provision has required careful drafting, because this Parliament is limited in its power to make laws having an extra-territorial operation to the power to make laws for the peace, order, and good government of this State, hence the form of the provision. It still will not cover all possibilities but more general legislative enactment would, we think, be beyond power. We believe that the time is now right, and that recent difficulties have been such that we ought to provide, so far as we are able, for the extension of the protection of our criminal laws to the citizens of this State who conduct their legitimate activities off our shores.

In respect of appeals by the Crown against sentences, at present the Crown's right of appeal against sentences exists only in limited and technical areas, whereas a convicted accused may appeal with leave against the severity of any sentence imposed upon him unless the sentence is one fixed by law. The House will be aware of the views which have been expressed within the community by interested citizens, the police, and the Law Society that some action should be taken with respect to the wide variations of sentencing which, from time to time, do occur.

The appropriate way to seek to reduce such variations is to give to the Crown, representing the community interest, a right to appeal against the inadequacy of sentences, as well as to give to the accused the right to appeal against the severity of sentences. The Court of Criminal Appeal would then be in a position to set guidelines and lay down common standards to guide all judges. The result should be a reduction in marked variations between sentences.

At present a right of appeal against sentence is given to the Crown by the legislation of other Australian States and jurisdictions having a common heritage with the Australian States, although such a right does not exist in all places. In this State the Crown has long had a right to appeal against the inadequacy of sentences imposed by the inferior courts. Clause 3 of the Bill seeks to extend that right to appeals against sentences imposed by superior courts.

The third area covers references of points of law to the Court of Criminal Appeal. At present under our law a convicted person may, after his trial, appeal against his conviction on any ground of law or fact. Again, the Crown has no right in the community interest to appeal against acquittals on grounds of law or fact in any such general way. It has certain limited rights, principally where an acquittal has resulted not from a verdict of the jury but from a legal ruling by the trial judge. More general rights of appeal against acquittal have been given to the Crown in some other jurisdictions.

It is not proposed in this Bill to enact legislation to give the Crown in this State any such right of appeal against acquittal. What is proposed in clause 4 of the Bill is to enact a new section 693A to allow the Attorney-General, as distinct from the prosecution, to ask the trial judge to refer to the Court of Criminal Appeal any question of law arising at trial. The trial judge is bound to comply with that request, and the Court of Criminal Appeal is bound to consider the question and give its opinion on it. These measures will enable points of law which arise of general importance to the administration of criminal justice in this State to be determined and ruled upon authoritatively by the Court of Criminal Appeal as and when they arise.

At the moment very important points of law may not be able to be ventilated before the Court of Criminal Appeal when the ruling given by the trial judge, although considered to be wrong, has been in favour of the accused person. In those circumstances, even if a conviction results and the accused takes an appeal, he will, in normal cases, not be raising such legal rulings in his favour.

The proposal follows the precedent of legislation introduced in the United Kingdom in 1972, and also introduced in some other Australian States. There is one important innovation which is introduced by this Bill. In the United Kingdom legislation, the right to seek a reference only arises where there has been an acquittal. In this State we believe that right should be available for the proper administration of the criminal law, whether or not there has been a conviction or an acquittal.

The result of the trial is seen as having no bearing upon a reference of points of law arising in the course of the trial for the determination of the Court of Criminal Appeal. The reason for this is that the opinion of the full court given on that reference has no effect upon the verdict of the jury and any decision or penalty based upon that verdict.

It has always been the view of some legal authorities that the verdict of the jury should be preserved inviolate from any challenge by the Crown, as opposed to a challenge by a convicted accused, and this Bill makes no change to that view. The provision is designed only to secure authoritative legal rulings on contentious points of law which arise from time to time in our criminal courts, and for no other purpose. It is anticipated that the Attorney-General of the day would exercise his rights under this section sensitively, and would take only important cases before the full court in this way.

For the more effective argument of the issues of law raised in any particular reference, the Bill provides that a person charged at trial is entitled to be heard before the Court of Criminal Appeal. Such a person may not wish to be heard because the decision of the Court of Criminal Appeal will not affect his position, and if that is the case then the Bill provides for the Attorney-General himself to instruct counsel, at the cost of the Crown, to argue the contrary points before the full court. Again, because the provision does not seek to affect the position of an accused person, provision is made prohibiting the publication of any report of any requested reference, or of any report of proceedings before the full court which discloses the name or identity of the accused.

In clause 6 of the Bill, a consequential amendment is made to section 698 of the Code which allows the Court of Criminal Appeal to assign counsel to represent the interests of a convicted appellant before the court in a case where legal aid is not otherwise available to him. It is proposed to extend that power to a respondent to an appeal by the Crown against sentence. In the same way, by clause 7 of the Bill the right to be present at the hearing of an appeal is extended to such respondent.

The provisions for the Crown to appeal against sentence and to refer points of law for the determination of the Court of Criminal Appeal, are designed to complete the review procedures available under our Criminal Code so that in all cases sentences passed by trial judges, and legal rulings made by them, may be tested and clarified in the best interests of the administration of the criminal justice of this State. We believe the extension of these provisions made in the Bill is consistent with the interest of the community in ensuring that the criminal laws of our State reflect absolute fairness and even-handedness, not only from the point of view of an accused person, but also from the point of view of the community itself.

A further amendment concerns the extension of time for appeal. Clause 5 of the Bill proposes an amendment to section 695 of the Code to extend from 10 days to 21 days the time within which a convicted accused may appeal to the Court of Criminal Appeal. The measure results from an approach made to the then Attorney-General in October, 1973, on behalf of the Council of the Law Society with the agreement of the judges. The present limitation of 10 days is considered to be too restrictive to enable proper and mature consideration to be given to whether or not an appeal should be taken in any particular case, and the form of the grounds of any such appeal. This is particularly so as such a decision often involves familiarisation with some hundreds of pages of transcript of the trial, and it also involves considerable research into points of law arising.

Finally, provision is made for powers to award compensation. Of recent times this Government has received a number of approaches from concerned organisations and citizens in the community who have raised with us the position of persons who are victims of crime, as a result of which loss of property, or damage to property, or other expenditure is incurred. It is apparent that as our laws are presently framed, the courts have not the power in an unrestricted way to exercise fully a discretion to grant the persons who suffer loss or damage to property, orders for compensation to be paid by convicted persons responsible for such loss or damage.

Section 719 of the Criminal Code at the moment allows a person who has suffered loss or damage to make application to any court when an offender is convicted for an order awarding a sum of money to be paid by the convicted person by way of satisfaction or compensation for any loss of property suffered, or expenses incurred because of the offence. However, a limitation is placed upon the amount of such an order in the sum of $500. It is frequently found that sum is insufficient to make complete reparation for the criminal's conduct in damaging property.

In clause 8 of the Bill, it is proposed therefore that the limit of $500 be removed from section 719. The result of that amendment will be that the courts will have a power to award full compensation, that power being limited only by the practical considerations of the offender's means to satisfy the order, and the value of the property lost or damaged.

The provisions of this Bill have been considered by the Law Society, and meet with its approval in all respects.

In seeking to achieve these reforms to the criminal law, the Government is of the view that this Bill ranks as an important piece of social legislation, and I commend the Bill to the House.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [8.16 p.m.]: If members listened intently to the second reading speech of the Honorary Minister, they would know that this Bill provides for amendment to three areas of the Criminal Code. Of course, we have no argument with the last amendment in the measure as it will remove the limitation of $500 for compensation to an appellant or respondent, as the case may be, where criminal damage has been done to his property or other loss suffered. We support this provision.

Likewise, we support clause 4 of the Bill which provides that the Minister for Justice can now institute an appeal. This provision has always been available in the inferior courts, but now it is to be extended to the superior courts, and a Minister for

Justice may institute an appeal where it is considered that a sentence is too lenient. The situation in regard to people acquitted by a court will remain unchanged. We support this provision because it will provide equality in that the Crown, on behalf of the people, will have a right of appeal similar to that possessed by the accused.

The situation is quite different when we come to consider paragraph 2 which proposes to add section 14A. I am totally opposed to this clause, and the reasons for my view will be quite obvious. This is ill-timed legislation. Currently an appeal is before the High Court of Australia in regard to the submerged lands and seas legislation. A decision in this case could be handed down any day, so why on earth should the Government—with full knowledge of the appeal to the High Court—introduce legislation along these lines. If the appeal is not upheld, the provision in the measure before us will be nullified.

I hope the appeal will not be upheld and my reason for this view is my belief that no other State in any country in the world has rights which extend 100 miles out to sea. We have heard arguments about the commencement point of this 100 miles—is it territorial waters, high water mark, or the sea lanes? This point is not clarified in the Bill.

What would be the position if the Governments of Queensland, New South Wales, Victoria, South Australia, Western Australia, Tasmania, and the Commonwealth —on behalf of the Northern Territory—introduced legislation for State rights to cover an area 100 miles out to sea? The situation is absolutely ludicrous. It is for the national Parliament to determine the right over sea lanes; it is not a State right at all. I guarantee that the Minister could not name one country in the world where States within a country have this provision in their legislation. We have had a searching look at this problem and we cannot find a State, county, or part of a country that has individual laws governing the sea lanes.

This legislation has been brought here as a ruse, because we all know the reason behind it—it is to deal with the natural gas that has been found off the north-west coast.

The appeal currently before the High Court is based on the Constitution of Australia and, of course, the Honorary Minister knows more about the Constitution than I do. Section 76 of the Constitution states—

> The Parliament may make laws conferring original jurisdiction on the High Court in any matter—
>
> (iii) Of Admiralty and maritime jurisdiction;

So here we find that the State Government is butting in, for what reason I do not know, because if the appeal is upheld in the High Court, the jurisdiction of the sea lanes will still be the responsibility of the national Parliament. If I had the numbers, I would do everything I could to defeat this clause. However, as I do not have the numbers I am unable to do anything about it.

Debate adjourned, on motion by the Hon. V. J. Ferry.

WEIGHTS AND MEASURES ACT AMENDMENT BILL

Second Reading

THE HON. V. J. FERRY (South-West) [8.22 p.m.]: I move—

> That the Bill be now read a second time.

The purpose of this Bill is to insert into the Weights and Measures Act the power to make regulations in relation to deceptive packaging of prepacked articles. Legal advice is to the effect that the parent Act is relatively wide in its powers for the making of regulations, but does not permit those which are now contemplated.

The Ministers for Consumer Affairs in all States and Federal Territories have agreed on the need for uniformity in this matter. Queensland and South Australia already have regulations in force, whilst New South Wales and Victoria are expected shortly to introduce regulations. Tasmania and Western Australia are correspondingly committed.

As an appropriate way to achieve this uniformity, model regulations have been adopted as a guide to each State in its introduction of amendments to existing regulations, or the promulgation of entirely new regulations should such course be necessary.

The proposed new regulations will cover specifications for maximum permissible free space in cavities and recesses in packed articles and packages, and the method of ascertaining such permissible limits, as well as making provision for exempting classes of articles or packages as determined.

This is the type of legislation which calls for adequate notice of intention being given to the trade before the more restrictive requirements become fully enforceable, and the Minister, when introducing this measure in the Legislative Assembly, gave an undertaking that such adequate notice will be given.

I commend the Bill to the House.

THE HON. D. K. DANS (South Metropolitan) [8.25 p.m.]: I support the Bill in principle and in detail. Whilst that may seem a fairly brief reply—

The Hon. G. C. MacKinnon: It covers the subject!

The Hon. D. K. DANS: —perhaps in the fullness of time people may catch onto the idea that in supporting a Bill there is no need to deliver another second reading speech.

THE HON. V. J. FERRY (South-West) [8.26 p.m.]: I wish to thank the Hon. D. K. Dans for his comments and his support of the measure.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

RAILWAYS DISCONTINUANCE AND LAND REVESTMENT BILL

Second Reading

THE HON. D. J. WORDWORTH (South) [8.28 p.m.]: I move—

> That the Bill be now read a second time.

This legislation provides for formal closure of the railway line between Dwellingup and Boddington, over which there have been no train services since the 1st November, 1969.

Following studies of the operation of this line by the Director-General of Transport in 1969, ministerial approval was given for services to be suspended, with official closure to follow as soon as practicable.

In September, 1972, the Minister for Railways recommended to the Government that the line should be officially closed, but the Government decided to defer closure until studies which were being undertaken by Alwest Pty. Ltd., in connection with development of bauxite deposits in the Boddington area, were completed, lest the line be required for the movement of bauxite. It has now been determined that it is not suitable for the Alwest project.

There is no reason to defer its closure any longer, and I have for tabling a report of the office of the Director-General of Transport containing a detailed study of the current situation in respect of the line and the reasons for his recommendation that it should be closed.

It is desirable also to table a copy of C. E. Plan No. 67297 referred to in the schedule, and which describes in detail the line to be closed and land to be revested in the Crown.

Members will notice that the schedule refers to Dwellingup-Hotham Railway (Act No. 17 of 1911) and Hotham-Crossman Railway (Act No. 14 of 1912). Hotham was the name by which Boddington was known when these sections of line were opened for traffic. In 1960, portion of the railway between Hotham and Crossman was closed by the Railways (Cue-Big Bell and Other Railways) Discontinuance Act, and the opportunity is being taken in this legislation to formally close the remainder of this section of line.

At the time—that is, in 1969—Boddington had a fairly infrequent service, and the Director-General of Transport conferred there with the local authority, business people, and residents.

The indication given at the time was that the area could be better serviced by road transport at a far cheaper cost, and it was decided that the discontinuance of the railway service, which was very little used, would help to reduce the deficit of the railways department.

The discontinuance was agreed to by the majority of people in the area, and the service was discontinued in 1969. No approach has been made since then for the line to be re-opened. I understand that the area is otherwise satisfactorily serviced and I commend the Bill to the House.

The papers and the map were tabled (see paper No. 282).

THE HON. D. K. DANS (South Metropolitan) [8.31 p.m.]: We also support this Bill in principle and detail. Whilst supporting the Bill for the closure of the railway, I would hope that the Government and the Railways Department do not move too quickly to pull it up and turn it into razor blades. I do not wish to sound too humorous, because it could well be that, with the energy crisis and various other things happening in the world today, one of these days in the not too distant future we may need to reopen the line.

I know that in New South Wales they are very disappointed that they charged in and ripped up the tram lines in Pitt and George Streets because now they are making very decisive plans to put them back again.

The Hon. G. C. MacKinnon: This was one of the reasons which influenced the Government in its attitude towards the recent report relating to the metropolitan railways. The point you are touching on is a very real one.

The Hon. D. K. DANS: I have no doubt that the Government was influenced in this way. The Opposition supports the Bill.

THE HON. D. J. WORDSWORTH (South) [8.32 p.m.]: I thank the member for his support. I understand that if a railway line is not used for some time, the sleepers deteriorate; in actual fact, we would be unable to reuse the line.

The Hon. D. K. Dans: I merely asked you not to turn the lines into razor blades.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

MARKETING OF BARLEY ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [8.35 p.m.]: I move—

That the Bill be now read a second time.

The intention of this Bill is to extend the provisions of the Marketing of Barley Act for a further five years from the date of its expiry on the 9th December, 1975.

As members may be aware, the Western Australian Barley Marketing Board has had an on-going agreement with the Grain Pool of WA for the Grain Pool to act as its marketing agent and provide its staff requirements. The agreement requires 12 months' notice of termination by either party.

In view of the proposal to establish a single grain marketing authority, and the lapsing of the Act on the 9th December, 1975, the board gave notice of intent to the Grain Pool to terminate this agreement as from the 30th June, 1975. As a result, there is no agent authorised to forward-sell the 1975-76 barley crop.

The grain market is volatile, and it is normal practice to forward-sell part of the crop in the September-October period in order to spread the marketing risk and to establish some forward sales as a basis for consideration of the guarantee of the first advance given by the State Government.

The board did not feel able to make arrangements for the sale of the 1975-76 crop unless it was assured that the Act would be continued in the event of a single grain marketing authority not being established.

To the extent that the bulk of the barley could be expected to be delivered after the 9th December, the stand taken by the board can be appreciated since, otherwise, contracts could well be signed for a quantity of barley which would not be available. I commend the Bill to the House.

THE HON. R. T. LEESON (South-East) [8.37 p.m.]: The Opposition supports this Bill. The only query I have is in relation to the intention to set up a single grain marketing authority for a period of five years; possibly a lesser period would have sufficed. As this Act is due to expire, the Opposition supports the Bill.

THE HON J. HEITMAN (Upper West) [8.38 p.m.]: We have heard quite a lot of talk from time to time about the Barley Marketing Board, and I should like to make a few comments relating to the commencement of the board in 1946. When the last war broke out, grains of all description were fairly hard to sell. As a matter of fact, in 1939 wheat was worth about 1s a bushell, and barley was not worth much more. At that time, very little barley was grown in Western Australia.

The Commonwealth Government which was able to take over the selling of all grains at that time, and guaranteed the price for the duration of the war and 12 months afterwards appointed the Grain Pool of WA to do the selling and shipping. This was the obvious course, as there was not much need for any marketing organisation other than the Federal Government, which had acquired the crop. Of course, while the war continued, all shipping had to be escorted overseas to the various markets, and this was something which could be done only by the Federal Government. All loading and shipping in Western Australia was done through the Grain Pool of WA. Although barley was not grown extensively at that time, the same conditions of sale applied to barley.

At that time, the maltsters used to fly out to the farms—the roads were not very good in those days—and encourage farmers to grow certain types of barley suitable for turning into malt; thus, the farmers were able to sell not only to the brewers in this State but also to the overseas markets. At that time, the two-row barley was not a very easy crop to harvest and grow; however, it was grown on heavy ground, and the maltsters used to say that it was not good enough for malting because it was too steely, or too hard. They preferred something grown on lighter soils, which did not return the growers as much at that time as the barley grown in heavy country.

Of course, most of us know that the breweries and the maltsters were going through fairly hard times. The maltsters used to fly out to the various farms and offer the farmers a special price for anything grown in the lighter soil which, although it did not produce as much barley to the acre as that grown in heavier soil, was more desirable for malting purposes.

The Hon. S. J. Dellar: I'll bet Hannans Brewery bought most of it.

The Hon. J. HEITMAN: I am sure Hannans Brewery purchased plenty of it, but I am equally sure the Swan Brewery was a very good customer.

The Hon. D. W. Cooley: When did they ever have a hard time?

The Hon. J. HEITMAN: I am not concerned about who purchased the barley. The point is that during this period, new types of barley came on to the market. The six-row barley was developed towards the end of 1946, and was recognised as a prolific grower which was easy to harvest and could be used for making malt and for the feeding of stock. So, of course, more people grew barley, which led to the Barley Marketing Board being established in 1946.

When this measure came before the Parliament in 1946 the general theme of the remarks of members of both Houses was to license the growers so that not too

much barley would be sold, thus cruelling the price. So, although initially we had a battle to get enough barley grown, in 1946 we had to license the growers and give them a quota, not on an acreage but on a bushel basis so that not too much barley would be grown.

When the Barley Marketing Board came into operation, the Grain Pool of WA continued to be used as selling agents. It was found that they could sell a lot more barley overseas than was first thought, and they gradually eased up on the quotas. When barley was easier to sell, all one had to do to grow it was to write in and ask for a permit.

So we saw after the war years the origin of the Barley Marketing Board and, due to the efforts of the various departments, better breeds of barley were developed and as a result barley seed became much more popular for both feeding and malting purposes.

Throughout this period, and even today, the Grain Pool of WA would ascertain from estimates supplied by the various growers' councils throughout the State how much barley would be grown in any one season. Thus, by the time harvest came around, the Grain Pool knew exactly how much barley would be produced and made available for sale, and would notify the Barley Marketing Board to that effect.

The Barley Marketing Board would then go into a huddle and inform the Grain Pool how much it could sell. Even when production of barley reached 34 million bushels, and the Grain Pool was able to sell the entire crop at one time in the various sales, the Barley Marketing Board always had the right to say, "No, you can sell 15 million bushels now, 10 million bushels at a later stage and the remainder you shall hold in reserve in case the farming community wants the barley to feed to stock or for some other purpose."

Although the Barley Marketing Board over the past few years has had this right, the Grain Pool of WA, under contract as its selling agent, has supplied all the information relating to how much barley has been grown, and the type of crops from the various districts and also has estimated the amount that could be sold.

In my opinion, the Barley Marketing Board has been a rubber stamp for the Grain Pool of WA. I think it is fortunate that most of the growers accept the need for a single grain marketing authority embodying everything the Grain Pool is doing under the one head, so that they will be able to sell barley or any other grain to advantage, and where they have complete control of the entire commodity. I hope my few words on the history of the Barley Marketing Board and the growing of barley in Western Australia have been of some help to members in this Chamber. I support the Bill.

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [8.45 p.m.]: I thank the Hon. R. T. Leeson and the Hon. J. Heitman for their support of the Bill. It was depressing to hear the comments made by Mr Heitman who knows from many years of practical experience what the activities of the Barley Board and organised marketing are all about.

On the question asked by Mr Leeson I would point out that the reason for extending the legislation for five years is that it is just as easy to extend it for five years as it is to extend it for one, two, or three years; and while we understand legislation is coming forward for a single grain market authority we have no assurance that the measure will be acceptable.

It has taken some years to reach this stage with the legislation. I understand it was first considered some years ago and in fact there were many complexities involved. The people concerned have been working on it since 1972, and obviously there are many thorny problems associated with the single grain legislation. This is the reason—there is no assurance that the legislation will be finally acceptable to the Parliament, and it is therefore necessary to protect the organised marketing system we have for barley. That is the only reason for the extension of five years, but we hope it will not be necessary for it to last that long.

With those comments I again commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

FAUNA CONSERVATION ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—*Minister for Education*) [8.49 p.m.]: I move—

That the Bill be now read a second time.

The principal purposes of this Bill are, firstly, to pave the way for the later amalgamation of flora protection and conservation responsibilities with those of fauna protection and conservation and, secondly, to update further the provisions of the existing fauna legislation.

In accordance with this Government's concern for the conservation and protection of the natural environment, it has acted as outlined in election policy statements to co-ordinate activities in those fields under the single ministry of conservation and the environment. A part of the rationalisation involved is the incorporation of responsibility for flora conservation with those for fisheries and fauna. The title of the ministerial portfolio has

been changed to Minister for Fisheries and Wildlife, and the department's name has been similarly changed.

An in-depth investigation of community criticisms of the existing flora legislation has been undertaken and departmental reports prepared. Concomitant action is now being taken to draft proposed amendments to overhaul or re-write the existing Act to meet those criticisms. The Minister expects to have those amendments ready for consideration during the next session of Parliament.

At this stage it is desirable to proceed on the assumption that the flora legislation will be drafted as a second part of the Act we are now considering, which we suggest should be retitled as the wildlife conservation Act.

On that assumption, and to avoid future conflict with the terminology to be used in the flora legislation, and to meet the new situation generally, the names and titles of the department and of the officers concerned are being changed appropriately. Quite a number of consequential amendments are involved. It also has been agreed that we adopt in Australia the international term "nature reserve" to describe Crown land set aside as reserves for flora and fauna. These have previously been known as "sanctuaries" in Western Australia, but that term elsewhere in Australia generally means private land on which the wild life is protected by the owner. We propose to use that term now for such private land here to distinguish it from Crown reserves.

Additional authority is also being sought to allow the Minister to cancel licenses when he considers it necessary for conservational purposes. This has been shown to be highly desirable, if not essential, in those cases where the whereabouts of a licensee becomes unknown and cannot be contacted. This has happened in the red kangaroo industry, for example, where it has become necessary to license another shooter because one licensee ceased to operate and was no longer at the address previously given.

The existing authority which enables a warden to enter upon and search land not being a dwelling house nor an enclosed garden or curtilage of a dwelling house is to be extended to enable search of such garden or curtilage of a dwelling house.

Authority to enter is already accorded a wide group of enforcement officers under various State and Commonwealth Acts or regulations, such as given inspectors under the Fisheries Act. Officers are instructed to seek authority first and would be severely dealt with if they overstepped that authority.

Other amendments of importance to the proper administration of the Act, but of little direct effect on the public include—

(1) facilitation of proof of identity of an accused person in court;

(2) strengthening of tagging system to prohibit the unlawful removal of tags from carcases;

(3) defining a part of a skin or carcase of a kangaroo as "fauna"; and

(4) the rationalisation of procedures relating to the holding and better protection of the value and disposal of seized items pending court hearings.

The amending legislation is designed to bring this conservational legislation up-to-date, and to meet existing needs.

I commend the Bill to the House.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [8.52 p.m.]: This Bill is acceptable to the Opposition with the exception of one clause with which I will deal shortly. As the Minister has indicated the Bill is the forerunner of legislation which will provide for the amalgamation of flora and fauna protective legislation. A great deal of the verbiage contained in the Bill relates to the change of the names and titles of the department and its officers; and the legislation also alters the present term of "sanctuaries", as we know it, to the internationally accepted term "nature reserve".

Clause 15 of the Bill seeks to amend section 13 of the principal Act by adding a new subsection to read—

> (2) A person shall not directly or indirectly purport to describe any area of land as a wildlife sanctuary unless he is permitted to do so pursuant to an agreement entered into under this section.

A penalty of $200 is provided for a breach of the provision.

I wonder why it is necessary to include such a provision in the Act? I cannot see what could be so wrong with a person having a wildlife sanctuary on his own land; and I wonder why it is necessary for him to enter into an agreement with the Minister under threat of a penalty of $200 if he does not do so. I am sure there is plenty of existing legislation which will provide for the issue of permits and licenses to control the keeping of wildlife by private individuals to ensure the protection of such wildlife. I would like to know why it is necessary to insert the new provision to which I have referred.

As I was reading through the Bill I also noticed a reference in clause 4 (g) to the term "open season". I could not help but wish that there was no such thing as an open season. I would like to see no open season at all on wild birds and animals. I think blood sports are cruel, and I cannot understand people who kill things for the pleasure of killing them for sport.

During the so-called open season a number of birds and wild animals are not killed outright; they are left suffering

and, as I have said, I would like to see no open season at all on wildlife.

Perhaps one day when we become a little more civilised we may include the necessary provisions in future legislation.

There is one clause in the Bill to which the Opposition is completely opposed and which we intend to vote against. This is to be found on page 15 in subparagraph (vii) of paragraph (b) of clause 23. If this subparagraph is passed by the Chamber it will mean that any wildlife officer who suspects that an offence has been committed or is likely to be committed against the Act will have the right to enter any private property. He will be able to enter any person's back garden, courtyard, or patio without a warrant and search the area and seize the property. We see this as an invasion of the citizen's privacy.

The Hon. J. Heitman: That is provided in quite a number of Statutes.

The Hon. LYLA ELLIOTT: I am not so sure that it is.

The Hon. J. Heitman: It happens to be provided in the Marketing of Barley Act.

The Hon. LYLA ELLIOTT: If it is it does not mean that it is right, and we should see just where we are going with this type of provision. Perhaps there may be occasions when it could be necessary because of some serious crime having been committed.

The Hon. J. Heitman: It is provided for in the fruit-fly baiting scheme.

The Hon. R. F. Claughton: We are not talking about the fruit-fly baiting scheme.

The Hon. J. Heitman: This Bill is not unusual. The provision is in many other Acts.

The Hon. G. C. MacKinnon: Let us say it is not unique.

The Hon. LYLA ELLIOTT: Perhaps it is not, but it is an added reason for us to stop and see where we are going, because the rights of citizens are gradually being whittled away. Every time legislation is introduced further restrictions are imposed which threaten the civil liberties of people.

In this particular piece of legislation the right is being given to the wildlife officer to enter a person's private property—not to enter his house, but to enter his back garden, courtyard or curtilage as the legislation states—and search for and seize property, not because the person concerned has committed any great crime against the State, or because there is any threat to the State, but merely so that he can implement the provisions of this legislation. While I cannot have any sympathy for persons who may commit offences against the Act, I still feel we should consider seriously as to how far we should go in infringing the civil liberties of the individual.

Earlier tonight another Minister introduced a Bill concerning radiation safety which also contains a clause to provide for entry to premises. However, the inspector in that case has to first obtain a warrant. Surely, if a warrant is necessary on a question of radiation which could be a threat to life, it is all the more necessary when the offences committed under this Bill are involved.

As I said, it is time we considered where we are heading and examine just how far we are prepared to go in reducing civil liberties. There are people who subscribe to the police State philosophy who say that the civil rights of the citizen should be sacrificed in the interests of the State and no doubt they could adduce arguments to try to substantiate that contention. However, most of us in this country are very jealous of our civil liberties and are not prepared to support their continued whittling away.

One of our most precious rights is the right to privacy in our own homes and it should not be eroded any further.

I hope the Government will demonstrate that it shares the Opposition's concern on this matter by agreeing to delete the provision. The Premier in the famous Liberal policy statement—

The Hon. J. Heitman: What page?

The Hon. S. J. Dellar: Still not numbered.

The Hon. LYLA ELLIOTT: —had a full page on the guarding of civil liberties. Yet in this legislation is a further example of the rights of the individual being threatened. Therefore, as I have said, I hope the Government will prove it shares the concern of the Opposition and agree to the deletion of the provision when we are in Committee.

Debate adjourned, on motion by the Hon. V. J. Ferry.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON G. C. MacKINNON (South-West—Minister for Education) [9.03 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 2nd September.

Question put and passed.

House adjourned at 9.04 p.m.

Legislative Assembly

Wednesday, the 27th August, 1975

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