

to make complaints to a magistrate, or to make complaints through their local authority to have noises stopped or abated. Of course, the Act sometimes clashes with local by-laws; and I believe there are some 400 local authorities in England and about 20 local Acts containing provisions similar to those in the Noise Abatement Act.

The ACTING SPEAKER (Mr. Crommelin): The honourable member has another four minutes.

Mr. DAVIES: Thank you, Mr. Acting Speaker. That will be the end of my noise! The point I want to make is that although this report recognises it is a difficult problem, and that there is a clash of State law with local government by-laws, nevertheless, an attempt has been made, and apparently quite successfully, to introduce some sort of legislation to try to control noise.

I do not propose that the Government should set up a committee to investigate the matter. Goodness gracious me, we have enough committees in operation at present! But I think officers who are already working in the Public Health Department and in the Police Department could examine this report and from it see what could be done to bring into being in this State some simple legislation to overcome the problem. As the community grows we will have more troubles with noise, and now is the time to attack the problem; to see whether we can grow up by limiting noise as much as possible and where there are genuine grounds for a complaint, to provide an avenue for people to do something about it.

At present, as members will no doubt be aware, there is nothing that can be done, as was evidenced by the position in Victoria Park where a nuisance was created by the playing of band music. The police could not do anything; the council could not do anything; and the Government could not do anything. It is a problem that should be tackled now; but, as I said, I do not want to see a committee appointed to inquire into the position. All that need be done is for the officers I have mentioned to read the report and they will find all aspects of the problem are dealt with, and those officers can then apply the remedy to this State. It is only a matter of the department taking an interest in the problem, and it is a great problem.

The problem was in Victoria Park last summer, and it could be in any other electorate next summer. Some law should be introduced to control it; and as it seems the local authorities are not going to take action, we will have to ask the Government to do something about it.

Debate adjourned, on motion by Mr. I. W. Manning.

House adjourned at 5.35 p.m.

Legislative Council

Tuesday, the 17th August, 1965

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The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (13): ON NOTICE MANSLAUGHTER CONVICTIONS IN FIVE-YEAR PERIOD

Total, Number of Drunken Drivers, and Penalties

1. The Hon. R. THOMPSON asked the Minister for Justice:

- (1) How many persons have been convicted of manslaughter during the past five years?
- (2) What number of these were drunken drivers?
- (3) What was the minimum, maximum and average penalties over this period?

The Hon. A. F. GRIFFITH replied:

At the outset, I would point out that the answer to this question is divided into two sections; namely, those persons charged under traffic, and those persons charged under the heading of "general", as distinct from traffic, as follows:—

- (1) (a) Traffic: Five in which motor vehicles were involved.

In addition, 35 persons have been convicted of reckless driving causing death which has the same elements as the crime of manslaughter.

- (b) General: Twenty-three persons have been convicted of manslaughter after being indicted for wilful murder, murder or manslaughter.

- (2) It is impossible to state that the convicted persons were drunken drivers. In 17 of the 40 cases, evidence was given to indicate that the driver was under the influence of liquor to an extent that his recklessness may have been in part attributed to excessive drinking.

- (3) (a) Traffic: The minimum sentence imposed was a bond of £50 to come up for sentence within two years if called upon. The maximum sentence was two years' imprisonment with hard labour.

An average penalty cannot be accurately stated as the sentences ranged from a release on bond, fines, and imprisonment, and in every case, except one, the convicted person's motor driver's license was suspended for periods varying from six months to life.

- (b) General: The minimum penalty was a fine of £100. The maximum was 15 years' imprisonment with hard labour.

An average penalty cannot be accurately stated as the sentences included fines, prison sentences, and indeterminate prison sentences.

PASTORAL LEASES AT CARSON RIVER

Utilisation for Settlement of Mission-reared Aborigines

2. The Hon. H. C. STRICKLAND asked the Minister for Local Government:

What decision has been made regarding my suggestion of 1963 that the Carson River pastoral leases in North Kimberley be utilised for the settlement of mission-reared aborigines of the district?

The Hon. L. A. LOGAN replied:

Negotiations are proceeding between the Carson River pastoral lessee and the Kalumburu Mission to acquire this pastoral lease.

CHILD WELFARE

Delinquent Children: Expenditure on Institutions

3. The Hon. C. E. GRIFFITHS asked the Minister for Child Welfare:

During the past 10 years, how much money has been expended on remand institutions, detention homes, and the like, required for delinquent children?

The Hon. L. A. LOGAN replied:

	£
Capital Expenditure	722,500
Salaries	815,601
Incidentals	499,279
Total	1,987,380

FIREWORKS

Storage, Sale, and Display: Applications for Permits

4. The Hon. R. H. C. STUBBS asked the Minister for Mines:

How many applications during 1964 have been received, and how many have been approved by the Mines Department under regulations made pursuant to the Explosives and Dangerous Goods Act, 1961, for—

- (a) License to store and sell fireworks made under form 14?
- (b) Permit for display of fireworks made under form 15, in—
 - (i) metropolitan area;
 - (ii) country areas?

The Hon. A. F. GRIFFITH replied:

- (a) Applications—299.
Approvals—299.
- (b) Permits for display—applied for and approved—
 - (i) Two metropolitan.
 - (ii) One country.

YOUTH COUNCIL PROPOSALS

Decision by Government, and Allocation of Funds

5. The Hon. C. E. GRIFFITHS asked the Minister for Child Welfare:
 - (1) Has a decision been reached on the proposals submitted by the Youth Council as referred to in His Excellency's Speech?
 - (2) If so, how much money has been, or will be, provided to the Youth Council for the first stage of its proposals?

The Hon. L. A. LOGAN replied:

- (1) and (2) Both these matters are now receiving very close attention and it is hoped that a decision can be made within 14 days.

TIMBER: ROAD HAULAGE

Distances and Vehicles Used

6. The Hon. A. R. JONES asked the Minister for Local Government:
 - (1) What is the greatest distance from which timber is hauled by road into the metropolitan area—
 - (a) in the log for milling;
 - (b) from the country mill to yards?
 - (2) Is haulage done by contractors, or by the milling companies in their own vehicles?

The Hon. L. A. LOGAN replied:

- (1) (a) Transport licenses are issued to haul log timber to the metropolitan area from north of a line running east and west through Brunswick Junction, which is 100 miles from Perth.
- (b) Transport licenses are issued for hauling short length sawn timber to Perth yards from mills wholly engaged in the production of sleepers.
- (2) Hauling is done by both contractors and sawmilling companies.

CONDITIONAL PURCHASE LAND: COMPLIANCE WITH CONDITIONS

Allottees on National Service Training: Extension of Time

7. The Hon. E. C. HOUSE asked the Minister for Mines:
 - (1) What is the attitude of the Minister for Lands towards conditional purchase allottees who

have been called up for national service training, and are thus unable to carry out the improvements required by the Land Act?

- (2) If the Minister has not examined any of these cases, will he give consideration to extending the period of time provided in the Act so that allottees may comply with the provisions after their national service training is completed?

The Hon. A. F. GRIFFITH replied:

- (1) Any lessee of conditional purchase land called up for national service training may apply for waiver of improvement conditions.
- (2) Sympathetic consideration will be given to applicants who apply for an extension of time under these circumstances.

Forfeitures and Extension of Time

8. The Hon. N. E. BAXTER asked the Minister for Mines:

- (1) How many leases or licenses or other holdings of land allotted under conditional purchase conditions, over the 10 years to the 30th June, 1963—

- (a) Have been forfeited for—

- (i) default in payment of rent;
- (ii) breach or non-observance or non-performance of conditions thereof?

- (b) Have been granted extension of time to carry out conditions thereof?

- (2) What is the percentage of leases, licenses, or other holdings of land allotted under conditional purchase conditions over the same period that have been granted extensions to carry out the conditions thereof?

- (3) In how many cases of lease, license, or other holding of land allotted under conditional purchase conditions over the 10 years to the 30th June, 1963, has the residential condition been waived?

The Hon. A. F. GRIFFITH replied:

- (1) The information sought by the honourable member is not recorded in the manner stated in the questions.
- (2) However, the total number of leases and licenses forfeited for non-compliance with conditions for a period of 10 years to the 30th June, 1963, was 2,568.
- (3) The total number of all cancellations including town lots and other leases was 5,016.

WORKERS' COMPENSATION ACT*Increased Benefits: Introduction of Amending Legislation*

9. The Hon. J. J. GARRIGAN asked the Minister for Mines:

Will the Government give early consideration to introducing amendments to the Workers' Compensation Act to provide for generally increased benefits for injured workers, and particularly to provide for liberalised or unlimited benefits for workers who are hospitalised?

The Hon. A. F. GRIFFITH replied:

Amendments to the Workers' Compensation Act were passed during the 1964 session of Parliament following the Government's consideration of a number of matters which included those raised by the honourable member. The Government is currently considering further amendments to this Act.

ELECTRICITY SUPPLIES FOR COUNTRY AREAS*Provision of 132,000 Volt Power Lines and Substations*

10. The Hon. J. M. THOMSON asked the Minister for Mines:

- (1) In view of the increasing demand for electricity extension within our rural areas, and the subsequent need to further augment supply, could the Minister advise if consideration, by the State Electricity Commission, has been given to—

- (a) provision of 132,000 volt power lines to specified and centralised localities; and
(b) erection of substations at such localities?

- (2) If the answer to (1) is "Yes"—

- (a) Is it envisaged that such a power line will serve the lower great southern regions?
(b) Is a new substation contemplated within this region?

- (3) If the answer to (2) is "Yes", when is it considered that these items will become an established fact?

The Hon. A. F. GRIFFITH replied:

- (1) (a) Yes.
(b) Yes.

- (2) (a) Yes.
(b) Yes.

- (3) This depends on growth of demand for electricity and on the availability of finance and labour.

11. *This question was postponed.*

ROADMAKING MATERIALS: REMOVAL*Conditions, and Compensation to Landholders*

12. The Hon. F. D. WILLMOTT asked the Minister for Local Government:

- (1) What are the conditions applying to the taking of gravel or other roadmaking material from State forests or forest reserves, Crown lands, or privately owned land, by—

- (a) Local authorities;
(b) Main Roads Department;
(c) Private individuals or companies?

- (2) (a) What compensation (if any) is payable to private landholders?

- (b) How and by whom is this assessed?

The Hon. L. A. LOGAN replied:

- (1) (a) In relation to State forests or forest reserves, the conditions are embodied in a gravel lease, copy of which is attached.

In respect of Crown land, gravel reserves are vested in local authorities.

In respect of privately owned land, subject to the provisions of section 281 of the Local Government Act.

- (b) In respect of State forests or forest reserves, by mutual agreement between the two departments, gravel and roadmaking material may be taken, subject to the Forests Act and regulations.

In respect of Crown land in rural areas, the Main Roads Department has authority to acquire roadmaking material.

In respect of privately owned land, the Main Roads Department has authority to take roadmaking material without compensation.

Notice to enter land is served on the owner and the owner is recompensed for loss of improvements.

- (c) In respect of State forests or forest reserves, the conditions are embodied in the license, copy of which is attached. In respect of privately owned land, by mutual agreement.

- (2) (a) In respect of main roads answered by (1) (b) above; in respect of local authorities, as provided by section 281 of the Local Government Act.

(b) By agreement or reference to arbitration.

I request that the license and the agreement forms relating to this question be recorded in *Hansard*.
The license and the agreement forms were as follows:—

Form F.D. 290B.

THE FORESTS ACT, 1918-1954.

LICENSE TO OBTAIN

No.

1. This License authorises
..... of

..... (hereinafter referred to as "The Licensee") to obtain and remove on and from the area described in the first schedule hereto under and subject to the conditions hereinafter expressed.

2. No extension to the area covered by the existing pits will be permitted unless authorised and clearly marked on the ground by the Forest Officer in Charge.

3. Subject to the payment of the royalty hereby reserved and the observance and performance by the Licensee of the conditions hereinafter expressed, and of the provisions of "The Forests Act, 1918-1954" and the amendments thereof respectively and the regulations thereunder and in force for the time being, so far as such provisions and regulations are applicable hereto, this License shall continue in force from the day of 19..... until the day of 19..... unless suspended or forfeited and cancelled in the meantime.

4. The Licensee shall pay to the Conservator of Forests (hereinafter called "the Conservator"), or officer authorised by him, the royalty of for each and every cubic yard of obtained under this license, and such royalty shall be payable forthwith as accounts are rendered from time to time by or on behalf of the Conservator to the Licensee.

5. The Licensee shall at the end of each calendar month complete returns setting out the quantity of obtained during the said month and such returns verified by the statutory declaration shall be forwarded to the Forester in Charge at within three days of the close of each month.

6. The Licensee will be issued with a "Carter's Record Book" and he will be responsible for such book being handed to every approved carter before he commences operations. The carter shall enter therein the required particulars regarding each load of removed and such particulars shall be recorded at the place of loading on the area covered by this License.

7. The Licensee when working on any Catchment Area shall observe and comply with the by-laws of the Water Supply,

Sewerage and Drainage Department and shall take all action necessary in order to prevent the pollution of the Catchment area, and shall observe such requirements as may be prescribed from time to time by the Water Supply Department or any authorised officer of that Department.

8. The Forest Officer in Charge may give directions from time to time regarding the roads or tracks on or by which the Forest Produce obtained under this License may be removed or taken through any part of State Forest and such directions shall be observed by the Licensee. Any damage to Departmental roads or tracks resulting from the removal of Forest Produce by the Licensee shall be repaired by him at his own expense to the extent of maintaining such roads or fire tracks in reasonable trafficable conditions to the satisfaction of the Forest Officer in Charge.

9. This License shall not be transferred.

10. The Licensee shall observe and comply with the provisions of the "Bush Fires Act, 1954," and the amendments thereof and the regulations thereunder and in force for the time being. Any breach of the said Act and/or regulations shall be a breach of the conditions of this License.

11. The Licensee or his employees shall not light or use any fire in the open air for the purpose of cooking or camping within ten feet of any log or stump or unless a space of ground around the said fire having a radius of at least ten feet has been previously cleared of all stubble, scrub and other inflammable material and having lighted or used any such fire shall completely extinguish the same before leaving the place where such fire has been lighted or used.

12. The Licensee and all persons employed by him on the said area shall at all times during the term of this License, co-operate with officers of the Forests Department in preventing and suppressing bush fires, and shall, when called upon by any such officer, act under his instructions in fire fighting or preventing outbreaks of fire. All persons who in response to such demand shall render the assistance required, shall be remunerated by the Conservator at the prescribed rate.

13. The Licensee shall not damage or otherwise interfere with any green or growing trees within or adjacent to the said area unless with the authority of the Forest Officer in Charge and shall exercise strict supervision and control over the operations of all workers employed by him.

14. All operations carried out under this License shall be to the satisfaction of the Forest Officer in Charge.

15. As security for the due observance and performance by the Licensee of his obligations under this License, the sum of has been deposited by the Licensee with the Conservator.

16. In default of payment by the Licensee of the royalty hereby reserved or of the due observance and performance by him of the conditions of this License and the observance by him of the provisions of the said Acts and Regulations, or any of them, to which this License is subject, the Conservator may suspend this License for such time as he may think fit, or, by notice in writing to the Licensee, cancel and determine this License and thereupon the deposit may be forfeited, together with all Forest Produce obtained on the said area, but without prejudice to the rights of the Conservator to recover royalty in arrear, and in respect of any other claims against the Licensee.

17. If any question shall arise as to the observance and performance by the Licensee of the conditions of this License, or in case of any dispute in relation to the obtaining or removal of or as to the quantity of obtained or removed, the same shall be decided by the Conservator, whose decision shall be final.

18. Any notice in writing to the Licensee may be served on him by addressing such notice to him, and sending it by post to, or leaving it at his address as stated in this License.

The First Schedule

Description of Area:

.....
as more particularly delineated in the plan attached hereto.

The Second Schedule

Name of Truck Driver to be employed:—

..... Truck No.
..... Truck No.
..... Truck No.

Dated at this day of, 19.....

A. C. HARRIS,
Conservator of Forests.
Per.....

(Form F.D. 503)

Western Australia
FORESTS ACT, 1918-1954
Gravel Lease

No.

THIS INDENTURE made the day of One thousand nine hundred and BETWEEN the CONSERVATOR OF FORESTS in the State of Western Australia (hereinafter called "the Conservator") of the one part and the of in the said State (hereinafter called "the Lessee") of the other part:

NOW THIS INDENTURE WITNESSETH that the Conservator with the approval of the Minister of the Crown charged with the administration of the

Forests Act, 1918-1954, and acting under the powers thereby conferred DOTH HEREBY GRANT unto the Lessee a lease of THAT piece of land situate within the State Forest number containing an area of acres or thereabouts as marked and delineated and outlined green in the Plan annexed hereto TO HOLD the same unto the Lessee for the purpose of gravel quarrying for the term commencing on the day of One thousand nine hundred and subject to the payment annually in advance of a rental of ten pounds (£10) and thereafter continuing from year to year for a period not exceeding in all FIVE (5) years from the date of commencement hereof and with the right of the Lessee to apply for an extension of the term of this lease subject to agreement by the Conservator, determinable nevertheless as herein provided AND UPON AND SUBJECT to the covenants and conditions hereinafter contained and to the provisions of and the powers and authorities under the Forests Act, 1918-1954, and the Regulations thereunder.

The Lessee DOTH HEREBY COVENANT with the Conservator as follows:

1. That he will regularly and punctually pay the said rent at the times and in the manner herein appointed.

2. That this lease does not confer on the Lessee any right to the timber on the demised area and, except as hereinafter provided, the Lessee will not fell, cut or in any way injure or destroy any forest produce growing on the said area provided that with the written authority of the Forest Officer in Charge the Lessee may fell, cut and utilise such timber on the demised area as he may require for the erection of fencing or other authorised improvements thereon. The Forest Officer in Charge will use his best endeavours to cut and remove any forest produce which he wishes to sell and dispose of at times suitable to both parties so as not to inconvenience the Lessee in the operation of the lease.

3. All gravel from the lease area must be utilised by the Shire Council within the boundaries of its own district unless the written consent of the Conservator is first obtained. No gravel shall be made available from this lease by the Lessee to any other authority, person or company without the Conservator's approval and upon such terms and conditions as the Conservator shall decide.

4. That right shall be hereby reserved to the Conservator his agents or workmen to enter upon and carry out such duties and exercise such powers upon the demised premises as it may be necessary or expedient to carry out or exercise in the administration or for the purposes of the Forests Act, 1918-1954, or any other enactment or any regulation made thereunder and the

Lessee shall not be entitled to any compensation by reason of any inconvenience or disturbance or loss occasioned by any action on the part of the Conservator.

5. That he will duly and faithfully observe, perform and comply with the provisions of the Bush Fires Act, 1954, and any amendments thereof and the Regulations thereunder and any proclamations and orders made under the provisions thereof so far as the same apply to the said demised area. Any breach of the said Act and/or Regulations shall be regarded as a breach of the conditions of this lease.

6. That except as hereinafter provided he will not light or cause to be lighted or permit any person other than the Conservator his agents or workmen to light any fire on the demised land: Provided that the Lessee may be granted permission by the Forest Officer in Charge to carry out controlled burning operations on the demised land or on any specified sections thereof during stated periods exclusive of the "prohibited times" declared under the Bush Fires Act, 1954, for the Road District in which the demised area is situated and subject to such conditions as may be considered necessary by the Forest Officer in Charge for the proper control of such fire or fires. Any permission granted as aforesaid may be suspended or cancelled at any time by the Forest Officer in Charge should such action be deemed necessary for the protection of the Forest or adjoining property or for any other reason whatsoever. Failure by the Lessee to comply with the conditions relating to any permission granted as aforesaid or to observe any notice of suspension or cancellation of any such permission shall be regarded as a breach of the conditions of this lease.

7. That the compliance by him of the conditions stipulated in connection with any permission granted to carry out controlled burning operations as aforesaid shall not relieve or be deemed to relieve the Lessee from liability for any actionable damage sustained by the Conservator or any other person in consequence of such burning operations.

8. That in the event of any fire other than a "controlled fire" lighted by the Conservator his agents or workmen or by the Lessee under any permission granted in accordance with the provisions of this lease originating on the demised area the Lessee shall forthwith upon becoming aware of such fire take all possible measures at his own expense to extinguish such fire and if he fails to take measures as aforesaid he shall be liable to the Conservator for the payment of any expenses incurred by the Conservator in taking measures to extinguish such fire.

9. That he will observe and comply with directions that may be given from time to time by the Forest Officer in

Charge regarding the roads or tracks on or by which the gravel obtained from the area herein granted may be removed or taken through any part of State Forest. Any damage to Departmental roads or tracks resulting from the removal of gravel by the Lessee shall be repaired by him at his own expense to the extent of maintaining such roads or tracks in reasonable trafficable condition to the satisfaction of the Forest Officer in Charge. Any new roads made by the Lessee shall be constructed and maintained to a standard sufficient for the purpose of removing gravel and in no greater number than is required by the Lessee.

10. The Lessee shall, prior to operating on any portion of the lease area remove all woody material and vegetation on that part of the lease and burn up at the first suitable opportunity to the satisfaction of the Forest Officer in Charge. The leaving of islands of gravel with trees standing thereon will not be permitted.

11. That he will not during the continuance of this lease assign, transfer, demise or part with the possession of the demised premises or any part thereof or by any act or deed procure or enable the demised premises or any part thereof to be assigned transferred demise sublet or put into the possession of any person without the previous written consent of the Conservator and this covenant shall not be subject to such implied proviso as is mentioned in section 4 of the "Landlord and Tenant Act, 1912."

12. That he will forthwith pay the survey or demarcation fee required to be paid for the survey or demarcation of the land comprised within this lease and also the stamp duty and all other fees chargeable in connection with the said lease.

13. That upon the expiration or sooner determination of the lease hereby granted, he will peaceably and quietly yield and deliver up possession of the said demised lands to the Conservator or his authorised officer.

14. Overburden and other unacceptable material must be returned to worked out sections, graded off and the whole left in a tidy condition to the satisfaction of the Forest Officer in Charge.

15. The permission of the Conservator must be obtained before any proposals for the screening of gravel for the top dressing of bitumen are carried out.

The Conservator may decline to allow gravel to be screened, but if permission is granted he may require the Lessee to return to the gravel pit all soil so screened out.

16. The area must be worked in a systematic manner to the satisfaction of the Forest Officer in Charge.

17. That he will not use the said demised land for any purpose other than gravel quarrying without the consent in writing of the Conservator first had and obtained.

18. At any time on the completion of gravel quarrying operations and before the lease is determined, the Conservator may require the lease holder to either securely fence off the area or cause the sides to be sloped off to the satisfaction of the Conservator or his representative.

19. The Conservator may require the floor of the gravel pit to be ripped up and left to his satisfaction before it is abandoned.

IT IS EXPRESSLY AGREED AND DECLARED by and between the said parties hereto as follows:—

20. This lease may be determined in whole or in part at any time by either party hereto upon the service of three months' notice in writing on the other party.

21. In case the rent or any part thereof is in arrear for three months (although no formal demand therefor has been made) or in case default is made in the fulfilment of any covenant condition or stipulation whether expressed or implied in this lease and on the part of the Lessee to be performed or observed and (if the default is of a continuing character) such default is continued for the space of three months or in case any notice given by the Conservator under this lease is not complied with within the time therein specified or if the Lessee shall become bankrupt or take the benefit by assignment composition or otherwise of such relief as is afforded by law to bankrupt or insolvent debtors or if any fire other than a "controlled fire" lighted by the Conservator his agents or workmen or by the Lessee under any permission granted in accordance with the provisions hereof, originates on the demised area then and in any of such cases the Conservator may re-enter upon the demised premises or any part thereof in the name of the Crown and thereupon this demise shall absolutely determine but without releasing the Lessee from liability in respect of non-payment of rent or of the breach or non-observance of any covenant condition or stipulation herein expressed or implied.

22. Any notice in writing to the Lessee may be served upon him by addressing such notice to him and sending it by post to or leaving it at his address as stated in these presents and the power vested in the Conservator under these presents may be exercised by any person or persons acting with or under his authority.

IN WITNESS WHEREOF
the parties hereto have
hereunto affixed their
seals the day and year
first hereinbefore written.

THE COMMON SEAL of
the CONSERVATOR OF
FORESTS was hereunto
affixed in the presence of—

.....
Conservator of Forests.

THE COMMON SEAL of
the
was hereunto affixed in
the presence of—

ROADMAKING MATERIALS: REMOVAL

Power to Control

13. The Hon. F. D. WILLMOTT asked the Minister for Local Government:

- (1) What powers has the Conservator of Forests to control the removal of roadmaking material of any kind from State forests or forest reserves in respect of—
 - (a) Local authorities;
 - (b) Main Roads Department; or
 - (c) Private individuals or companies?
- (2) What powers have private landholders to control the removal of roadmaking materials of any kind from their land by—
 - (a) Local authorities;
 - (b) Main Roads Department; or
 - (c) Private individuals or companies?

The Hon. L. A. LOGAN replied:

- (1) (a) Stones and earth are classified as forest produce under section 4 of the Forests Act and their disposal is subject to the Forests Act and regulations.
- (b) As for (a) but subject to the provisions of the Main Roads Act.
- (c) As for (a).
- (2) (a) Under section 281 of the Local Government Act a council or person authorised under the seal of the council may enter upon land within the district and take from it earth, stone, sand, and gravel, etc., for the purpose of making or repairing a street, bridge, culvert, etc., within this district and within one mile of the land so entered upon.
- (b) The Main Roads Department has power to take road-making material without compensation from any alienated rural land.
- (c) Subject to individual agreement.

BILLS (4): INTRODUCTION AND FIRST READING

1. Dog Act Amendment Bill.

Bill introduced, on motion by The Hon. L. A. Logan (Minister for Local Government), and read a first time.

2. Metropolitan Region Town Planning Scheme Act Amendment Bill.

Bill introduced, on motion by The Hon. L. A. Logan (Minister for Town Planning), and read a first time.

3. Health Act Amendment Bill.

4. Tuberculosis (Commonwealth and State Arrangement) Bill.

Bills introduced, on motions by The Hon. G. C. MacKinnon (Minister for Health), and read a first time.

FIREWORKS: SALE AND USE

Legislation to Control: Motion

THE HON. R. H. C. STUBBS (South-East) [4.55 p.m.]: I move—

That as there is conclusive and ample evidence to prove that the unrestricted use of fireworks has caused serious damage to the eyes of children, and has been the cause of serious burnings to the body, and in addition has at times contributed a threat to property and crops, in the opinion of this House legislation should be introduced to control the sale and restrict the use of fireworks in Western Australia.

I am aware that the Explosives and Dangerous Goods Act deals with the sale, use, distribution, and so forth, of firecrackers, but I think the Act should be very much tightened up to make it more difficult for people to get hold of fireworks; and this would restrict their use and ensure that vandals, irresponsible adults, and inexperienced children would not be able to purchase them. Of course I am not saying that everyone who uses firecrackers is irresponsible, but I am saying that a lot of irresponsible people do get hold of them and use them before bonfire night.

I have my own idea on how this should be achieved—by banning them altogether—but I have no intention of suggesting that here. I have read the debates which took place in both Houses on the Explosives and Dangerous Goods Act Amendment Bill, but could not find any reference to firecrackers. Lengthy debates ensued on explosives, weedicides, oils, and volatile liquids, but nothing could I find about firecrackers. The indiscriminate use of firecrackers has caused injury to people, and therefore I think this House should give consideration to the matter.

The celebration of Guy Fawkes night is very much outdated and is another imported custom we could well do without. It is kept alive for commercial and other reasons, but it is as useless as the imported

double-gee and as destructive as the imported sparrow. If the celebration of Guy Fawkes night were controlled, or something like that, people would forget about it and it would eventually die out. After all, children have much more healthy interests to follow than this outmoded custom which came to us in the horse and buggy days.

As I have said, irresponsible people do get hold of fireworks. We have had the experience of vandals obtaining crackers before bonfire night and going from suburb to suburb in motorcars in the city and country and using the fireworks indiscriminately. They throw them at old people and pedestrians and put them in milk bottles and letterboxes, and that sort of thing. Therefore their purchase should be further controlled.

The Hon. A. F. Griffith: I remember that on one occasion someone put a cracker in Mrs. Hutchison's letterbox.

The Hon. R. F. Hutchison: Yes.

The Hon. A. F. Griffith: I remember her telling us about it.

The Hon. R. F. Hutchison: Now I know!

The Hon. A. F. Griffith: Fair enough!

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. R. H. C. STUBBS: That proves that irresponsible people do obtain them before Guy Fawkes night. I shall prove later that fireworks have been the cause of grass fires and so forth. My proposal in regard to the sale and distribution of fireworks is that they be controlled by allowing purchases to be made only on the 5th November; that all purchases be made by adults; and that all exhibitions be given by responsible people. The Act does provide for the last-mentioned condition now, but I suggest that responsible people like the Royal Agricultural Society, Apex, police and citizens' boys clubs, and so on, be allowed to conduct fireworks exhibitions for the purpose of raising money.

In saying that, I think they should take precautions inasmuch as they should have to take out a bond to ensure that all necessary safeguards will be carried out and that the police and fire brigades will be in attendance. The important thing is that the people conducting such exhibitions should take out an insurance policy to ensure adequate compensation in the event of accidents to persons or property. I know that is provided for now, but I think the provision should be tightened up.

I think the sale of fireworks under controlled conditions would eliminate them being used days and weeks before the 5th November by vandals and other irresponsible people. If fireworks were sold only to adults, young and inexperienced children would not get control of them; and, in addition, the adults would know the sort

of crackers the children had, and the onus would be on them to supervise the lighting of those crackers.

I have discussed this matter with eye specialists, and everyone is in favour of banning fireworks—not simply controlling the sale of them, but banning them. They say that the children's hospital, the country hospitals, and the doctors in the country would welcome the banning of fireworks. I am sure the farmers, graziers, pastoralists, and other people in the country would also support the control of fireworks, because we have known fires in the country that have occurred and there has been a suspicion that fireworks were the cause of them, although there has been no definite proof. I will later give figures of proven cases.

The eye specialists I contacted informed me that at the period approaching the 5th November the major cause of blindness arises from fireworks. The children's hospitals abhor the approach of the 5th November, and they make all preparations in order to cope with any accidents from fireworks. There is ample evidence, as I will show later, of eye injury and blindness to children by fireworks. There is evidence of a house being destroyed completely, and many houses being partly destroyed. There is also evidence of a caravan being destroyed, and of many grass fires.

In respect of the licensing of public fireworks displays, a specific bond should be required as an indemnity in the event of injury. The size of the bond should be worked out subject to the size of the town or the number of people likely to congregate at the display. If the principle I have put forward is accepted, I am sure something could be worked out in regard to the bond.

Professor Ida Mann, an eminent eye specialist in Western Australia, told me that every eye specialist abhors fire crackers, and she said that every eye doctor looked with horror on the 5th November. She further said that every nasty injury to the eye is an unnecessary injury. She said she is in accord with the banning of fireworks. The other eye specialists I contacted in Perth said the same thing. The Australian Foundation for the Prevention of Blindness is also of the same opinion.

There seems to be about the 5th November some cracker-madness. That is evident at Guy Fawkes time and, indeed, all the time that fireworks are on sale. As I have already said, inexperienced and irresponsible people can use fireworks for many days prior to the 5th November.

The American definition of "fireworks" covers the position pretty well—

The term "fireworks" shall mean and include any combustible or explosive composition, or any substance

or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers.

I will endeavour to let the House know of some of the accidents that have occurred here as the result of fireworks. Last Guy Fawkes night, a 20-year old was burnt on the chest, face, and upper arms; a nine-year old received skin burns; a 21-year old man had leg burns; and a 13-year old child received burns caused by an explosion of crackers in his pocket. Someone threw a cracker at him and it landed in his pocket, and up went all his fireworks. These accidents all occurred in Perth last year. A child of six suffered, too.

A director of the Blind Institute at Maylands said that 40 per cent. of blindness in the world was preventable, and that fireworks were a great danger to sight. He also was in favour of banning fireworks. He said a lot of trouble was due to children picking up crackers the day after bonfire night and attempting to light them. The children hold the crackers so close to their faces that the fire from the ignition and the explosion goes on to their faces and burns their eyes. This man also said that the delayed action of crackers was the cause of injuries. Children would light crackers and throw them down, and if the explosion did not occur immediately they would look to see why, and as they bent down and put their faces near the crackers, the crackers would explode.

There was the case of a boy, 11 years of age, in Kalgoorlie, who was badly burnt on the body. That burn was caused by a fizzog—a cracker that did not explode. He was trying to ignite the unexploded cracker and it went off and exploded some crackers in his pocket. He was badly burnt and had to be flown to Perth. Fizzogs cause a lot of damage, because children do not know the danger that arises as a result of holding these fireworks close to the face.

There was another case of a 13-months old boy who finished up in Princess Margaret Hospital for Children. He ate a cracker he picked up and it upset his tummy, and that meant a trip to the hospital. He picked up the cracker the morning after bonfire night and, child-like, put it in his mouth. Fireworks that have been lit on the previous night, and thrown down, have a very short fuse, and, in some cases, no fuse at all. But kids have not got time to worry about that.

Such fireworks sometimes damage children's fingers; and sometimes their hands are so badly burnt that they require skin grafts over a long period.

A 10-year old boy found a penny bomb, and lit it. He waited 30 seconds for it to go off, but it did not go off. He then bent down to see what was happening, and it went off in his face, causing severe eye damage. Another case was that of a boy, seven years of age, who suffered burns to his face and left eye. Those injuries, again, were caused by a penny bomb. His parents had given him a party to keep him away from a bonfire. The next day, childlike, he was going around an old bonfire and he picked up a lot of crackers. He lit this particular one, and because it had such a short fuse it immediately exploded.

It was two weeks before the 5th November when a boy, 20 months old, had severe second degree burns caused by a cracker. Another boy, two years of age, suffered severe burns to his legs and buttocks as a result of holding a bag of fireworks that exploded. Another boy—a 10-year old—had some crackers blow up in his face, causing serious injury. Another case was a girl 10 years of age who was badly burnt on the face and around the eyes. She was flown to Perth for treatment.

A boy 12 years of age was severely burnt about the body and face because crackers which were thrown landed inside his shirt. I understand that boy, too, was flown to Perth for treatment.

Crackers are thrown into grass and letterboxes; and, as I said before, some people cruise along in cars and throw lighted crackers at anyone they see. Other people explode crackers in bottles and, of course, the flying glass is dangerous.

The weather during November is usually very hot, and there is a lush growth of grass so that it is pretty long and dry. The indiscriminate throwing of crackers has caused a lot of grass fires in the city and suburban areas as well as in the country. There is evidence of children having been burnt at bonfires when there have been no adults present to watch them. They get up to all sorts of pranks with the result that some of them get badly hurt.

The information I am now about to give applies to the metropolitan area only—and these incidents were all attributable to crackers: In 1962 there were 50 rubbish and grass fires, one property fire, and one property fire in a severe form; in 1963 there were 25 rubbish and grass fires, two properties damaged by fire, and, one property severely damaged by fire; in 1964 there were 22 rubbish and grass fires, two properties damaged by fire, one property severely damaged by fire, and one property totally destroyed by fire.

There has been a lessening of damage due to the use of fireworks, and this has been attributed to the propaganda of the

fire brigades, the Bush Fires Board, the Princess Margaret Hospital for Children, and other bodies which carried out an extensive campaign against the use of fireworks before the 5th November. That campaign had some effect on lessening the damage caused by fireworks, and on there being fewer grass fires.

In Adelaide, six children were injured by fireworks. All the previous cases of children I have quoted were in Western Australia. According to a newspaper I read, six children in Adelaide were injured previous to Guy Fawkes night, and they all had skin burns. Also, according to a newspaper, in England three people were killed one night when a basket of fireworks exploded at a Guy Fawkes party. A woman was badly burnt, a man was badly burnt and another person died of shock.

Just briefly, to give an idea how things are in England in respect of fireworks, parents have to be very careful, particularly about the 5th November; although the problem is no longer confined to this day, as people are using crackers all the year.

In England there has been a drive by the Ministry of Health to prevent, by propaganda and instruction, the large number of accidents. In 1962, however, the total was still enormous: 2,832 cases were brought to hospitals from fireworks injuries. Most of these were children. Of these, 642 involved severe burns to the face, and 1,038 involved injuries to the eyes, some causing permanent blindness. There is an article in the British Medical Journal of the 3rd November, 1956, giving details of such injuries in the London area.

In Perth we have several injuries each year. In 1959 there were four serious eye injuries admitted to the Princess Margaret Hospital, all requiring operations. One patient was in hospital for two months. In 1960 we find that five eyes were very seriously injured; in 1961 there were three cases, one with a burn to the face, and one so seriously burnt about the body that the child died. In 1962, there were, even before Guy Fawkes Day, three severe body burns from fireworks exploding in bonfires.

In 1963 there were five cases of burns to the face from fireworks, and in 1964 there were four cases of eye injuries. These figures are for the metropolitan area only; they comprise those who were admitted to the Princess Margaret Hospital. There were, however, also cases of adults who were burnt in the metropolitan area; in addition to which both children and adults were also burnt in the country areas.

The PRESIDENT (The Hon. L. C. Diver): Would the honourable member please speak up, as it is very difficult to hear him.

The Hon. R. H. C. STUBBS: The report I am about to read is dated the 6th November, 1963, and it is significant that this

occurred after the legislation dealing with explosives and dangerous goods was introduced. So it would seem that the legislation is not having the effect that was intended; it is not controlling this sort of thing. Under the heading of "No More Fireworks For These Two Families" we find the following:—

At least two W.A. families had their last Guy Fawkes celebrations last night.

● At Inglewood a mother had her hands injured when she went to the assistance of her 11-year-old daughter whose clothes caught fire.

● A Bayswater father had his hands injured while lighting crackers for his three-year-old son.

Today both families were emphatic: "No more crackers for us."

"If they have a petition to ban the sale of fireworks I'll be the first to sign," said Mrs. Hazel Buck of Homer-st., Inglewood.

"I think it's about time parents got together and banned crackers."

Her daughter Jennifer is in PMH with a burnt thigh.

Her dress, petticoat and panties were set alight by a sparkler.

One would have thought that a sparkler would be harmless enough, but it only shows how damaging sparklers can be. To continue—

Mrs. Buck's hands were burnt when she tried to catch her daughter to put out the fire.

Driller Charles Shaw (23), of Rose-ave., Bayswater, had pieces of tin embedded in his right hand when a tin exploded while he was lighting crackers to show his son Michael.

Shaw said: "I thought the little bloke was old enough to see some crackers—I was only showing him.

"That was our last cracker night."

There is also the case of fireworks which are believed to have been the cause of burning a £600 caravan, as the result of someone throwing fireworks into the caravan.

Another case that might interest members concerns a young girl who was badly burnt by firecrackers; and year after year for the rest of her life it will be necessary for her to have skin grafts, because as she grows to womanhood apparently the grafts do not grow with her. There is a lot more that can be said, but I think I have said enough to warrant tighter control. Accordingly I submit that I have made a case for—

(1) The sale of crackers on Guy Fawkes Day only;

(2) The sale of crackers on that day to adults only;

(3) The sale of crackers at any time to an organisation that can control them—an organisation with adults in charge. There should also be insurance cover, and so on.

I commend the motion to the House in the hope that it will be carried and submitted to the Government. If an eye or a life is saved, or if this helps to prevent property from burning, we will have achieved something worth while.

Debate adjourned, on motion by The Hon. A. F. Griffith (Minister for Mines).

MINING ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 11th August, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

THE HON. R. H. C. STUBBS (South-East) [5.21]: When moving the second reading of the Bill the Minister said—

Towards the end of last year application was made to the Mines Department for a license to treat tailings lying on what was an abandoned tailings area—Crown land area.

In dealing with the application, it was found that while the Mining Act was quite clear in granting to the Crown ownership of tailings on abandoned leases, some doubt exists as to ownership in regard to tailings on abandoned mining tenements other than leases, such as tailings areas, machinery areas, etc., which would all produce tailings. Crown Law advice received early in January confirmed the doubt and, as a consequence, the application had to be refused.

The purpose of this Bill is to rectify the position and also to validate any past licenses granted in respect of similar applications. This latter provision is necessary because it has always been the understanding and practice in the Mines Department to assume that such tailings were Crown property.

We agree that that should be done; that section 111 should be amended not only to validate past licences that have been issued, but also to place the position beyond doubt as it applies to mining tenements, particularly as a mining tenement includes tailings areas, machinery areas, etc. The definition of "mining tenement" has a wide scope and reads as follows:—

Any land applied for, held, occupied, used, or enjoyed under a lease or application therefor, or as a claim, or any area, water race, drain, dam or reservoir; any stack or accumulation or earth containing gold or any other mineral; or any easement taken up, held, occupied, used, or enjoyed under or by virtue of a miner's right.

In the early days of goldmining in Western Australia, water was the trouble, and accumulations of earth were left where water was readily obtainable. A number of batteries had various facilities to extract gold or to take the tailings, and these were built near lakes and water reserves. When one considers that over 6,000,000 square miles of Western Australia constitutes the auriferous area, I feel that anybody who wants a tailings area should be given a title.

What surprises me is that this sort of difficulty existed prior to 1948. Indeed, since 1932 when the Act was amended, nothing has been done about the matter in question by any Government. I dare say this is due to the fact that the flaw in the Act was not detected until about 1948—it was late 1947 or early 1948. About that time the Solicitor-General was asked to give this matter his attention and to advise as to the application of section 111 subsections (1) and (2), of the Mining Act.

At this point it might perhaps be interesting to read the speech made by The Hon. E. H. Harris on the 16th November, 1932. It can be found on page 1840, volume 2 of *Hansard* of that year. It deals with tailings, abandoned leases, and Crown land, and the motion reads as follows:—

That in the opinion of this House the Mining Act should be amended immediately so that the hundreds of thousands of tons of sands and tailings on Crown lands, abandoned and forfeited leases, tailings and machinery areas may be made available for re-treatment.

Mr. Harris covered the whole subject pretty well; he was right on the ball, and had his advice been accepted we would not be having this trouble now. The Chief Secretary replied shortly and agreed that something should be done. Incidentally, he replied on the 22nd November, 1932, at page 1937. Finally, on the 16th December, 1932, the measure was introduced in another place by the Minister for Mines. We see therefore that even though the problem existed at that time, it was overlooked.

When the Solicitor-General gave his ruling, his interpretation was that any residue or mining material deposited on Crown lands, or on mining tenements other than leases, after 1932—that is after the passing of the amending Act No. 45 of 1932—are not the subject of section 111, and that there is no provision for their rightful disposal. The Bill under consideration will rectify the position, and we wholeheartedly agree with it.

I understand that the Solicitor-General explained that the amendments to the Act were so worded that they only applied to and made provision for tailings and mining materials deposited before 1932, but not less than six months prior to the commencement of subsection (1). Tailings

were also the subject of regulation 185 of the Mining Act, dealing with all tenements that have been forfeited.

When the Solicitor-General was asked for his ruling on the case that came up he said that the holder of a mining tenement other than a lease which is forfeited or surrendered shall have the opportunity to retain possession of any earth or any other substance containing gold or mineral that may have been raised prior to the date of forfeiture, or surrender, provided that such earth or other substance shall be stacked on ground so as not to interfere with the working, or the use or occupation, of such tenement. If a person failed to apply within a 10-day period it became an abandoned property, and the Mines Department could not let the applicant have it. That is why the Solicitor-General's interpretation was required.

We also agree with the new section 112A. We think this will sew up the position and there will be no more trouble. Tailings will be able to be legally applied for and legally granted.

The amendment to subsection (9) of section 322 simply rectifies something that apparently went unnoticed in 1963 when there were quite a few amendments to the Mining Act dealing with industrial matters regarding the coalmining industry. The amendments commenced from section 313 of the Act and continued to section 325. Apparently this small one was overlooked. My party supports these amendments.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.31 p.m.]: I thank Mr. Stubbs for his support of this small Bill, which covers one of those things that apparently goes unnoticed for a period of time, after which something happens, the matter comes under notice, is looked into, and is rectified.

Without offering any offence, I wish to refer to a remark Mr. Stubbs made when he referred to a ruling given by the Solicitor-General. The Solicitor-General does not give rulings.

The Hon. R. H. C. Stubbs: I think I used the word "interpretation."

The Hon. A. F. GRIFFITH: He does not rule on interpretations and does not give rulings; he merely advises the Crown and gives opinions. It is the courts that give rulings. I repeat: I do not wish to offer any offence, but it is incorrect to say that a lawyer gives a ruling; he gives an opinion, and his opinion on this matter was to the effect that an amendment to the Mining Act was necessary in order to clarify the situation and to remove the legal doubt in respect of actions in the past.

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.

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.35 p.m.]: I move—

That the Bill be now read a second time.

This is a Bill to amend the Coal Mine Workers (Pensions) Act to provide, firstly, retirement benefits for those coalminers who, being qualified for normal retirement pension benefits at the age of 60 years and having attained the age of 58 years on the 30th April, 1965, and being displaced from the Hebe mine as a result of flooding, elected to retire from the industry. The Government at the time of the flooding agreed to this procedure in order to avoid any hardship resulting to miners affected by such flooding.

Secondly, the Bill provides that the period of 12 months provided in the 1964 amending Act relative to the refund of contributions made to certain workers following retrenchment from the industry be extended to any further period considered by the pensions tribunal to be reasonable, up to a maximum period of three years.

Members will recall that this was the subject of a Bill which I introduced last year; and I think it would be correct to say that in the Committee stage, members, in a spirit of compromise, settled upon the point that 12 months should be allowed to repay this amount. Perhaps it would be correct for me to say that at the time we all thought 12 months was a reasonable period. I think that was suggested by Mr. Dellar, when he was in the House. However, this period has proved to be not satisfactory and the trustees of the fund are prepared to allow a longer period. The Colliery Miners Union has claimed that it would cause hardship for men with families to refund the amounts within the shorter period at present in the Statute.

Thirdly, the Bill provides that retrenched non-pensionable workers be given the same concession to repay contributions refunded to them following retrenchment in 1960 as was extended to pensionable workers. Whilst a non-pensionable worker does not qualify for retirement benefits at 60 years of age, he is covered for invalidity pension benefits if he has paid regular contributions for a period of 10 years; or, in the event of his death, after having paid contributions for five years, his widow would receive pension benefits.

The Government had previously approved the principle of allowing the refunds, but the matter of non-pensionable workers was then overlooked, I think, by all of the parties, hence the present suggested amendment. I think it is reasonable that the non-pensionable workers should receive the same sort of consideration and be given the same opportunity as the pensionable workers to pay their refunds to the fund.

This is a small and simple Bill and, in the main, it gives effect to undertakings given to the Colliery Miners Union by the Government at the time of the Hebe flooding.

Debate adjourned, on motion by The Hon. W. F. Willesee.

COAL MINES REGULATION ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.38 p.m.]: I move—

That the Bill be now read a second time.

This is a Bill to amend section 38 of the Coal Mines Regulation Act in order to extend the provisions of the Colliery coalminers' accident relief fund to certain timber cutters employed by contractors whose workmen are solely engaged in supplying timber to the mines. These men are classified as "mine timber cutters" in the miners union award, No. 4 of 1953, and all are members of the miners' union.

The request for the amendment was put forward by the trustees of the Colliery coalminers' accident relief fund trust, who advised that these cutters form an essential part of the coal industry and portion of their work is done in or about the mines. The trustees consider it anomalous that the cutters are not included within the provisions relating to the fund.

The Government is not affected financially in the matter as the fund is a statutory one financed by the producing companies by contributions of ½d. per ton on all coal sold, and payment by the employees of 1s. 6d. per fortnight per adult, and 9d. per fortnight by junior workers. The amendment would only affect men engaged solely on timber cutting for the coal mines, and the number so affected at the present time would be approximately nine.

I think it reasonable that these people should be given an opportunity to contribute to this fund.

Debate adjourned, on motion by The Hon. W. F. Willesee.

MINES REGULATION ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.42 p.m.]: I move—

That the Bill be now read a second time.

The problem of men firing faces in mines outside prescribed times is one of considerable concern to the Mines Department. The Australian Workers' Union and the Chamber of Mines, together with the Mines Department inspectors, co-operate in an attempt to stamp out this practice, but it still occurs. Early or indiscriminate firing creates unhealthy, hazardous, and sometimes very dangerous conditions or circumstances.

The Act at present provides a maximum penalty of £50 for the manager and £10 for any other person breaching regulation 51, which provides that the time of blasting be so arranged that workmen shall not be exposed to fumes, dust, and danger.

The existing penalties are not a deterrent, and it is hoped that by doubling them, together with continued close supervision, the practice may be stamped out.

I am sure the goldfields members will appreciate the need for this regulation, which is intended to protect the men who work underground. Some of these workers, at risk to themselves and to the lives of others, fire out of time and do not pay attention to this regulation.

I do not know whether this amendment will have the desired effect. However, it will enable a greater penalty to be imposed, and may be a deterrent to those who would breach this particular regulation.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs.

DEBTORS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.45 p.m.]: I move—

That the Bill be now read a second time.

Section 3 of the Debtors Act, 1871, enables orders of committal to prison to be made by a local court in respect of non-payment of debts not exceeding £50 due under judgments of the Supreme Court.

It had become customary to issue judgment summonses in the local court on certificates of judgment of the Supreme Court, regardless of the sum involved. However, the question of jurisdiction was raised when a certificate of judgment for a large sum was presented at the Perth Local

Court. The Crown-Solicitor was of the opinion that there is no jurisdiction in the local court to make committal orders where the judgment of the Supreme Court exceeds £50. The Master of the Supreme Court agreed with the opinion.

The views of the Law Society were sought; and the law reform committee of the society, whilst agreeing that an increase from the present amount of £50 should be made, considered there was no reason why there should be any ceiling placed on the jurisdiction from a monetary point of view. However, the Master of the Supreme Court expressed the view that the Supreme Court should retain control over the enforcement of its own judgments where the amount exceeds £500. He pointed out that there is a simple procedure under the rules of court for the examination before the master of a judgment debtor as to his property and means. It is a fact that of the 408 judgments made in the Supreme Court during the calendar year 1964, 363 were for amounts over £500 and only 45 for amounts under £500. The Government has agreed that the ceiling of £50, from a monetary point of view, placed on the local court should be removed, and provision is contained in this Bill for that purpose.

The second effect of the amendment arises from an examination of the portion of section 3 implying that we have judges or deputy judges in the local court. It appears that the draftsman in 1870 borrowed the provision from the English County Courts Act, merely changing "High Court" to "Supreme Court" and "County Court" to "Local Court." Unfortunately, he appears to have overlooked the fact that the Colony never at any time had judges or deputy judges of the local court; and it must have been necessary over the intervening years to read into the section the words "the magistrate" for the reference to a judge and a deputy judge.

Opportunity is being taken to rectify that situation. The words which are considered no longer necessary have been deleted. In any event, the provisions of paragraph (c) of the proviso were rendered inoperable by section 134 of the Local Courts Act, 1904, and they no longer serve any purpose.

To add further clarity I would point out that this Bill is purely to give jurisdiction to take recovery action in the local court. It is frequently more convenient to recover a debt in the local court rather than in the Supreme Court. The amount of £50 is an unrealistic sum. I did give very close consideration to making the amount £500. As I said, on the examination of the cases it was found that in 363 cases out of 408 judgments the amount was over £500, and in only 45 cases was it under £500.

Debate adjourned, on motion by The Hon. E. M. Heenan.

STIPENDIARY MAGISTRATES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.52 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to authorise the Governor to direct a stipendiary magistrate who was appointed after the commencement of the Stipendiary Magistrates Act, 1957—i.e. after the 25th October, 1957—to continue in the office of stipendiary magistrate after attaining the age of 65 years, or to resume office after he has retired from office. However, provision has been made in the Bill to ensure that a magistrate cannot continue in office after he has attained 70 years of age.

Prior to the passing of the Stipendiary Magistrates Act, 1957, there were two classes of magistrates: (a) those appointed as stipendiary magistrates under the 1930 Act—which was repealed by the 1957 Act—whose retiring age was 70 years; and (b) those appointed as resident magistrates under the Public Service Act, whose retiring age was 65 years.

Under the provisions of the 1957 Act, all magistrates then in office, howsoever designated, can continue in office until 70 years of age, but every magistrate appointed after the commencement of the 1957 Act must retire at 65 years of age. Of the 24 magistrates now serving, 10 have the compulsory retiring age of 65 years.

One of the 10 who must retire at age 65 will reach that age on the 1st October this year. He has expressed his willingness to continue in office as a stipendiary magistrate, if so required. Should this Bill be passed, it is most likely that he will be asked either to continue in office, or to resume office from time to time as circumstances may require, during the period from his sixty-fifth to his seventieth birthday.

Recently, it was necessary to appoint as a temporary magistrate an officer who is not qualified for permanent appointment. This was as a result of a backlog of cases in the Perth Police Court. I was not anxious to see this condition continue. The person who was so appointed temporarily has been a senior clerk of courts for many years and is performing his magisterial duties quite efficiently. Nevertheless, it is undesirable to continue to appoint, even in a temporary capacity, persons who are not legal practitioners, or who have not qualified by passing the prescribed examination in law under section 25 of the Public Service Act.

Applications have been called for an additional stipendiary magistrate to serve in the metropolitan area, and the applications are currently being examined. The

appointment of the additional magistrate will meet the needs of the various metropolitan courts for the time being.

However, magistrates are called upon from time to time to perform extraneous duties such as work on Royal Commissions; and their duties as chairmen of statutory boards such as the Public Service Appeal Board, Promotions Appeal Board, Railway Officers Classification Board, and Punishment Appeal Board, are now taking up more and more of their time.

Provision must be made to relieve magistrates during their absence on annual leave and long service leave, or because of sickness and during prolonged absence on other duties. Additional magistrates must be appointed from time to time to keep pace with the State's expansion, and the occasions when relief is required will increase in consequence.

It will be both economical and convenient if a magistrate who is due to retire at 65 years of age, or who has actually ceased duty, is available and can be called upon from time to time, when required, to continue in office or to resume office whenever the need should arise.

Section 61 of the Public Service Act provides—

Notwithstanding that an officer has attained the age of sixty-five years, if the Commissioner certifies that in the interests of the Public Service it is desirable that such officer should continue in the performance of the duties of his office or of any office in the Public Service to which he may be appointed, and that such officer is able and willing to do so, the Governor may direct such officer to continue in the service for not exceeding such time as the Governor in each case directs, or during pleasure.

That section operates satisfactorily, and there is no reason why a provision on similar lines should not be inserted in the Stipendiary Magistrates Act.

I would like to say in conclusion that if Parliament will agree to the passage of this Bill I think it will be to the advantage of the State. It will give the Minister for Justice, or the Attorney-General, the opportunity to take advantage of the services of a magistrate who, because of existing legislation, is obliged to retire at 65 years of age. There will be no obligation on the Minister of the day, or the Government of the day, to so employ a man, but there will be opportunity if it is desired that he should be so employed. The Government of the day might want a particular magistrate back for a short period after he has retired. At the moment there is preclusion from doing any such thing.

I hope the House will agree to this Bill. There are many things that such a capable person could perform as and when his services were required. Another point I would like to stress is that at the present time we have two kinds of magistrates: those who retire at 70 years of age and those who retire at 65 years of age. This seems to me to be quite illogical. The judges retire at 70, and I cannot see any reason why there should be any difference in the regulations applying to magistrates.

When appointments have been made to the magisterial bench in recent months, or in recent years, there has been a tendency for a lot of younger men to apply. I have found that when we require a magistrate for the metropolitan area there seem to be plenty of applicants, but when we require a magistrate to serve in the more remote parts of the State—particularly in the north—it is difficult to fill the position. Therefore I think it would be an advantage to have this amendment approved by Parliament so that it can be availed of if required.

Debate adjourned, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

House adjourned at 6 p.m.

Legislative Assembly

Tuesday, the 17th August, 1965

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