Legislative Council

Tuesday, 3 November 1981

The DEPUTY PRESIDENT (the Hon. V. J. Ferry) took the Chair at 4.30 p.m., and read prayers.

BILLS (9): ASSENT

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

1. Misuse of Drugs Bill.
2. Architects Amendment Bill.
3. Abattoirs Amendment Bill.
4. Acts Amendment (Mining) Bill.
5. Transport Amendment Bill (No. 3).
6. Road Traffic Amendment Bill (No. 2).
7. Metropolitan Water Supply, Sewerage, and Drainage Amendment Bill (No. 2).
8. Fisheries Amendment Bill.
9. Bills of Sale Amendment Bill.

QUESTIONS

Questions were taken at this stage.

BILLS (2): ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills—

1. Acts Amendment (Land Use Planning) Bill.
2. Marketing of Lamb Amendment Bill.

COLLIE COAL (WESTERN COLLIERIES & DAMPIER) AGREEMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.58 p.m.]: I move—

That the Bill be now read a second time.

This Bill is for an Act to ratify an agreement between the State of Western Australia and the company known as Western Collieries and Dampier Pty. Ltd. It is similar in content to two previous agreements which the Government has negotiated with major participants in our Collie coalmining industry.

The first two agreements referred to were executed in 1979 and have now been respectively ratified by the Collie Coal (Western Collieries) Agreement Act 1979, and the Collie Coal (Griffin) Agreement Act 1979.

Information provided when introducing the Collie Coal (Griffin) Agreement Act in 1979 showed that the total estimated coal resource at Collie was estimated to be 1 915 million tonnes. This estimate remains unchanged, according to current advice from the Geological Survey Branch of the Department of Mines.

It should be noted that the figure of 915 million tonnes recorded in *Hansard* at p. 5164 of that year should read 1 915 million tonnes.

The estimated extractable coal in the Collie basin, either measured, indicated, or inferred, which had been delineated to the end of 1978 under then governing economic conditions, was quoted as being 286 million tonnes open-cut, and 119 million tonnes deep-mine, or a total of 405 million tonnes.

These figures also were obtained from the Geological Survey Branch, which recently has confirmed that the assessment of 1978 is still considered to be an appropriately conservative overview of extractable coal under current economic conditions. However, in referring to these figures, it is emphasised that the operating companies have engaged in extensive exploration in the Collie basin. Their assessment will be reviewed in due course, but the companies are confident that improved mining methods, and the further delineation programme, will result in a significant increase in the amount of coal that will ultimately be recovered economically from the Collie deposit.

It is therefore appropriate to inform the House of some other potential coal resource developments within the State.

Although actual coalmining is still confined to the Collie basin in the south-west, active exploration is spread far and wide. Exploration is in progress in many areas of the State, stretching from prospective sites near the south coast, to an area of the Canning basin, north-east of Derby.

For example, in the Eneabba area of the northern Perth basin, a vigorous exploration programme is continuing on a deposit that indicates promise for an open-cut mine, leading to a commercial development. There is also much activity in the sedimentary areas between Esperance and Norseman, where further

exploration is being conducted following the location of seemingly large, near-surface, lignite-type coal deposits.

These previously mentioned potential additional reserves at Collie and elsewhere are of importance because of the Government's firm commitment to base the State's electricity production on coal fuel. Already there has been a very dramatic growth in the industry with the advent of the commissioning of further generating units at Muja power station, and the conversion of units from oil to coal firing at Kwinana.

In addition, the Government has announced recently that construction of an additional major coal-fired power station at Bunbury has been planned and that the coal consumption is expected to build up to an estimated five million tonnes per annum when the station is in full production in the early 1990s.

For these reasons, the development of the Collie field is of major significance to the State's energy scene, and it is pleasing for the Government to have progressed to this third agreement, which relates to the orderly development of this important coalfield.

The agreement now before the House provides an obligation on the company, similar to the two previous agreements, to reserve for the needs of the State Energy Commission, 50 per cent of the extractable reserves of coal from time to time existing within the coalmining lease to be operated by the company. This provision is based on the broad policy guideline that half the Collie coal resources should be reserved for electricity generation and the other half for use by industry.

The agreement also contains a requirement for the company and the State Energy Commission to enter into mutually acceptable commercial arrangements for the supply of coal to the commission during the entire term of the agreement, which is 42 years.

It also requires the company to prepare and submit to the Minister responsible for the administration of the Act an overall scheme for the exploration, development, and rehabilitation of the coal resource for the projected period of 42 years of the agreement, the coal resource comprising of the areas under application, or now held as coalmining leases.

The overall scheme is to include provision for progressive rehabilitation of mined areas within the coalmining lease, whether they are mined by the company or mined previously by some other party.

The main objectives in rehabilitation will be to return mined areas to a safe condition, to achieve vegetation growth on mine spoil dumps, and generally to restore a habitat as close as possible to that which existed prior to mining operations.

As with the two previous Collie coal agreements, the merit of this overall scheme provision is that it establishes a general development framework which will be of value to both the company and all Government departments and instrumentatilities servicing the Collie community.

The taking of full account in the overall scheme of plans to rehabilitate progressively past and future mines areas is seen as being a very significant ingredient of the overall scheme.

Under the agreement, the company has an obligation to submit on or before 31 December 1982, detailed proposals for the conduct of operations for an initial 15 years. The proposals must include details of measures to be taken for the mining of coal by open-cut and deep-mining methods; evidence that the coal needs of the State Energy Commission have been met for the 15-year period; the total tonnage of coal proposed to be mined for sale to all purchasers; the processing of coal; and measures to be taken for the protection and management of the environment, including rehabilitation and/or restoration of the mined areas.

The proposals also must provide details of roads, power supply, timber clearing, collection and disposal of water, any other works, services or facilities—including railway—required, use of local professional services, labour and materials, and finally, details of any leases, licences, or other tenures of land required from the State.

Provisions similar to those contained in other ratified agreements for consideration and implementation of proposals and for submission of additional proposals are contained in the agreement.

The company is required to submit further proposals for the balance of the term of the agreement from year 16 to year 42.

Protection and management of the environment is provided for specifically in the agreement. In respect of the aforementioned proposal to be submitted on this matter, the company is required to carry out a continuous programme of investigation and research, including the monitoring and study of the environmental impacts from implementation of its proposal.

The agreement stipulates that the company will report annually on its activities, and at three-yearly intervals a more detailed report on environmental investigations and rehabilitation management is required. Arising from the

detailed report, the Minister may notify the company that he requires additional detailed proposals for the management and protection of the environment.

The company is obliged under the agreement to provide a detailed plan of the proposed mine development and coal production from commencement of operations for the ensuing five years, and thereafter at five-yearly intervals.

The normal provision for use of local professional services, labour, and materials, is included also in the agreement. The agreement contains full provisions governing roads, rail, electricity, water, and forests.

Before dealing with the remaining important provisions of the agreement, I inform members that I will table a copy of the plan referred to in the agreement under the definition of "mining areas".

Members will note from the definition that the areas coloured green on the plan are those over which the company held coalmining leases at the date of execution, and the purple areas are those for which the company had applied for coalmining leases at that same date. The company will hold these coalmining leases and applications until the all-encompassing coalmining lease is issued pursuant to clause 21 of the agreement. The areas outlined in yellow are those in which the company cannot carry out any operations without the prior consent of the Minister, if the Muja power station water supply is likely to be interfered with.

Reverting to the provisions of the agreement, the attention of members is drawn to the section of the agreement through which the company can apply for and be granted a coalmining lease. This lease may include so much of the green and purple areas as the company desires. Before the granting of such a lease is effected, the company must surrender the coalmining leases it held previously and, upon the granting of the lease, the rights of the company in respect of the green and purple areas not to be included in the coalmining lease shall cease and determine. The term of the coalmining lease shall be a period of 21 years, with one right of renewal for a further period of 21 years.

The agreement stipulates that the sale of coal for export is prohibited without the consent of the Minister. This provision is common to the three Collie coal agreements, and emphasises the Government's desire to cater for the future energy requirements and industry needs of the State. If the company wishes to sell more than the approved tonnage in years one to 15, the Minister's consent shall first be obtained.

The remaining provisions of the agreement are common to agreements of this nature between the State and other resource developers, and no doubt they are understood by members.

The Bill completes the exercise of committing the Collie coalfield under three State agreements, which is seen by this Government as being a significant step forward in the overall programme for orderly development of this very important coal resource, and ensuring that Collie coal is most efficiently developed for use by the SEC and local industry.

I commend the Bill to the House, and seek leave to table the plan to which I referred earlier.

The plan was tabled (see paper No. 494).

Debate adjourned, on motion by the Hon. R. Hetherington.

MRPA: WUNGONG GORGE AND ENVIRONS

Disallowance of Amendment: Motion

Order of the day read for the resumption of the debate from 27 October.

Debate adjourned, on motion by the Hon. Neil McNeill.

COMPANIES (APPLICATION OF LAWS) BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.10 p.m.]: I move—

That the Bill be now read a second time.

Members will recall that when introducing the Companies (Acquisition of Shares) (Application of Laws) Bill on 29 April this year, I described in detail the obligations of this State under a formal agreement entered into between the Commonwealth and the six States on 22 December 1978. That agreement sets out the obligations of the parties in respect of a scheme for the Commonwealth and the six States to enact legislation for the purpose of establishing a uniform system of law and administration regulating companies and the securities industry in the six States and the Australian Capital Territory. A copy of the agreement appears in the schedule to the National Companies and Securities Commission (State Provisions) Act 1980.

The agreement establishes a Ministerial Council, comprising a Minister from each State and the Commonwealth, which is responsible for

the formulation and operation of the uniform companies and securities laws provided for under the agreement and which will exercise general control over the implementation and operation of the scheme.

Pursuant to the agreement, a first package of substantive laws relating to the regulation of the securities industry and company take-overs came into operation in all States and the Australian Capital Territory on 1 July this year.

The Bill now before the House relates to the introduction of a second package of substantive laws required by the agreement: laws relating to the regulation of companies.

Under the direction of the Ministerial Council, officers from each State and the Commonwealth have for the past two years worked together to formulate the substantive companies laws which will be applied uniformly in each jurisdiction under the scheme. These laws have become commonly known as the Companies Code.

In accordance with the agreement, the Companies Code is based on the uniform Companies Acts presently in force in those States which are parties to the interstate corporate affairs agreement: the States of New South Wales, Victoria, Queensland, and Western Australia.

The changes which the Companies Code will make to the existing laws of these States relate mainly to those changes which are expressly authorised by the agreement or which are required to take into account the co-operative nature of the scheme. All changes have received the unanimous approval of the Ministerial Council.

The Companies Code has been exposed for public comment on two occasions and on each occasion the code has been amended to take account of public submissions received.

To ensure that the content of the substantive provisions of the code will apply uniformly in each jurisdiction, the agreement provides for the Companies Code to be firstly set out in Commonwealth legislation that will apply to the ACT. Once this has been done, each State is required to pass an Act which will apply the provisions of the Commonwealth legislation as laws of the State to the exclusion of its present Companies Act. Those Acts will make only such changes to the Commonwealth legislation as are required to reflect local, legal, and administrative differences that are peculiar to each State.

Pursuant to its obligations under the agreement, the Commonwealth earlier this year passed its Companies Act 1981. That Act embodies the provisions of the Companies Code and applies those provisions as laws of the ACT.

Each State is now required to apply the provisions of the Commonwealth Companies Act 1981 as laws of that State and the Bill now before the House will achieve that purpose for Western Australia. Each other State has introduced, or will soon introduce, similar legislation into its Parliament.

So as to distinguish the ACT companies laws as they apply in each jurisdiction from the ACT laws themselves, the applied laws will be known as a "code". Thus, the ACT companies laws as they apply in Western Australia will be known as the Companies (Western Australia) Code.

In addition to providing for uniform companies laws the Companies (Application of Laws) Bill of each State will ensure that the Companies Code of each State remains uniform in each jurisdiction by automatically applying any amendments to the ACT companies laws as amendments of the State laws. It is noted, however, that under the terms of the agreement, the Commonwealth is not free to amend its ACT laws which form part of the scheme without the approval of a majority decision of the Ministerial Council.

Pursuant to the agreement the Commonwealth has established a body known as the National Companies and Securities Commission, or as it is more commonly known, the NCSC, which is responsible for the uniform administration of the substantive scheme legislation.

When introducing the National Companies and Securities Commission (State Provisions) Act in August 1980, I described in detail the functions and powers of the NCSC in relation to this State, and I do not propose to cover that ground again. I do note, however, that although the NCSC will be responsible for the overall administration of the Companies Code, the NCSC is required to have regard for the need to decentralise its administrative activities to the maximum extent practicable and, therefore, it is expected that the Western Australian Commissioner for Corporate Affairs will continue to carry out most of the administration of the Companies (Western Australia) Code.

As I have mentioned previously, the substantive provisions of the Commonwealth Companies Act 1981, altered to comply with local legal and administrative requirements, and applied as laws of the State, will be known as the Companies (Western Australia) Code. The Bill permits the printing of the provisions of the Companies (Western Australia) Code.

Copies of the Commonwealth Companies Act 1981 which contains the substantive provisions of the code, an explanatory memorandum relating to the provisions of the Companies Act 1981, and clause notes explaining the provisions of the Bill are available on request.

Members will notice that clause 6 of the Bill makes two significant changes to the applied provisions. Firstly, it excludes the application of sections 1 to 4 of the Commonwealth Companies Act 1981 because those provisions are relevant only to the ACT. In their place the introductory provisions set out in schedule 4 of the Bill will appear in the printed code. Secondly, the applied provisions are adapted in the manner specified in the first schedule to meet local, legal, and administrative requirements. Thus, for example, references in the Commonwealth Act to the ACT are replaced with references to Western Australia.

The Bill will overcome any local problems which might arise as a result of the amendment of the Commonwealth Companies Act 1981. As amendments to the Commonwealth Act will apply automatically as laws of the State, those amendments also may need to be adapted to meet local requirements. The Bill overcomes this difficulty by providing for regulations, which have become commonly known as "translator" regulations, to be made, amending schedule 1.

Power to amend the provisions of schedule 1 by regulation will be necessary to allow amendments to the uniform companies laws to be implemented quickly in the State, and to maintain uniformity with the laws of other jurisdictions participating in the scheme. Similar provision is made also in relation to any amendments to the Commonwealth regulations which may be approved by the Ministerial Council.

In addition to applying the provisions of the Commonwealth Companies Act 1981, the Bill also applies regulations made under the Commonwealth Companies Act 1981 and fees regulations made under the Commonwealth Companies (Fees) Act 1981 as regulations in Western Australia governing matters required to be prescribed by regulations for the purpose of the Companies (Western Australia) Code.

The Bill now before the House represents the last and most significant step taken by this State in relation to the introduction of the co-operative scheme legislation. Over many years there have been calls from all sections of the business community for increased uniformity in both company law and its administration. There have been calls also for a reduction in the duplication of requirements inherent in a system where each jurisdiction imposes its own requirements.

Although the formation of the Interstate Corporate Affairs Commission brought about more effective arrangements between the States of New South Wales, Victoria, Queensland, and Western Australia, it did not represent a universal approach. The co-operative scheme has built upon the foundation established by the interstate corporate affairs agreement and will establish an effective procedure for securing and maintaining a uniform system of law and administration relating to companies and securities industry matters throughout the six States and the ACT. The scheme legislation will also significantly reduce the duplication of requirements inherent in the present companies laws. The scheme is designed to promote a stable and uniform business environment and to encourage investor confidence.

The Bill now before the House has been approved by the Ministerial Council for introduction into the Western Australian Parliament. Similar legislation has been approved for introduction into each of the other five State Parliaments.

I commend the Bill to the House.

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

BUSH FIRES AMENDMENT BILL

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.20 p.m.]: I move—

That the Bill be now read a second time.

This is a simple amendment to section 27 of the Bush Fires Act designed to overcome problems which have arisen where new models of self-propelled harvesting machinery, marketed in Western Australia, do not have vertically discharging exhaust systems. It has been claimed that these machines fall within the definition of a "tractor" under the Bush Fires Act, and consequently do not comply with existing legislation.

While fire safety is not jeopardised, insurance companies are insistent that the machinery must comply with all legal requirements to qualify for insurance cover. There are technical reasons that the configuration of exhausts cannot be changed; and if the owner provided his own modification, warranty would be affected.

This anomaly was brought to the attention of the Bush Fires Board by a number of local

authorities and by the Country Shire Councils' Association.

The Bush Fires Board initially tried to resolve the issue administratively by an approach to the insurance industry to ascertain whether agreement could be reached between the insured and his insurance company, particularly as fire safety was not an issue. This approach was rejected by the insurance industry. In these circumstances there is no alternative but to amend the bush fire legislation in order to preserve the insurance cover so necessary to the farming community.

The amendments remove the absolute requirement for exhaust systems to discharge vertically on self-propelled harvesting machinery by allowing an alternative configuration whereby the exhaust systems on self-propelled harvesters, if discharging at least two metres from the ground, may discharge horizontally or upwards of the horizontal plane. All other fire safety precautions relating to exhausts are retained.

The Country Shire Councils' Association supports the principle that the present anomaly should be removed.

The amendment to subsection (5) of section 27 is consequent on amendments to other parts of the section. It includes self-propelled harvesters as machinery which must carry a fire extinguisher during restricted and prohibited burning times, as with harvesters towed by tractors. It corrects subsection (5) which may become unclear as a result of amendments to other subsections. It does not change the current position so far as the requirement to carry an extinguisher is concerned.

I commend the Bill to the House.

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

WORKERS' COMPENSATION AND ASSISTANCE BILL

Second Reading

Debate resumed from 28 October.

THE HON. P. G. PENDAL (South-East Metropolitan) [5.23 p.m.]: I support the Bill. In doing so, I offer my congratulations, as one member, to the Government and, in particular, to the Minister for Labour and Industry who has been in charge of this legislation for a long time. In the main, the workers' compensation legislation has achieved most of the fundamental principles that most sections of the community would wish to see included in it.

I will canvass a number of aspects, one of which relates to the inclusion of speech therapists in the Bill; and another one, with which I will deal in a little more detail, which relates to the role of chiropractors under the new legislation.

I have already raised in an informal way with the Minister's advisers the role of speech therapists under the new legislation. Like other members, I have been contacted by people in my electorate, and specifically by a speech therapist who made the point that speech therapy is not to be included in the forms of post-injury management for which claims can be made under the Bill. I would like to quote a number of sentences in his letter, as follows—

> This is an alarming omission since in cases involving head injury particularly, there is considerable likelihood that language impairment may result. Since this is a severe handicap to rehabilitation, Speech Therapy services would frequently be involved, for considerable periods of time.
>
> I cannot understand why these services have not been included among those for which claims can be made. I would be most grateful if you could inform me as to the reason for this, and take whatever steps are appropriate to rectify this inexplicable omission.

I have mentioned that I spoke informally with the Minister's advisers. I understand that the legislation may be broadened and made more specific in terms of the areas of health care which are to be given access to the workers' compensation field. However, I ask the Minister, in his reply to the second reading debate, to make some comment in relation to speech therapists and, indeed, other forms of therapy, because I know similar arguments have been raised by other people involved in the total health care of injured employees.

Members are aware that much of the controversy in relation to the present legislation in recent months has revolved around the role to be played by chiropractors. That argument is dying fairly hard, because as late as yesterday an American chiropractor received widespread publicity for his visit to Perth, presumably to coincide with the lobbying on this Bill. His visit to the Metropolitan Transport Trust was publicised highly.

I make it clear at the outset that I support wholeheartedly, and without reservation, the Government's decision to limit to medical practitioners the certification as being unfit for work. Members are aware that previous Bills have had the intention of permitting chiropractors to

issue those certificates. However, the Government has made a correct decision in that respect.

That comment on my part is to be taken as in no way condemning chiropractors. Indeed I have had many discussions with chiropractors, a number of whom appear to live in my electorate in the metropolitan area. Those chiropractors have exercised their undoubted right to contact me and, indeed, to lobby me in the best way they can, in order to obtain my agreement for the readmission of chiropractors to that part of the Bill which would allow them to certify workers as being unfit for work, and then to certify workers as being fit to resume their work.

All of the inquiries I have made, and all of my good faith in the matter, lead me to believe that, despite those submissions, the Government has made the correct and proper decision to exclude chiropractors from the certification of people as unfit for work. It has been stated—and it amounts somewhat to an untruth—that no longer will chiropractors enjoy any benefits under the Bill. Indeed, the contrary is the case. Chiropractors will receive, in this legislation, a place they never had in the old legislation.

Although members are probably well aware of the present situation in regard to chiropractors, I will repeat it. It is my understanding that, under the proposal, if a patient is certified as being unfit for work, without reference from his doctor he may elect voluntarily to consult a chiropractor. It is important that it be recognised also that any accounts incurred in the course of that consultation come within the scope of workers' compensation insurance.

In my view, that situation achieves two goals: It gives chiropractors a proper place in the health care programme of the State and the rehabilitation of an injured worker, and it recognises the fundamental right of a patient to choose the form of treatment he or she believes is most appropriate. In itself, that does not exclude a person from voluntarily consulting a medical practitioner on the one hand, or, on the other hand, choosing to attend and receive treatment from a chiropractor.

In the course of the legitimate lobbying expeditions to which I have referred by the the chiropractors it became clear that they were really dressed up with nowhere to go. They pointed out something which I knew already, and that was the AMA is a powerful lobby in its own right. Many times over the years the chiropractors have been told they have to get their act together and their problems were not those for Governments or Parliaments to adjudicate on, but rather they were for themselves to sort out in some form of consultation with the AMA.

Of course, the chiropractors respond to that sort of advice by saying—I can understand their frustration with the medical lobby—the AMA or individual doctors simply will not have a bar of recognising any of the work done by them and, therefore, the advice is pointless, because it leaves them with nowhere to go.

As a member of Parliament, I was lobbied considerably and heavily by chiropractors and medical practitioners and I did my best to try to ascertain what positive steps were open to chiropractors in order that, some time in the future, they may obtain the form of recognition from the medical profession they believe their training and methods warrant.

As a result, oddly enough I consulted a person who has a medical degree as well as a PhD. One would assume, from the fact that person has medical qualifications, he would have the same inbuilt bias or prejudice against chiropractors as is accepted to be the case with most other medical practitioners in the community. In fact, the saving grace of this person who has a medical degree but does not practise—he works in a research capacity—is that far from having any bias or prejudice towards chiropractors he actually consults one himself. Therefore, he is perhaps one of the unique specimens around Australia in that, as a medical doctor, he has sufficient faith in chiropractors to consult them for a back condition from which he suffers.

It seemed to me a person of that kind would be in one of the best positions possible to give some form of objective opinion as to where chiropractors should go if they are to be denied under this legislation the chance to certify workers as being unfit for work.

While the person I consulted has been prepared to submit himself as a patient to a chiropractor, for a long time he has doubted the level and scope of research in which chiropractors engage and the extent to which they are prepared to put that research to the scrutiny of independent assessors. He claims, as a person with medical and other degrees, that is the greatest single problem facing the chiropractic profession today; that is, it has not been prepared to submit its research to independent, outside, objective researchers in order that peers and other branches of medical science may assess whether there is anything at all in chiropractic.

Bearing in mind this person had made those sorts of comments to me, I asked him to inquire as to how chiropractors, their work, and

professional journals are viewed by the international scientific community as a whole. A photocopy of a couple of pages of a rather weighty document—it is the *Publications List for all Editions of Current Contents*—was handed to me. That document has a sub-heading pointing out that it represents virtually every discipline within the sciences, and the social sciences. It is a catalogue which is issued by the Institute of Scientific Information of Philadelphia.

The important aspect from the House's point of view is that the list does not have any medical bias, because in fact it covers all the sciences—physical, biological, and social.

In my view, the interesting point was that nowhere in the list—we are both prepared to stand corrected on this—could either of us find any reference to the journals which are issued by the chiropractors. I refer to the *American Journal of Chiropractic* which is issued by the American association and its counterpart, *The Journal of the Australian Chiropractors' Association.* Nowhere in that catalogue, which lists all the reputable and international journals, could we find any reference to those journals of chiropractic. If, however, my investigation proves to be incorrect, I would be more than happy to apologise to any of the chiropractors in Western Australia.

Lest it is lost on anyone, I point out the significance of this is that the catalogue purports to be a list of all the reputable scientific journals covering all the sciences—physical, biological, and social—but it does not list any journals which refer to the practice of chiropractic.

I do not think that proves everything, but it indicates that the editors and authors of the catalogue are themselves satisfied, in a scientific sense, that the journals to which I have referred simply do not come up to scratch and the sort of research material contained in them is really below the standard one would expect of any scientific or medical journal of high repute.

Before that is taken to be some sort of attack on chiropractors themselves, I shall refer to extracts taken from a couple of journals issued by the association in Australia, because in the assessment of the person whom I consulted, there was at least the beginning of a healthy, new trend within the Australian journal in regard to the point he made and the inference one could obtain from the fact that chiropractic journals were omitted from the document I mentioned.

It appears that, in recent times, in articles published in Australian journals considerably more attention has been paid by chiropractors to their own deficiencies. The least that could be said of anyone in this sort of situation is that the minute a person starts to recognise his own deficiencies, he is on the path towards eliminating them altogether. However, from reading these journals and submitting them to the examination of a person who has expert knowledge in this area, as does the person I consulted, it appears that not all is well in this area. Firstly, however, I shall refer to some of the more positive aspects of the matter.

I should like to quote from an article which appears in volume 11, No. 8, of *The Journal of the Australian Chiropractors' Association.* I cannot give members the date, because the journal is undated. The article is written by Dr Scott Haldeman who is a doctor of chiropractic and has a PhD and a medical degree. He says, in part, as follows—

> Unfortunately there has been relatively little research into the theory and practice of chiropractic. It is therefore very difficult to say with any certainty exactly which aspects of health and which human ailments are best managed through chiropractic adjustive care.

That serves merely to confirm the very attitude which was expressed to me by the person I consulted as to what I should do in regard to this legislation. It is a recognition on the part of a chiropractor—a chiropractor who has the dual degrees of chiropractic and medicine—that the standard of research and the degree to which chiropractors are prepared to allow their activities to be scrutinised by other branches of the medical profession is inadequate. The fact that that man was prepared to make such an admission is a healthy indication and augurs well for chiropractors in the years ahead, because it is clear that they are beginning to recognise the problem. Chiropractors want recognition from the rest of the community and also from other branches of medical care. Indeed, they want recognition from the total health care environment and yet, as long as criticisms of this nature are levelled at them, they cannot hope to obtain that recognition.

The same author goes on to say—

> There is a wide variety of diagnostic procedures, including dynamic and static X-ray, static and motion palpation, skin temperature and posture measuring instruments, currently utilised by chiropractors. With the possible exception of X-rays, very little research has been done to determine the accuracy of such procedures.

Once again that confirms the independent, verbal advice given to me by the person I consulted locally. It stresses that, if the chiropractors want recognition and widespread acceptance, they have to lift their game.

It is a healthy indication that such comments are being made by chiropractors themselves. However, much of that good work is undone when, in the same journal, one reads an article written by Mr Graham Kinney who I understand was a former New Zealand rugby player and who now practices chiropractic. The comments he made will not do chiropractors any good at all. If anything, the article contains some of the most mercenary comments I have read; they are almost at the level of being unprofessional. The article reads, in part, as follows—

> Gradually during the past twenty years I have formulated a conviction that as a profession, we should exploit the merits of chiropractic in alleviating and preventing sporting injuries and in improving the health, fitness and mental/physical co-ordination of athletes on a team and individual basis.

I believe Mr Kinney is rather foolish to use the word "exploit". To continue—

> Now that chiropractic is on an official footing in five states, we have the incentive to make an ethical approach to any number of sporting authorities and administrators. Professional sport in Australia is big business.

That seems to me the very sort of comment chiropractors are trying to get away from and yet here we see such comments being made by a doctor of chiropractic. My understanding of the comments is that they are made in an openly mercenary way, and they invite Mr Kinney's colleagues to get on the bandwagon of sporting injuries, because they are big business. Presumably that means any one of a number of chiropractors can make a great deal of money out of such injuries, because they represent big business.

The sort of impression created by remarks such as that will prevent chiropractors from achieving the level of acceptance within the community that most of them, as decent men and women, are striving for. That sort of nonsense does not really help any of them.

I remarked earlier that for the time being the Government has made the right decision in limiting the certification of an unfit worker to a medical practitioner. Chiropractors themselves argue that they ought to be given the ability to certify, but that raises the question that every dentist, physiotherapist, chiropodist, etc. working within the health care environment in this State would be entitled to ask for the same ability to certify.

The quotations I have read to the House satisfy me that the road ahead for chiropractors is for them to submit themselves to independent checks and scrutiny. Often articles printed in chiropractic journals are the untested observations of only one person and not those obtained by scrutiny of an independent panel. Until they get out of that situation chiropractors will be battling to receive widespread recognition.

One of the criticisms made of the articles is that they rarely spell out the sort of treatment used, and there is usually a generalised comment of "chiropractic treatment" of the patient. They gloss over the type of chiropractic treatment used. My advice is that these people ought to be more specific in their articles, and be happy to be subject to the sort of scrutiny to which I have referred.

Another of the criticisms I have received relates to a description of the statistical methods used so that the reader can make an assessment of those methods. The impression created by many articles is that the statistical methodology has been glossed over and they do not really try to come to grips with the specifics of how certain things are arrived at.

I return to my first point: If nothing else, some of the articles show a healthy trend and an awakening on the part of some chiropractors that there is a need to lift their game, the standard of their research, and the level of scrutiny of their profession that they are prepared to allow. Chiropractors are doing themselves a disservice by operating in the present closed environment. Most chiropractors are reputable people and many provide relief to a lot of people in this community, but could do so on a more widespread basis if they were prepared to heed my suggestions. It is the chiropractors themselves who are suffering because they are not doing those things. On a positive note, perhaps they ought to be trying to sponsor a national research programme on back ailments under controlled conditions, perhaps through the National Health and Medical Research Council or a university or college of advanced education. Chiropractors have the financial facilities to afford a national programme such as I have mentioned, and certainly it would be to their benefit in the end.

With those comments, I support the Bill.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.48 p.m.]: This is what I call being forced to one's feet!

The Hon. I. G. Medcalf: Only for 10 minutes.

The Hon. D. K. DANS: A great deal of agreement has been reached on this Bill, but I must oppose the Bill at the second reading stage. When this Bill's predecessor was introduced into the Parliament, it was a much more unacceptable piece of legislation. Repeatedly the Premier stated that the Government intended to proceed with the workers' compensation legislation as originally presented, regardless of the opposition voiced to it.

From the changes made to the legislation, the Government's original intentions have been moderated considerably, and that is something about which the Opposition is pleased. The community must wonder why back in April they were subjected to that bout of trauma which accompanied the Government's initial intention to proceed with the legislation, irrespective of the view of other groups intimately involved.

This is a rather strange state of affairs, because it has not been the experience in other States whilst dealing with workers' compensation legislation. The fact is that the confrontation, the trauma, and the bitter opposition originally engendered by the first Bill have been proved by the provisions of this Bill to have been completely unnecessary.

One would hope that members opposite have questioned the Minister regarding his justification for causing such controversy and trauma in the community. More to the point perhaps, they should have questioned the Premier whose firm belief in politics by confrontation is making him more and more out of step both with members of the public and certain elements within his party.

It needs to be acknowledged, and acknowledged often, that this legislation is a result of a consensus agreement. It is a result of tripartite negotiations and consultations between the Government, employers, and employees—a form of social contract if one likes. There are areas other than workers' compensation in which the same result could be achieved, if that sensible approach were adopted.

We on this side of the House think that, if at all possible, a consensus should be reached on important and controversial legislation. Discussions and negotiations between parties affected by proposed changes to legislation need to take place prior to changes being introduced.

It would be remiss of me if I were to say that I agree with everything in this Bill; I still object to a number of provisions. The first is in respect of lump-sum payments. The legislation represents a phasing down of some $12 000 over a period of nine years. One would have to object to that because it reduces the level of compensation payable to the worker or his dependant. The second is in relation to the cutting off of compensation benefits at age 65 for most workers other than those with mining diseases and, in the case of mining diseases, lesser benefits than are currently enjoyed.

The Hon. P. H. Wells: They get the same benefits plus an extra one.

The Hon. D. K. DANS: The member can get up and tell the House all about it. He should read the provisions of the Bill.

Some amendments are still to come before this Chamber, but they are not here yet.

Referring to the journeying provisions of the Bill, the onus of proof makes it difficult for workers to obtain due compensation in some cases and, again I submit there are some propositions before the House in that arena. I am not pleading ignorance, but everyone in the Chamber knows I have been overseas for six weeks and many things have happened. I am looking at the Bill as I see it and I am not sure of the stage we have reached, apart from the amendments on the notice paper.

The fourth area of objection is the definition of "worker", which excludes all workers in cottage industries. That means a sweeping statement, but means exactly what it says.

The last area of objection relates to the concentration in the hands of the Minister of appointments to respective boards. Speaking in the other House, David Parker drew attention to the following points—

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order, please! The member should not refer to debates in the other House.

The Hon. D. K. DANS: I withdraw that statement.

The Hon. I. G. Medcalf: You would like to draw attention to certain points?

The Hon. D. K. DANS: There is a great need for a complete rewrite of the workers' compensation legislation. This Bill does go some way towards succeeding in the aim of improving the way in which workers' compensation legislation is framed in this State, simply from a procedural and administrative point of view. However, the Opposition's view is that workers' compensation ought to be regarded as a social question rather than as primarily an insurance question.

If we continue as we have done in relation to workers' compensation legislation, despite all the consensus in the world and the tripartite and other agreements reached, workers' compensation will remain a thorny question whilst it remains a means for an insurance company to make money. It amazes me when speaking privately to insurance representatives how they bemoan the fact that their company lost X millions of dollars last year on workers' compensation. When one says to them, "Why don't you adopt the principle of getting right out of it and set up one single authority to handle workers' compensation?", of course the answer is, "Well, if you were to do that, we would all go bankrupt".

I have not looked at the statistics but sooner or later we must grapple with workers' compensation in a manner similar to the Motor Vehicle Insurance Trust.

While the Labor Party federally proposed a national compensation scheme and, for one reason or another, it was not proceeded with, the present Federal Government certainly has not dropped the idea. A proper approach should be made to workers' compensation. Disregarding compensation as an insurance question, industry in this country could be saved millions and millions of dollars, speaking of those people who pay the premiums. We need a system which will provide equity for all people.

There are a large number of improvements in this Bill, which is far better than its predecessor. There are still areas of concern, including the prescribed amount. On the question of chiropractors, the position is unclear. I refer to the proposition put forward by the Hon. Mr Pendal. Another area of concern is the definition of "worker". There are amendments on the notice paper. I do not know what this House will do about them. I am led to believe that the intent of the Bill does not represent the agreement reached.

Relating to the definition of "worker", the workers will repudiate this agreement if the current definition is not changed. A large number of the people who were receiving workers' compensation between 1970 and 1978 will no longer receive it.

Sitting suspended from 6.00 to 7.30 p.m.

The Hon. D. K. DANS: Before the tea suspension I was explaining that many people who were receiving workers' compensation between 1970 and 1978 will no longer receive it. I am talking now of the team concept—people in bricklayers' teams and pop groups. These people are employed on a flat rate. When they receive money due to them, they divide it up between them. The definition should cover that which it was always intended it would cover.

The matter of workers resident outside the State for longer than 24 months worries me. No time limit of 24 months should be proposed for a person ordinarily domiciled in Western Australia.

The amendments to the journeying provisions will mean that the onus is shifted onto the worker to prove that accidents did not occur through wilful default. In every other matter relating to workers' compensation the onus of proof is on the employer.

Three bodies are to be established under this legislation, and it seems to me that the Bill takes away the rights of the employer and employee organisations to nominate members to these bodies. The Bill effectively provides that the Minister can terminate the employment of a nominee member on the ground of mental or physical disability. I wonder how the Minister is to arrive at a conclusion about a person's mental condition. I suppose it is all right while we live in a democratic society, but I notice that the question of a person's mental status can be used as a means to lock up that person if he holds views contrary to those held by the people in power. I am not saying that would occur here, but how would the Minister determine a person's mental state?

With the widening of the eligibility for people to appeal to the Workers' Compensation Board we may find that unlimited appeals will add substantially to costs.

The contents of the Bill have been widely canvassed. I am aware that it may well prove to be a blueprint for dealing with other contentious pieces of legislation. Despite all the tub thumping and cymbal clashing, with the application of common sense and tripartite agreements we have a Bill which is a considerable improvement on its predecessor. I do not agree with all its provisions, but it is a Bill which has achieved much by sensible people sitting down and reaching a mutual conclusion. The majority of those conclusions are acceptable to the parties. This is the way we should deal with other legislation of a contentious nature. I do not believe the confrontation syndrome, which is so evident in Western Australia, should be allowed to continue.

One aspect of the Bill does worry me a little, and I am thinking of the operation of the Workers' Assistance Commission. I have yet to be convinced that the commission will operate successfully, although in the fullness of time I may change my view. I hope the person nominated to be the chairman of the commission

is a mature person with extensive experience in the workers' compensation field. I would not be concerned from which side of the fence he came, provided he had extensive experience in the field.

A further point which disturbs me is that the commission seems to take away from a person's doctor the right to rehabilitate that person. A doctor would know what were the needs of an injured worker. I know that none of our medical practitioners would agree to send an injured worker to a chiropractor, but we have people such as occupational therapists to consider. If a doctor thought the best person to rehabilitate a worker was an occupational therapist, there is no doubt that the worker should be able to see such a therapist. The same would apply with a speech therapist.

I see quite a few inconsistencies in the legislation, which I do not think will work as well as the present system. I still believe that a medical practitioner is the best person to assess what is best for the rehabilitation of his patient. I know there are limitations on how much money is to be spent. One could ask where the money is to come from. To my way of thinking there are many inconsistencies.

I know other people have welcomed this part of the Bill with open arms, but I still see it as having the possibility of promoting a great number of difficulties. It could lead to friction between a medical practitioner treating an injured worker and the commission. Perhaps I have it all wrong, but I felt it necessary to voice my doubts. Perhaps the Workers' Assistance Commission will work admirably.

I believe we should take workers' compensation out of the hands of the insurance industry and treat it as a social matter with one authority handling all matters related to it. I do not believe the Bill will provide a great deal of relief right across the board. It will not do so until someone has the intestinal fortitude to front up to the problem. I have in mind something like the Motor Vehicle Insurance Trust, and we all know that the insurance companies take part in that. We did have an inquiry in Western Australia a while ago, but it was a somewhat off-the-cuff inquiry. Inquiries held in Victoria and South Australia point to the fact that compensation should be served by a single authority. I go along with that point of view.

THE HON. TOM KNIGHT (South) [7.40 p.m.]: Firstly, I would like to commend the Government and congratulate it on its presentation of this new workers' compensation Bill, which incorporates the changes made to the previous Bill. A tremendous amount of discussion and negotiation took place between the workers, business, industry, commerce, and unions to bring about this Bill. The Government went all out to ensure that it put a Bill before the Parliament which would be of great benefit to all the workers. I congratulate the Government and the committees that investigated this subject.

Unlike my colleague, the Hon. Phil Pendal, I am disappointed with one aspect of the Bill in particular, and that is the section dealing with chiropractors. I believe chiropractors should be included in the workers' compensation field.

Members may recall that earlier in the session we considered amendments to the Chiropractors Bill. A lot of work has gone into this concept in order to lift the standard of chiropractic throughout Australia, and particulary Western Australia, which leads the nation in this field.

The Preston Institute of Technology has evolved a course of chiropractic training that international authorities consider to be the foremost in the world today. The first three years of the course involve full medical training and a student may decide at the end of those three years to divert into the medical profession or to carry on with his chiropractic training.

The move by the Government to extend chiropractic registration was a good one. It realised that people trained under the Australian Chiropractors' Association at the International College of Chiropractic obtained a standard which could be adopted Australia-wide and which would give us the lead throughout the world. When people were applying for hospital benefits or workers' compensation this would allow the Government to accept chiropractors on the same level as members of the Australian Medical Association.

The Australian Medical Association has a closed-shop attitude, and this has been so for a long time. It has lobbied hard to ensure that chiropractors do not obtain a fair place in the community.

The Hon. D. K. Dans: I bet they keep their closed shop, too.

The Hon. TOM KNIGHT: They will work very hard to do so. If we consider the Webb report or the Canadian or New Zealand reports on chiropractors, we realise that this should not be the case. The committees set up by these countries included some prominent surgeons. The Webb report was instigated in Australia. Those inquiries came back with findings that chiropractic is a major part of medical services to the community. To close our eyes to these facts is

to show ignorance of something that dates back to the Roman days. People operating in this field were known as chiropractors even then.

A member of my family has been involved with chiropractors. My father had cause to see a doctor about a sore back. The doctor wanted to operate. Earlier he had suggested cortisone injections and had then suggested an operation where he would cut into my father's back and either fuse the spine or wire it together.

My father, who is now 72 years of age, went to a chiropractor and became as fit as a fiddle, yet the doctor wanted to operate on him—cut. A friend of mine had the nerves at the lower part of his spine severed to stop pain he suffered as a result of a back injury. Perhaps a chiropractor could have assisted without the necessity for my friend to undergo the operation.

If doctors had foresight and were prepared to accept something which, in my opinion, they do not really understand, the community would benefit. Doctors should be aware that chiropractic training has been undergone for as long as medical training has been in existence. Chiropractors have been curing people for as long as medical practitioners have existed. The benefits of using chiropractors have been proved so many times that doctors should be aware of those benefits. In fact, I know several members of this Parliament who know of doctors who have gone to chiropractors for back treatment. When I had trouble with my back my doctor, with tongue in cheek, said, "You could go to see a chiropractor if you want". I did see a chiropractor and now my back is 100 per cent. I did not want to undergo a back operation.

The situations to which I have referred indicate the complete ignorance shown by a senior profession in this country. The medical profession does not want to accept the fact that someone may know something which doctors believe comes only within their sphere of responsibility.

The Chiropractors Act, an amendment to which we passed last session, needs more teeth. Chiropractors accept that the legislation covering them does not have the teeth to fully guard against malpractices in their profession. I hope chiropractors will put submissions to the Government for amendments to the Chiropractors Act to give it the teeth to allow the Chiropractors Registration Board to penalise chiropractors who step out of line. I hope the Government in its wisdom puts forward amendments in line with submissions from chiropractors.

The workers' compensation Bill placed before the Parliament earlier this year included the words "or chiropractor" but in this Bill they are not included. The Government was not right in omitting those words, an omission which will deprive the community of a service that can be beneficial to them, and in certain cases more so than attention from the medical profession. Certain doctors in the profession still will not support the proposition that patients at times should go to a chiropractor for treatment. Those doctors want a closed shop situation, but I hope they show common sense. In time the Government will accept the sense of introducing the words "or chiropractor" into the legislation. I hope doctors will accept that a patient with a back injury may be able to have that injury cured by a chiropractor, and therefore suggest to their patients, especially the ones who listen to them with awe and think their doctors are the be-all and end-all, that a back injury may be cured by a chiropractor after assessment and attention. I believe in many cases people will be cured.

The Webb report made a comment that basically any medical practitioner who is not aware of the benefits of chiropractic manipulation should not be practising within his profession. I believe that as well. I hope doctors will open their eyes and use a bit of common sense; I hope they accept something which I consider should be included in the legislation.

I support the Bill.

THE HON. W. M. PIESSE (Lower Central) [7.48 p.m.]: I too support this legislation and I support absolutely the remarks of the Hon. Tom Knight in regard to the work and effort which went into compiling this Bill. We must keep one thing in mind when considering legislation to cover workers' compensation and assistance. At page 10 of the Dunn report it is stated—

> It is not the province of a Workers' Compensation Act to compensate for pain, suffering or loss of enjoyment of life. Its province is to deal with some of the economic consequences of the injury and to facilitate the return of a worker to gainful employment.

That comment should be kept in mind by anyone discussing this legislation.

In regard to chiropractors and the problems to which members have referred, I must say that I believe chiropractors should not be allowed to diagnose injuries. At all times that right must remain in the hands of qualified medical practitioners. It would not be in the best interests of a worker to have his diagnosis handled by anyone other than a qualified medical practitioner; however, some workers should be

referred to chiropractors. As the Hon. Tom Knight said, a worker disabled by an injury should have the opportunity to seek further assistance if his doctor cannot help him any more. It may well be, by the nature of his injury, that he should seek chiropractic assistance.

I do not think problems will arise in regard to the engagement of speech therapists, occupational therapists, or other therapists. However, to my mind it is a deplorable state of affairs that at present hospital accounts are made up of accounts from several people. When a patient is discharged he receives a separate account from almost every practitioner who passed his bed. In the olden days—

The Hon. G. E. Masters: You are not that old.

The Hon. W. M. PIESSE: Children refer to my youth as the olden days. When a person was discharged from hospital he received one account upon which was indicated the various services he received. It referred to physiotherapists or speech therapists and the fact that certain dressings, etc., were used. The fee for pathology services and other such things were listed on the one account. Unfortunately nowadays a patient receives separate accounts. It seems that in all activities of our lives we are being smothered by paper work. A patient now receives an account from the anaesthetist, one from the pathologist, one from the surgeon, one from a therapist, and one from each other person who saw him. This situation should be investigated thoroughly.

Schedule 1 of the Bill indicates that the complete recovery of a patient is covered by workers' compensation. If a worker has lost an arm or a leg a suitable prosthesis will be provided. He must learn to use that prosthesis, and the treatment involved will be covered by workers' compensation. A therapist is engaged to assist the patient to use the new arm or leg. I have no quarrel with that part of the legislation. However, I am disappointed by the part referring to contractors.

It is difficult to write legislation to cover every area of the State, and in this case, to cover every occupation. To some people the term "contractor" means a builder; however, to a country person it may mean a shearer. I am concerned about the situation of shearers in regard to this legislation. I will refer to a vexed problem which has occurred in country areas, the problem of compensation for shearing teams. In years gone by it was usual for a farmer to engage shearers individually. He would pay their wages himself. On the same basis he would employ shed hands and others. With that process no problems were encountered.

Nowadays it has become the custom for shearing contractors to undertake the shearing work. The contractor provides the whole team, the whole outfit, of 17 or 20 people, and he pays his people their wages. The contractor may be employed for only a few days. The contractor takes care of the taxation and workers' compensation payments and all other matters in regard to the employees. The property owner pays the contractor a little extra for arranging those matters and taking the worry from the owner's mind. Unfortunately something has gone wrong with the process.

Now it is necessary for owners to require a certificate that the contractor has all his people covered for workers' compensation. If the owner does not have the certificate he may be liable to pay the compensation of any worker injured during the time the team is on his property. The problem may not seem to be acute, but situations may arise in which it will be.

Another point is that a farmer may engage employees for 12 months or more. Their wages are assessed at a certain amount and the compensation premium is determined and paid. At the end of the year if any adjustment is to be made, it is made. It must be borne in mind that a shearing team may be on a property for only one, two, or three weeks; however, the farmer may be required to pay several thousand dollars for the work carried out by that team, and the amount of payment is taken into consideration when the employer's indemnity policy is assessed.

The cost has run into many dollars and this has caused quite a deal of anxiety amongst the farming community. It is one more straw to discourage people from engaging shearing teams, which to my mind is detrimental to the industry. Some people may not believe it is detrimental, but in my experience it is. I am not saying the matter to which I have referred is the sole cause of shearing teams not being employed, but certainly it is one. I am disappointed that in no way does this Bill differentiate between the various types of contractors.

I know many problems exist with building contractors and subcontractors, but those problems are entirely different from the problems encountered in the farming community.

The Hon. H. W. Gayfer: It is an entirely different world.

The Hon. W. M. PIESSE: That is correct. No doubt the member is aware that it is almost impossible to do anything about the situation.

From time to time this legislaton will be amended. I do not think there is any legislation

that has remained as it was first written. Certainly we live in a changing world. As the years go by we will see further amendments to this legislation, and I hope in the not-too-distant future we will be able to sort out the matter to which I have referred.

The Hon. H. W. Gayfer: Even if we have to, ourselves.

The Hon. W. M. PIESSE: We may have to. I would be in favour of that.

The Hon. G. E. Masters: I don't like the sound of that.

The Hon. D. K. Dans: It is a threat.

The Hon. W. M. PIESSE: It is a promise. It is a serious matter.

I will draw another matter to the attention of the House, a matter which I do not think was explained fully in the Minister's second reading speech. It is important. I refer to the additional requirements of the schedule relating to industrial diseases. As I have said, we live in a changing world. At the time asbestosis became a fact people did not know what lay ahead of them. Today we are entering different areas of industrial work and we use different kinds of chemicals. We do not know the effect of this work and chemicals on our workers. For that reason I was pleased to see at page 34 of the Bill, clause 46 (1) which states—

> The Governor may, by Order in Council published in the *Gazette*, declare that any other disease or process or disease and process shall be included in Schedule 3.

The clause goes on to say that the inclusion must be tabled in both Houses of Parliament before the Order in Council comes into effect.

This provision is very good. As I have said, we do not know what is ahead of us. The provision will leave room to make amendments should the need arise.

The Hon. H. W. Olney: It has always been in the Act.

The Hon. W. M. PIESSE: I believe it has been added to. Mr Olney may be correct. There was certainly lengthy discussions about it. I support the legislation.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [8.01 p.m.]: I thank members for their contributions, and it is obvious a great deal of thought has gone into their speeches. I should like to thank Mr Olney for the comments he made and for the comments made by members who spoke after him.

The Bill is an important one and has been dealt with in a way which is somewhat different from past legislation. It is a result of a Government promise at the last election. I do not believe anyone could accuse the Government of rushing this legislation. There has been consultation with the courts, and the best possible legislation has resulted. It is obvious there will be differences of opinion because of different parties and individuals, but all in all the Bill is acceptable to this Chamber and the other place.

Mr Olney said he would not oppose the second reading stage, but I understand Mr Dans said he would oppose it. I think his opposition would be on one or two points only. The value of this Bill is indicated by the way in which it has been debated. It has not become a political football; the importance of it has been recognised by both parties. We have new legislation which will clarify for the courts some of the problems which have occurred in the past.

The Hon. D. K. Dans: It has recognised everyone's interest.

The Hon. G. E. MASTERS: I believe Mr Dans mentioned that fact in his speech as did other speakers. I would hasten to add that the Minister in another place who is responsible for the drafting of this legislation gave an assurance that whatever happened, there would be a review in 12 months' time. He said that review would take into consideration all the problems that may come about as well as some of the amendments which may not succeed in the Committee stages of debate.

The matter of the prescribed amount has been discussed at length. We have applied a new formula which we believe to be fairer than that which was used in the past.

The maximum sum has been altered—that is, the maximum sum paid to a person who may be injured or who may be claiming workers' compensation—because we believe it was geared in the wrong way; it was a percentage increase on the average weekly earnings. Now, it will be a percentage increase based on the weighted minimum weekly wage and that percentage increase will be geared to the sum of $46 000. For example, if that percentage were increased by 10 per cent and it was based on $46 000, the increase would amount to $4 600. That sum of $4 600 would not be added to the $46 000, it would be added to the existing maximum of $58 805.

On the other side of the books, there will be a calculation based on $46 000 so that one figure will catch up with the other and sooner or later—perhaps in nine or 10 years—a figure will

be arrived at whereby a weighted average minimum wage will apply to the maximum figure being paid.

Two figures were put forward; one was from the Government and the other from the trade union movement and others. Each thought their figure to be reasonable. The trade union movement and others believed that the figure should be higher; therefore, a compromise was made. There was no decrease in the maximum figure that applied, so that figure will continue but at a lower percentage increasing rate. I think these matters have been resolved and as a result of negotiation and discussions there has been a consensus of opinion. This matter has been brought to the House in the spirit of co-operation which prevailed during the discussions.

Rehabilitation is an important aspect in this legislation. Most workers wish to return to work and there is a necessity to help those people who wish to do so. We have established parameters within the legislation to ensure the opportunity is provided for those people to return to work.

There is some division of thought—and most likely debate will ensue—on the termination of compensation at 65 years of age. It seems reasonable to the Government that this 65-year age limit should be contained within the legislation. This will not always occur; there will be an opportunity for a person to receive at least one year's compensation through provisions in the legislation and there is also a provision which enables a person to receive workers' compensation up to the age of 70 years, if the board so directs. The tripartite consensus of opinion has prevailed again and so this conclusion was reached.

Further provisions in the legislation deal with noise-induced hearing loss. Once again, discussions will occur and a decision will be made at a later stage when the 12 months' review takes place.

Mr Pendal made a good contribution to the debate. I listened to him with interest, especially to his opinion which certainly differs from that of Mr Knight. However, we must bear in mind the fact that those members put forward their arguments, and they will be considered when a review of the legislation takes place in the future.

Mr Pendal spoke about speech therapists. There is a provision in the legislation which includes the use of speech therapists and amendments on this matter will be considered during the Committee stage. I think this matter has been covered as well as possible.

When Mr Dans made his second reading speech I was a little concerned about the way in which he commenced. I thought the Bill was being considered in a spirit of co-operation. He indicated that he would oppose the second reading stage. I am sorry, because there is so much in the legislation which is good.

The Hon. D. K. Dans: Some bad.

The Hon. G. E. MASTERS: As far as Mr Dans is concerned. Generally speaking there is so much good in the legislation that I thought during the Committee stage he would just oppose those aspects with which he did not agree.

Mr Dans said the Government of the day had been responsible for confrontation. I do not believe that is so. I believe confrontation was stirred up by extremist elements in the Opposition party. Misleading advertisements were placed in the newspaper. They were placed simply to stir up trouble.

The Hon. D. K. Dans: Very truthful advertisements.

The Hon. G. E. MASTERS: The legislation was placed on the Table of the House in another place for the public to review and for the matters to be discussed. I hope Mr Dans recognises this has happened and will support the second reading stage of this debate, and voice his opposition during the Committee stage.

The Hon. D. K. Dans: I will do it the other way.

The Hon. G. E. MASTERS: I am sorry about that. I will not enter into a spirited debate with Mr Dans because the second part of his speech was so mellow. He mentioned insurance companies and of course they are in the business to make money. We have to acknowledge that workers' compensation is a very competitive field and I am sure all this healthy competition with people insured for workers' compensation will provide better benefits.

The Hon. D. K. Dans: I would believe you if you were talking about retail, but not with insurance.

The Hon. G. E. MASTERS: I believe the definition of "worker" will be debated at some length during the Committee stage so I will leave my comments until then. We believe the definition is as good as it can be. However, there is an amendment on the notice paper, the purpose of which is to make the meaning clear. All possible measures have been taken to cover what we believe is necessary under the definition of "worker". There is no breach of faith, as far as the Government is concerned. The understanding was that if words could be put together which were better than those put forward by the

Government, they would be considered. We have been given alternative legal advice which indicates the amendment will not achieve the purpose of making the definition clearer; therefore, the amendment will be opposed.

Because of the importance of the definition of "worker" and because of the importance placed on it by members of the Government and members of the Opposition, that matter will be considered in the review which will be undertaken in 12 months' time.

The Hon. H. W. Gayfer: Did you discuss the point raised by Mrs Piesse?

The Hon. G. E. MASTERS: If Mr Gayfer is talking about contractors, as defined under the definition of "worker", it will come under the debate. If he is talking about shearers, as far as contractors are concerned, and if they are not considered to be included in this definition, we will have to debate that matter. There must be a distinction between a contractor or a contractual arrangement and someone such as an entrepreneur, or someone who offers casual services.

The Hon. W. M. Piesse: It is a service to be done for a set amount.

The Hon. G. E. MASTERS: We believe the definition of "worker" covers that where there is not a casual arrangement but rather a definite contract.

The Hon. H. W. Gayfer: You believe that?

The Hon. G. E. MASTERS: That is how I read the legislation.

The Hon. H. W. Olney: I think Mrs Piesse is talking about clause 173.

The Hon. G. E. MASTERS: I am discussing clause 5; we will discuss clause 173 during the Committee stage.

I support the Bill.

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. E. Masters (*Minister for Fisheries and Wildlife*) in charge of the Bill.

Clause 1: Short title—

The Hon. H. W. OLNEY: I rise briefly to speak on this clause although I know it is quite unusual to do so. In my second reading comments I bemoaned the fact that we are now adopting a title to this legislation which is different from the titles of similar legislation throughout Australia and, indeed, throughout most of the English speaking countries that have a similar system of law.

I understand the reason for the addition of the words "and Assistance" to the title is that a previous Bill introduced in another place was entitled the "Workers' Compensation Bill 1981", and therefore it is necessary to differentiate between the two. If that is the reason, can the Minister tell us whether there are any plans to amend the name by deleting the additional words when the legislation is reviewed subsequently?

The Hon. G. E. MASTERS: I firmly support the title of the Bill before us. I believe there is very little likelihood that the name will be changed when the legislation is reviewed. I do not believe an alteration would be acceptable. The intent of the Bill is compensation and rehabilitation; it is a genuine move to assist disadvantaged workers. I think the title is a very apt and proper one.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Interpretation—

The Hon. G. E. MASTERS: I move an amendment—

> Page 4, line 39—Insert after the word "occurs" the word "between".

The inclusion of this word is necessary to identify very clearly that indexation of the child's allowance is based on a percentage increase of the weighted average minimum award rate. That is the intention of the Bill, and I am sure members will support it.

The Hon. H. W. OLNEY: The Opposition supports the amendment. The absence of the word "between" in this particular definition was obviously a mistake, particularly when we compare the definition of the term "child's allowance" with the definition of the term "prescribed amount". In fact, we brought this matter to the attention of the Government.

I say at this stage that the Opposition will support all the amendments which appear on the notice paper in the Minister's name. We do not intend to speak on them unnecessarily. Most of the amendments are self-explanatory, but to the extent that it may be felt some explanation is needed, as most of them are the result of the Opposition's approach to the Minister and his advisers, we will comment on them.

Amendment put and passed.

The Hon. H. W. OLNEY: I move an amendment—

Page 5, line 29—Delete the words "the death resulting from".

The purpose of this amendment is to effectively restore the definition of the word "dependant" in the Act now to be repealed. I am sure the Committee appreciates the great difficulty that the draftsman has had in changing from the concept of personal injury by accident as the basis of workers' compensation to the concept of disability. I can see perhaps how the draftsman misled himself into including these words in the original definition.

If the amendment is passed the definition will then read, "but for the disability, have been so dependent". This is intended to cover the situation of a worker whose spouse was dependent at the date that the disability occurred, but because of the reduction in income while the worker is disabled—or even for any other reason—the spouse takes a job, earns income, and becomes independent of the worker. Therefore such a spouse would no longer fall within the definition of a person dependent upon the worker's earnings. It has always been the case that such a person is not deprived of the status of dependant if he or she has, since the date of the injury, ceased to be dependent upon the worker and has acquired some financial independence. If the words are not deleted, I suggest that the whole purpose of the latter part of the definition will be defeated.

The Hon. G. E. MASTERS: The Government has no opposition to this amendment and I urge the Committee to support it.

Amendment put and passed.

The Hon. G. E. MASTERS: I move an amendment—

Page 8, line 36—Delete the word "and" and substitute the word "or".

This is a matter of tidying up and clarifying the definition. The amendment will make the definition consistent with an earlier definition of the term "member of a family", and I thank members for their support of it.

Amendment put and passed.

The Hon. H. W. OLNEY: I move an amendment—

Page 9, after line 25—Insert the following definitions—

"occupational therapist" means a person who is resident in the State and who is registered as an occupational therapist under the law of the State;

"occupational therapy" means the art and science of improving an individual's skills and behaviour by directing his participation in selected tasks in order to integrate, reinforce, and enhance newly learned techniques necessary for remedying any impairment to his skills or behaviour caused by aging, disability, or developmental or mental deficits and carrying out such adjustments to his immediate environment as are necessary to assist him or selecting an appropriate environment for that purpose;

I indicated in my second reading speech that a series of amendments would be moved in order to provide in the Bill recognition of the role of occupational therapists. The latter definition is taken from the Occupational Therapists Registration Act so that there is complete consistency in the wording. The reason that the first definition is phrased as it is, is that last session this Parliament passed a new Occupational Therapists Registration Act which repealed the Act of 1958. However, this new Act has not yet been proclaimed, and rather than refer to an Act which is shortly to be superseded by a contemporary one, it was thought tidier to use the wording in my amendment.

I do not wish to repeat unnecessarily what has been said already about occupational therapy. I covered that matter in my second reading address, and probably it is the consensus of opinion that occupational therapy and, indeed, other paramedical services, are required and will be availed of in the process of rehabilitation. Of course this will be nothing new in the treatment of injured workers, but in view of the slightly expanded provisions in the Bill before us in respect of rehabilitation, it was thought appropriate at this time to include a specific reference to this discipline.

In bringing this matter forward we do not in any way wish to distinguish occupational therapy from speech therapy or, indeed, from any other discipline which has an equally important role in rehabilitation. However, I believe there is a significant difference with regard to occupational therapy. Clause 156, which appears in part IX, contains a specific reference to occupational and vocational training of an injured worker. Indeed, under clause 156, the commission is empowered to co-ordinate a programme for the worker's rehabilitation and vocational training and to obtain estimates of the likely cost of such training.

It has been suggested that clause 156(1) covers the situation of any expenses involved in occupational and vocational training. However, I raise for the Committee's consideration the situation of the medical practitioner who

prescribes or suggests a course of occupational therapy, and so encourages the worker to engage an occupational therapist in private practice; that is, he encourages the worker to attend a paramedical practitioner on a fee-for-service basis. If instead of sending the worker to an occupational therapist, the doctor had sent him or her to a physiotherapist, a dentist, or a chiropractor, the Bill provides clearly that the fee for that service would be covered. However there is no provision for the payment of the fee to a professional in private practice in the field of occupational therapy. That is why we propose this amendment.

The Minister has drawn attention to a proposed amendment to clause 17(1) of schedule 1 in which it is proposed to insert the phrase "other attendance and treatment by way of rehabilitation" amongst the range of things that can be claimed as part of the hospital, medical, and other expenses. "Treatment by way of rehabilitation" is defined in the Bill at page 12, line 33.

The Minister has indicated already that the Government will not accept my amendment; and of course he has the numbers. Has the Government given or is it giving serious consideration to approving and gazetting occupational therapy so that it may come under that heading? If that is so, there would be no need for the amendment I have moved.

Personally I would prefer the Bill to contain specific reference to occupational therapy. The reason for this will appear from some of the other amendments, and particularly the amendments to clause 128. That clause gives to the Workers' Compensation Board certain supervisory powers for the conduct of, and fees charged by, medical practitioners and paramedicals. It is strange that whilst medical practitioners, dentists, chiropractors, and physiotherapists who perform services in the treatment of an injured worker are to be subject to the supervision and control of the board, other paramedicals who provide treatment of a kind approved by the Minister and published in the *Government Gazette* under the definition of "treatment by way of rehabilitation" will not be so subject to that form of supervision and discipline.

I would have thought our amendments were more desirable than the other way suggested of overcoming this problem.

The Hon. G. E. MASTERS: I urge the Committee to oppose the amendment. The Bill provides for this already in the definition of "treatment by way of rehabilitation".

The member asked me whether the Minister for Labour and Industry was considering including occupational therapists under this definition. I have discussed this with the Minister, and he has given an assurance that this is being considered seriously. I imagine they will probably be included. We have to consider the inclusion of occupational therapists and other people; but if at this time we were to include a large number of them, we might miss some out. The inclusion of a large number would make the legislation more cumbersome than it needs to be.

The Bill provides ample opportunity for occupational therapists and the like to be catered for by way of regulation, at the discretion of the Minister. I oppose the amendment.

Amendment put and negatived.

The Hon. H. W. OLNEY: I move an amendment—

> Page 12, line 3—Insert after the word "union" the words "or of either of them"

This amendment is not dissimilar to the amendment moved by the Minister to the definition of "member of a family". In fact, the word "spouse" occurs also in clause 6 of schedule 5.

It has been recognised for a long time that the absence of a legal marriage relationship ought not to deprive a person, who is in fact, if not in law, a husband or wife, of the benefits that a legally married person would have under this legislation. Therefore we have had a definition similar to the definition of "spouse" in the Act for some time. In fact, the previous definition dealt with a wife or widow, and it referred to a female person under certain circumstances.

The proposed definition recognises the evolution that has occurred in the last few years, and "spouse" includes both males and females.

The definition has always covered people in the relationship of husband and wife, and there has been no problem with that. Until the present time, it has covered a woman who, although not legally married to the worker, has lived with him on a permanent, bona fide, domestic basis, etc. The amendment seeks to recognise the fact that in many cases people are living on a *de facto* basis, and one or other of them brings into the new family a child of a previous relationship. That child is accepted into the new *de facto* family as part of the family. Even before the Family Law Act, the Married Persons and Children (Summary Relief) Act 1965-1972 recognised that any child who is in fact a member of the family is the responsibility of the *de facto* "parents".

Here we could have a situation of a bona fide, domestic relationship into which a child is brought by one of the parties, and the child is treated as part of the family. Under this Bill, those circumstances will not make the *de facto* wife or husband a spouse; so we have moved this amendment. If the amendment is passed the wife would be regarded as a spouse, or the husband would be regarded as a spouse of the wife. This would recognise the facts of life as they are practised in the community today.

I urge the Committee to accept the amendment.

The Hon. G. E. MASTERS: I ask the Committee to oppose the amendment.

We are dealing with a spouse, and particularly with a real relationship which has been established. The member read the clause of the Bill, but we have to consider the definition. If in fact a woman with a child went to live with a man and that man were to die two or three weeks later, under the proposed amendment the woman would be entitled to compensation. However, we say that a woman has to live with a man, or a man with a woman, for three years to establish the basis for a claim.

I do not really see the amendment as being compatible. It would be a contradiction, because if a woman and her child moved in with a man, she could receive compensation after two or three weeks, whereas a woman who did not have a child, but had lived with a man for two years, could not.

We are trying to deal with the situation in which there is an established living condition, because we would accept then there was good cause for compensation. That is why we say, where a child has been born of the union, it is fair that compensation be payable. Where a bona fide, domestic relationship has been established and the couple have been living together for three years, it is fair enough that compensation should be paid. However, in fringe areas where different interpretations could be made in the way I have suggested, it would be unfair and unreasonable to expect compensation to be paid.

When one reads the provision as it is meant to be read, it appears it would be unreasonable for the Committee to support the amendment.

The Hon. H. W. OLNEY: I am disappointed the Government will not accept the amendment. To some extent, the comments made by the Minister are valid; but there is a very good answer to them. I refer members to the wording of paragraph (b) (i) on page 11, which sets out that the parties must have lived on a permanent and bona fide, domestic basis immediately before the death. I suggest there would be enormous difficulty in a male or female—usually a female—showing there was a permanent, bona fide domestic basis if the relationship had lasted only two or three weeks. Some effect must be given to the word "permanent" and, as there is no legal tie, one would have to look to the *de facto* permanency; therefore, a short-term period during which the parties had lived together would not, in most cases, come within the criteria laid down.

There is another fact to be borne in mind also, and that is the child brought into the *de facto* family relationship must be dependent upon the worker. It is relevant that we should then look at the definition of "dependants" which refers to "such members of the worker's family as were wholly or in part dependent upon the earnings of the worker at the time of his death". One must then turn to the definition of "member of a family" which covers relationships such as step-father, step-mother, or any person who stands in the place of a parent to another person. The last part of that definition refers to an "ex-nuptial worker".

In many cases in a *de facto* relationship the child of one of the partners will qualify as a dependant of the deceased worker, because that child is regarded as a step-child or the deceased worker is a person standing in the place of a parent. Therefore, to be consistent, I suggest the amendment I propose is not outlandish, because it will not shake the foundations of the provisions in the Bill. Firstly, the relationship between the male and female must be a permanent and bona fide domestic relationship and, secondly, the surviving child must in fact be a dependant of the deceased worker; that is, a person for whom the-worker has accepted responsibility.

If the clause stands as printed in this regard, we will have the very odd position that, if the male breadwinner of the family dies in a compensable accident, the child of the *de facto* wife, being a person for whom the worker has accepted responsibility and stands in the place of a parent, will be entitled to compensation, because he will be a dependant, but the woman may not be so entitled. Members will find that in the first schedule. If the child is regarded as a step-child under the age of 16 years, that child will be entitled to compensation, but the mother of the child will not be entitled to compensation unless the relationship has in fact been in existence for three years. There is an anomaly here.

I appreciate the Government is not anxious to accept this amendment; but I urge the Chamber to agree to it. In any event, I strongly urge the

Government to put this matter on its short list of matters for consideration in relation to the legislation.

The Hon. W. M. PIESSE: I cannot support the amendment. If it were passed, it would open a whole Pandora's box of problems. While I appreciate the sincerity of the Hon. Howard Olney in this regard, it is clear that on page 5 of the definitions it is set out that a dependant may be "wholly or in part dependent". We could very well have a situation in which a woman with a child of her own had come to live with a person in a *de facto* situation and the child may already be supported at least to some extent as a result of the woman's previous relationship. In that case, the child may be partly dependent on the worker, but also supported, to some extent, as a result of the former relationship. Therefore, by supporting the amendment, we would be creating a muddle not only for ourselves, as lawmakers, but also for the community in general.

Amendment put and negatived.

The Hon. G. E. MASTERS: I move an amendment—

> Page 13, after line 3—Insert the following definition—
>
> > "tributer" means a person who works a mine under an agreement with the lessee or owner of the mine to pay or receive from the lessee or owner a portion of the percentage product taken from the mine;

It is quite obvious that, in talking of a "tributer" in the Bill there needs to be a definition. It is set out quite clearly in the amendment and "tributer" can be interpreted in the correct manner in relation to the industry.

It is a straightforward definition to be inserted in the Bill and I ask for support.

The Hon. H. W. OLNEY: The reference to "tributer" occurs in clause 7 as follows—

> ... tributer within the meaning of the word in the Mining Act 1904, and the regulations thereunder, ...

In fact, there is no definition of "tributer" in the more recent Mining Act, and, for this reason, we feel it is appropriate that the definition be inserted in clause 5 and that it take up the actual words of the definition in the 1904 Mining Act. We support this amendment and the associated one in clause 7.

Amendment put and passed.

The Hon. H. W. OLNEY: I move an amendment

> Page 13, line 10—Delete the passage "or 3".

This amendment results from some confusion which arose as to the effect of the new schedule 5. Although it may seem strange that the words I seek to delete were in fact inserted in the other Chamber by way of an amendment moved by the Minister, I understand the Government does not oppose the amendment I have moved. Perhaps I could explain it very briefly.

In the definition of "weekly payments of compensation" it is provided that "in respect of the prescribed amount, include payments made under clause 10" of schedule 1, which provides that, in certain cases where a worker is sent to a doctor to be examined, he is to receive compensation as though he were incapacitated. It includes also weekly payments of a supplementary amount made under schedule 5, clause 2, to which we do not object. It refers also to schedule 5, clause 3.

When we look at schedule 5 we see it is the schedule which has been incorporated to make provision for the exceptions to the 65-year-old cut-off provision in the Bill. There will be three circumstances in which a worker will not have his compensation cut off at age 65. One is when the injury occurs after the age of 64, and the worker will receive a minimum of one year's compensation. Another circumstance in which this will occur is where the worker can satisfy the Workers' Compensation Board that he would have kept working after the age of 65; he is to become entitled to the "supplementary amount" as a weekly payment during such period of the incapacity he would have continued to work up to the age of 70. Therefore, there is a potential for a maximum of another five years of a weekly payment equal to $34.50 if the worker had a dependant or $20 if he had no dependants. That provision relates to the amounts which can be earned by a pensioner without affecting his entitlement to a pension under the social security legislation.

When the compensation, including the supplementary amount, has reached the prescribed amount, the payments will cut off automatically.

However, this will not be the case in respect of a worker who is disabled with pneumoconiosis or mesothelioma. Such a worker will have a number of options. One is to claim a supplementary amount to continue for his lifetime irrespective of the prescribed amount and it may also continue after his death for the lifetime of his dependent spouse at the reduced rate, again irrespective of the total amount received.

It is therefore inappropriate that the passage "or 3" appears in the definition of "weekly payments of compensation". Here again we must look at schedule 1, clause 7(3) to find the provision relating to the cessation of weekly payments at a figure equivalent to the prescribed amounts. The passage "or 3" is inappropriate in that definition because it makes the definition inconsistent with the intention of schedule 5, clause 3. I understand the Government accepts this and I appreciate the great difficulty the draftsman has had in incorporating this new concept and providing a supplementary measure. This appears to have been a mistake that slipped through.

The Hon. G. E. MASTERS: The Government supports the amendment and urges support from the Chamber.

Amendment put and passed.

The Hon. H. W. OLNEY: I move an amendment—

> Page 14, after line 19—Insert the following new subclause to stand as subclause (2)—
>
> (2) Notwithstanding anything in this Act or any other law, where a person (in this sub-section referred to as "the principal") in the course of and for the purpose of his trade or business enters into a contract or arrangement with another person (in this sub-section referred to as the "contractor")—
>
> (a) under or by which the contractor agrees to perform any work not being work incidental to a trade or business regularly carried on by the contractor in his own name or under a firm or business name; and
>
> (b) in the performance of such work the contractor actually performs some part of the work himself—
>
> then for the purposes of this Act the contractor and any other person who works with or for the contractor in performing the work shall be deemed to be working under a contract of service with an employer and the principal shall be deemed to be that employer.

The definition of "worker" in this Act is quite confusing and ought to be redrafted in a more orderly fashion. The definition starts off by saying that the term "worker" does not include certain people, then it makes reference to exceptions, and then finally half-way through the first paragraph we find it includes, "but save as aforesaid", any person who has entered into or works under a contract of service for an employer. The definition goes on to exclude certain people, which is followed in turn by a further provision that includes certain other people; that is, any person to whom any industrial award or agreement applies; and it also includes any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service the remuneration by whatever means of the person so working being in substance for his personal manual labour or services.

There is a very subtle but important difference between the term "contract of service" appearing in the early part of the definition, which in law refers to the relationship of master and servant or employer and employee, and the phrase "contract for service" or "contract for services" which we find in paragraph (b) of the latter part of the definition. A contract for service is a contract between a person and another whereby the agreement is for the provision of some result, whether it be the laying of bricks, the provision of goods and work, or whatever. "Independent contractor" is the usual description of a person who does work under a contract for service. I do not wish to weary the Chamber with great discussion about the difference between contracts of service and contracts for services. The fact is that for some time a provision has appeared in the Act in a form similar to paragraph (b) on page 14 that has extended the definition of "worker" to people who are not workers, but rather are people working under certain forms of contract.

This definition had its origin in the timber-felling industry. If we go back to before 1970 we find in the Act a provision to similar effect which applied only to timber felling; but in 1970 the restriction to timber felling was removed. The new provision that is slightly different from the existing ones is in these terms—

> The term "worker" also includes—
>
> (b) any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services.

There is no doubt that that provision was meant to cover what is normally called the "labour only subcontractors" who of course are really the backbone of the cottage building industry. We have had in this State for a long time the fact that most bricklaying, carpentry, plaster fixing, and other building trade work, particularly in the building of cottages and perhaps even some other industrial buildings, is carried out by teams of what are called "labour only contractors".

There are many variations to the arrangements whereby the labour is performed. Sometimes a builder will have his permanent teams of contractors or "subbies" or carpenters who work for no other person but that builder. In those circumstances, frequently the situation is that the workers provide their tools, but do the job for a price. They contract to lay all the bricks in the cottage for a fixed price and it does not matter to the builder whether one, two, three, or four people perform the work, as long as the work is done to a satisfactory standard within the agreed time. Subject to that, the price is payable.

The intention of extending the definition to include what are called "labour only subcontractors" was to catch those people who, for all practical purposes, were workers. They were doing manual work in the trade or industry of the person for whom they were contracting, but were not entrepreneurs and providing no capital equipment for the purposes of their trade, the only distinction being that they were not technically working under a contract of service like ordinary employees.

In the early days after 1970 the Workers' Compensation Board took a very liberal interpretation of this provision. There had been a case in the High Court some years ago in relation to a timber company which had construed the former provision that related to timber felling in such a way that it would seem to suggest that any worker seeking the benefit of this extended definition would be excluded if in fact he employed another worker or if in fact he provided equipment, such as, in the case of Marshall *v.* Whittaker, a large timber-felling bulldozer, or some such thing. The High Court made a comment to the effect that one could not regard the remuneration being in substance a return from manual labour if really the remuneration— that is, the contract price for the work—included also the provision of plant and labour. In the early days after 1970 the Workers' Compensation Board took what I regard as a very realistic and practical approach to these teams of labour only subcontractors.

The board took the view that the remuneration they received was in substance a return for manual labour; but later there developed a trend with the Workers' Compensation Board where a stricter approach was adopted. The Full Court of this State recently considered this and in effect concluded that if labour only subcontractors in fact employ a person or provide even quite modest equipment, they are not entitled to benefit under this extension of the definition of "worker".

One of the problems so far as the builder is concerned is that he normally leaves the contract formalities to the worker himself. Speaking about the laying of bricks, he might agree that X should lay the bricks for a price, knowing that X is going to work with Y and Z, as one man alone cannot lay the bricks for a house. This goes on for the contract period. Indeed, on many occasions the builder will know of the situation but, for the sake of convenience, he will pay one man who then splits it up, which is the type of situation that the existing extension of the definition was meant to cover.

For some reason or other, this particular working arrangement has been referred to as the "four Irish bricklayers". I do not know whether that is a racist joke; I do not think it is. It was intended to cover four Irish bricklayers initially.

The Hon. A. A. Lewis interjected.

The Hon. D. K. Dans: I didn't mention it. First cousins!

The Hon. H. W. OLNEY: As I understand it, the Government believes that paragraph (b) of the definition of "worker" covers the needs of the four Irish bricklayers.

It may cover some of the cases, but under the decisions of the courts it does not cover the case where three of the Irishmen are splitting on a share basis and the fourth is receiving a fixed amount per day or per week for his labour. That man is regarded as an employee, so the total remuneration of the contract is not in substance a return for the manual labour bestowed upon the particular work people by the contracting, nor indeed does it cover the situation where one person has the agreement with the builder and he gets others to help him to do the work. This is always the case with bricklayers, and almost always the case with carpenters.

Other people who come in to help are not persons engaged by another person to work for the purpose of the other person's trade or business; in other words, they are not engaged by the builder to do the work.

For these workers it has developed by judicial decisions over a period of time that the definition

of the word "worker" is not doing the job it was intended to do and, as I understand it, it is not doing the job the Government believes it does.

I accept the comments of the Minister in his second reading reply that a number of forms of words have been tested to try to overcome the problem. I have myself had the opportunity of discussing a number of proposals with the Minister's advisers.

If we look a little further afield, we find that New South Wales and Victoria—the States which are really the trendsetters in workers' compensation and to a large extent have been traditionally—have overcome this particular problem.

The Hon. G. C. MacKinnon: I thought Western Australia was the trendsetter.

The Hon. H. W. OLNEY: I am pleased to say we were the trendsetters in regard to increasing workers' compensation to 100 per cent of the weekly pay, and some other things.

The Hon. P. H. Wells: We were the first to recognise chiropractors.

The Hon. H. W. OLNEY: We may be the first to include chiropractors, but in many respects we are half a century behind. In my second reading speech I referred to the fact that work-related diseases of gradual onset have for a long time been included as a general rule in all other States. We have not previously covered them in our legislation.

We are still half a century behind by retaining the requirement that a person injured must have been involved in an accident whereas in every other Australian jurisdiction and overseas the words "by accident" have been deleted.

For many years New South Wales and Victoria have had virtually identical provisions covering different forms of labour only contractors. In an effort to try to state in clear terms what is intended to be covered and what I understand the tripartite negotiators thought was being covered, we have proposed this amendment. We wish to say that something is to be treated as something it is not. We wish to say that certain forms of contracts are to be treated as contracts of service and, therefore, come within the general definition of "worker".

So, notwithstanding other provisions or other laws, where a principal in the course of and for the purpose of his trade or business enters into a contract or arrangement with another person—that is, the contractor—he shall be deemed to be working under a contract of service. But it does not cover every such arrangement: the amendment refers to arrangements under which or by which the contractor agrees to perform any work not being work incidental to the trade or business usually carried out by the contractor in his own name or under a firm or business name.

We are excluding work performed by a contractor who is himself an entrepreneur. We are not talking about a contractor who agrees to do work incidental to the trade or business regularly carried on by him, whether in his own name, or in some other name.

The phrase "trade or business" has been determined judicially in the courts in the Eastern States and, indeed, by the High Court to refer to an entrepreneur. We are not talking about a tradesman carpenter or bricklayer who works under his own name. There is no difficulty about such a case. The phrase is one that has a long history of construction in other jurisdictions.

We are talking about a contract or arrangement between a principal and a contractor who agrees to perform work but who is not an entrepreneur, and who actually performs some part of that work. So we are talking about the man who goes around obtaining contracts and putting other people to work on them. We are not talking about the genuine Irish bricklaying team, or indeed any other bricklaying team. The amendment goes on to say—

> . . . for the purposes of this Act the contractor and any other person who works with or for the contractor in performing the work shall be deemed to be working under a contract of service with an employ and the principal shall be deemed to be that employer.

The last part is intended to ensure that not only the man who obtains the contract and who does the work, but also those who work with him—whether they be actually employed on wages or sharing in a contract price—are to be deemed to be working under a contract of service.

I do not pretend that this is a simple matter. I do not kid myself that I have explained it in a way that everyone is this Chamber will understand. However, I can assure the Committee that the amendment is not dissimilar to the provisions in the legislation of at least two other States.

I accept the fact that the Minister has given an undertaking to have this matter looked at. However, I am disappointed that the Government is not anxious to accept the amendment at this stage. We have very real reservations about the efficacy of the provisions which the Government believes will do the job intended to be done. If the Government takes the trouble to examine the operation of corresponding provisions in

Victoria—provisions which have operated for some time—it will find there is nothing really objectionable about this amendment. I ask members to support it.

The Hon. G. E. MASTERS: I urge members to oppose the amendment moved by the Hon. H. W. Olney. We believe the definition is as good as we can achieve at this time. We do not say it is perfect but we do say it seems to meet the requirements of the Government.

Our legal advisers have some doubt that the amendment would achieve the honourable member's purpose. We must understand that where there is a true contract, a contract clearly understood and considered as such, the definition in the Bill meets the purpose.

We are concerned about the situation in regard to entrepreneurs. I would like to give members an example. A person could approach a principal and offer to undertake a job for $X, and no question would be raised about how many bricklayers or carpenters would be involved. No question would be asked about the experience of these workers in the labouring field. There is no real contact between the principal and those right at the bottom of the line—the people actually doing the work. So in an entrepreneurial situation the contact is lost. Usually the contractor covers the workers himself, but if he does not do so, the principal would usually require proof that the workers are covered.

We have been concentrating on the building industry, but let us consider the situation in the farming community. The Hon. H. W. Gayfer is a farmer, and let us suppose that he has 10 000 bales of hay to be collected. I could approach him and say, "I am a contractor, and I will load your bales of hay". I could then approach the local Apex club or Lions club and say, "Will your members give me a hand?" The service clubs would probably agree to this so that they could use the money for some worth-while purpose. Let us assume then that one of the club members has an accident and loses his leg. Could we then say that the farmer is responsible for the accident? I must admit it is a problem to determine who is responsible. As I understand it the Hon. H. W. Olney is saying that the farmer must be responsible. That is only one example, but there would be many other such examples in the community. I can see that there is a serious problem.

What we are trying to do is to say that where there is a recognised contract, the workers must be covered. However, we are having trouble in coming to grips with the problem because of the many grey areas that exist. I do not believe the amendment is the solution. I would ask the Hon. Howard Olney to explain to me paragraph (a) of the amendment. It refers to that work not being work incidental to a trade or business, and I take that to mean work not associated with a trade or business. Does it mean the contractor could agree to perform work which is not his usual job? Could he, for example, say, "I will carry out a plumbing job for you, even though I am a bricklayer"?

I make the point again: We seem to be moving away from a true contractual arrangement and covering the fringe areas. We seem to be losing track of the principal and workers themselves, and there needs to be a relationship between them before workers' compensation is applicable.

Although there may be a little doubt about our definition, the one put forward by the Opposition is no better. In another place the Minister said that his legal opinion is that our definition is the better of the two, and, if there are any difficulties, there will be a complete review of this definition in 12 months' time. In the meantime, he said we should let it operate just to see how it works.

The Hon. H. W. OLNEY: I will respond to the Minister's invitation to explain again paragraph (a). The words "not being work incidental to a trade or business regularly carried on by the contractor in his own name" must all be read together. I emphasise again that this is not something I have dreamed up; those words were extracted from legislation that has been in force in other States, and which has been interpreted by the courts over a period of time.

Those words say that where a worker is working in connection with a trade or business carried on by the contractor, he is not to be included. We are not here seeking to cover people in trades or businesses. We are seeking to cover people who agree to perform work. I agree that it is a fine line. Over the years, there have been a number of cases—in Victoria in particular—where the courts have ruled that a particular man is regarded as carrying on a trade or business because he has printed note paper and advertises for work; various criteria have been laid down covering that person.

What we are seeking to cover is the genuine contractor who agrees to provide work. Again, I do not pretend it is easy, but it is something other people have done satisfactorily.

Finally, we are not seeking to substitute this amendment for what is in the Bill with regard to the extension of the definition of "worker". We do not want to take out one and put in the other. We

want to put this in to close up the gaps we believe the Bill leaves in the existing provision.

Amendment put and negatived.

Clause, as amended, put and passed.

Clause 6 put and passed.

Clause 7: Tributers—

The Hon. G. E. MASTERS: I move an amendment—

> Page 14, lines 35 and 36—Delete the passage "within the meaning of the word in the Mining Act 1904, and the regulations thereunder".

This is a consequential amendment relating to the definition of "tributer" with which we have already dealt in clause 5, which is necessary as a result of changes to the Mining Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 to 15 put and passed.

Clause 16: Act to apply as to disability to persons employed on Western Australian ships—

The Hon. G. E. MASTERS: I move an amendment—

> Page 19—Delete subclause (2).

Subclause (2) was intended to ensure workers on Western Australian ships in fact were covered even if an injury occurred out of the State. However, the changes introduced in clause 15 extend coverage in this regard, making this provision unnecessary.

Amendment put and passed.

The Hon. G. E. MASTERS: I move an amendment—

> Page 19 lines 34 to 37—Delete paragraph (b).

In days gone by, when communication was difficult a six-month period was considered suitable. However, clause 131 extends the existing provision by providing for a 12-month period, which would make this clause contradictory, and of disadvantage to the workers.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 and 18 put and passed.

Clause 19: Worker travelling—

The Hon. H. W. OLNEY: This is the clause which provides that, in certain instances, a worker who is injured in the course of journeying to or from his place of work is entitled to compensation; it is what we call the "journeying" provision. The provision has evolved over a number of years. In fact, in some places there are no restrictions on the compensation payable in respect of injuries which occur while a worker is travelling to or from work.

However, since the inception of this provision, certain criteria have been established in order to entitle the worker to compensation. The Government's original proposal was that in the event of there being substantial default or wilful act or substantial interruption or deviation from the regular journey, the worker would be disentitled. The criteria relating to disentitlement have had a long history, but it has always been held by the courts that the burden of proving substantial default, interruption, or deviation lay with the person alleging that default; namely, the employer.

In its original form, the Bill sought to reverse the onus of proof and to place upon the worker the obligation of proving no default, interruption, or substantial deviation occurred.

The first thing which was said in opposition to that proposal was in many cases, journeying accidents resulted in death because many of those accidents in fact were fatal car accidents. The person left to prove those things was the widow, who would have absolutely no way of positively proving the absence of substantial default, and those other things. The Government accepted that this provision should not apply where the injury resulted in death. I am pleased to say that when the matter was before the other place the Government agreed to the insertion of subclauses (3) and (4), which will ease the burden upon those who must prove the absence of substantial default, interruption, or deviation.

Under the Bill, as it now stands, an employer who intends to rely upon one of those defences must give notice well before the hearing so that those representing the worker can be adequately prepared to present this case. That has gone a long way towards removing our objections to the reversal of the onus of proof. As a matter of principle, we believe the person making the allegations should prove that what he is alleging in fact is the case.

Subclause (5) provides where the journey is to commence; it is a welcome addition to the legislation, and we support it. Over the years, we have had the odd situation where it has been held that the place of residence started and finished at the front fence. So, a worker who was walking down the steps of his house and tripped and broke his ankle would not be entitled to compensation. Indeed, a worker returning home who, having gone through his front gate, fell and injured himself, would not be compensated because he

was not injured on a journey between his place of residence and his place of employment, or vice versa.

It led to a most ridiculous situation where a worker who was riding his bicycle home hit a rock at his front fence. He went head over handlebars and, unfortunately for him, landed over the fence, whereupon he was injured. It was held that when he passed over the fence his journey home ceased and when he hit the ground and injured himself he had arrived home. This amendment will go some way in helping such people; it will take their journey up to the front door. We appreciate that change. There have been other cases where a worker has slipped down his steps at home and has broken his ankle when he hit the footpath outside the front gate. Such a person has been compensated. We support subclause (5).

We also support subclause (6), which is a great improvement on the corresponding provision in the existing law. Under existing law a worker is not entitled to compensation for an injury that occurs during a journey to or from work if a disease is a contributing factor to the injury or if the injury is an aggravation, acceleration, or exacerbation of a pre-existing disease.

Only last year we had the situation of a lady travelling home from work who suffered from a congenital condition of the spine; instead of having seven moving parts in her neck she had only two moving parts, because some of the vertebrae were fused. She suffered a whiplash injury on a train travelling from Perth to Midland. In the ultimate it was decided on medical evidence that had she not had this congenital condition she would not have suffered the injury. It was held that the congenital condition was a disease because it was a deviation from the norm. The lady therefore did not obtain compensation. The injury was caused through no fault of the train crew, but as a result of some skylarking children on the train upturning seats.

Under this new provision we will now exclude only those who suffer heart attacks, strokes, or epileptic attacks during journeys. In debates elsewhere the question was raised of discrimination against epileptics. I am still not clear in my mind whether a person who suffers an epileptic attack whilst driving his car to or from work and crashes into a tree, breaking an arm or a leg, will be disqualified; but I will not venture into that aspect at the moment. Certainly subclause (6) is a vast improvement.

Clause put and passed.

Clauses 20 to 23 put and passed.

Clause 24: Compensation for injuries mentioned in Schedule 2—

The Hon. G. E. MASTERS: I move an amendment—

> Page 25, line 19—Insert after the word "the" the words "percentage ratio of the prescribed".

Western Australia is unique in that the second schedule, which covers lump-sum payments, sets them out on a percentage of the prescribed amount. We all know that the prescribed amount increases on an annual basis. So, these payments are geared to that rise so that the percentage matches the percentage increase in the prescribed amount. It is necessary to insert these words to clarify the situation and to make it absolutely sure that each second schedule entitlement is geared to this increase.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 25 and 26 put and passed.

Clause 27: Compensation in accordance with table at date of accident—

The Hon. H. W. OLNEY: Opposition members take the view now that we took in 1978 when the corresponding provision of the existing legislation was amended; that is, we believe when an election is made by an injured worker to receive a lump-sum payment, the appropriate amount to pay is the amount which would have been payable for that injury at the time the injury became stabilised.

It is obvious the worker cannot make an election to take his lump sum while he is under treatment, because he does not know—no-one knows—what is the extent of his disability. Let us take the situation of a man who breaks his leg at work. He may be in hospital for a considerable time if he has a serious fracture. Through the excellence of medical treatment available he may suffer very little permanent disability, but it could be five years before his treatment is over. In the intervening time he cannot say he has suffered a 5 per cent or 10 per cent loss of the use of his limb—and no-one could—and he is deprived of the opportunity to elect until his condition has stabilised. However, in that time the ravages of inflation have been at work and it may well be that whereas at the date of the injury the appropriate figure for a 5 per cent loss of efficient use of his leg is $X, five years later when the election is made the appropriate figure could be two or three times $X. In those circumstances the worker has not had the advantage of the money over the intervening period; he has not had the

opportunity to make his election. Therefore, in all fairness he ought to have, when he elects, the full money's worth of what the injury would yield had he been able to make the election at the time the injury occurred.

Under the law as it now stands he has no option. When he makes his election he is compensated on the basis of compensation payable for that injury at the time the injury occurred. The worker who can make a prompt election gets hold of his money and is able to do with it as he will. The worker who has had a serious injury and who has undergone a long period of treatment before his condition is stabilised, is disadvantaged.

The Opposition is strongly opposed to this provision. We have not moved an amendment to it because this was attempted elsewhere without success.

I draw the Minister's attention to the debate on the amending Bill in 1978 when his colleague, Mr Wordsworth, indicated to the Hon. Don Cooley that this aspect of workers' compensation would be looked at. In all probability this has not been the case, and I would urge that the Minister do so and favourably consider, on the occasion of any amending legislation, that an improvement be made as soon as possible.

Clause put and passed.

Clauses 28 to 30 put and passed.

Clause 31: Compensation payable on death—

The Hon. H. W. OLNEY: This clause recognises that what it says is already provided elsewhere in the legislation; namely, in the definition of "notional residual entitlement". In that case we will not support the clause.

The Hon. G. E. MASTERS: The Government will not support the clause because we recognise the validity of the comments made by the Hon. Howard Olney.

Clause put and negatived.

Clause 32: Schedule 2 interpretation—

The Hon. H. W. OLNEY: The only comment I make is that the clause contains sensible improvements to the existing legislation. Up to date we have had the situation that a worker who, say, injures his shoulder and, as a result, loses some efficient use of his arm, has been unable to claim a lump-sum percentage payment for the loss of use of his arm because the courts have held that the injury is not one to his arm. Similarly a hip injury affecting the efficient use of a leg is so regarded. Therefore we support the inclusion of paragraphs (a) and (b).

We have some reservations about paragraph (d). I have had brought to my attention instances of workers who have suffered some loss of sight and are not able in the ordinary course of their employment to wear artificial aids. This applies particularly in industrial employment where a worker cannot conveniently wear such things as contact lenses. If he must wear some headpiece in the course of his work he cannot wear spectacles. I accept that the equivalent of paragraph (d) is in the Act, and I hope that if in particular cases it can be demonstrated to be unfair the Minister will consider modifying paragraph (d).

Clause put and passed.

Clause 33: Compensation of a worker dying from or affected by certain industrial diseases. Schedule 3—

The Hon. G. E. MASTERS: I move an amendment—

> Page 29, lines 5 and 6—Delete the words "pneumoconiosis or mesothelioma" and substitute the passage "pneumoconiosis, mesothelioma, or lung cancer".

This amendment is consequential to the Government's decision to include in schedule 3 the disease of lung cancer as a prescribed disease. Obviously the words in the amendment must be written into the clause. I ask members to support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 34: Pneumoconiosis or mesothelioma. Schedule 3—

The Hon. G. E. MASTERS: I move an amendment—

> Page 29, lines 16 and 17—Delete the passage "pneumoconiosis or, on or after 8 May 1970, mesothelioma" and substitute the following paragraphs to stand as paragraphs (a) to (c)—
>
> (a) pneumoconiosis;
> (b) on and after 8 May 1970, mesothelioma; or
> (c) on and after the date on which this section comes into operation, lung cancer,

Again this amendment is a consequence of the Government's moves in the area of industrial diseases, and it sets out clearly the intent and purpose of the Bill. I ask members to support the amendment.

Amendment put and passed.

The Hon. G. E. MASTERS: I move an amendment—

Page 29, line 32—Delete the words "pneumoconiosis or mesothelioma" and substitute the passage "pneumoconiosis, mesothelioma, or lung cancer".

Again this amendment is consequential, and for the reasons outlined I ask members to support it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35: Application of section 34—

The Hon. H. W. OLNEY: Perhaps this clause is a draftsman's nightmare. In effect, it reflects an existing provision in the law, but it has been taken out of its original context and has the reverse effect to that which the draftsman sought to achieve. Virtually the clause places a restriction on the application of proposed section 34.

That was not intended; I know that. The corresponding words in the present law were put in to make it quite clear that a particular amendment was made to the Act had retrospective effect, but in these circumstances, when read in the context of the present Bill, it means that clause 34 applies only to people who were living on 14 December 1964. For those reasons, I recommend that the Committee vote against the clause.

The Hon. G. E. MASTERS: The Government has no opposition to this proposal and considers it fair and reasonable, for the reasons the honourable member has given. I seek the support of the committee.

Clause put and negatived.

Clause 36: Worker suffering from chronic bronchitis and pneumoconiosis—

The Hon. H. W. OLNEY: I move an amendment—

Page 30, line 1—Delete the passage "on or after 14 December 1964".

The purpose of this amendment is to tidy up the Bill. Clause 36 was virtually taken holus-bolus from the existing law including the words "on or after 14 December 1964" which were inserted when that provision first came into force. They are no longer necessary and for that reason I move that they be deleted.

The Hon. G. E. MASTERS: The Government again has no opposition to this amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 37 to 41 put and passed.

Clause 42: Last employer liable but may join others

The Hon. G. E. MASTERS: I move the following amendments—

Page 32, line 37; page 33, line 6; and page 33, line 19—Delete the words "pneumoconiosis or mesothelioma" and substitute the passage "pneumoconiosis, *mesothelioma, or lung cancer*" in each case.

I ask for the support of the Committee for the amendments. They are consequential and result from the inclusion of "lung cancer" at the Government's initiative which is, I am sure, supported by all.

Amendments put and passed.

Clause, as amended, put and passed.

Progress

Progress reported and leave given to sit again, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife).

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. J. M. BERINSON (North-East Metropolitan) [10.11 p.m.]: No tax is popular and pay-roll tax is more unpopular than most. The unions do not like it, employers do not like it, the Opposition does not like it, and the Government, even while milking the system to the limit, continually asserts that it does not like it.

There is good reason for this widespread unpopularity. Pay-roll tax is a charge on employers which does not relate to the ability of employers to pay and bears no relationship to the extent of the profit being made in the employer's enterprise, nor indeed to whether or not his enterprise is profitable. Pay-roll tax has been accurately described as a tax on employment. That description is enough to explain the widespread hostility to it. At the same time pay-roll tax is inescapable, given the present state of Commonwealth-State financial relations and the absence of alternative independent sources of State revenue.

This tax is estimated in the present financial year to produce over $228 million, and that is by far the largest single source of State revenue, leaving aside Commonwealth grants. Certainly, at this stage a source of revenue of that magnitude has to be accepted as irreplaceable. We must accept such small mercies as are available, and they include the limited relief which this Bill affords to certain categories of small businesses.

In the Legislative Assembly the Opposition made a positive and constructive proposal to extend that exemption from pay-roll tax as an incentive to certain employers to increase their

employment of apprentices. The cost of that proposal was a modest $2 million in 1981-82 and less than $4 million in a full year. It offered the prospect of an additional 600 jobs in the difficult youth employment area; but that proposal was unfortunately rejected by the Government.

The Hon. N. F. Moore: Did they suggest where the extra $2 million might come from?

The Hon. J. M. BERINSON: The Government, having made its attitude to this question so clear, leaves no point in our duplicating the Legislative Assembly debates including that part of it which dealt with alternative sources of income. It is to be deplored that the Government's regular lip service to the problem of youth unemployment is not matched by willingness to show some initiative within the scope that exists. The Opposition does not oppose this legislation, but regrets that it is forced into the position of supporting it only on a "something is better than nothing" basis.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.14 p.m.]: I quite agree with the Hon. Mr Berinson's comments. Pay-roll tax is indeed an unpopular tax with everybody. Indeed, if anyone took the trouble to peruse previous debates on this subject in *Hansard* when I have spoken, he would see that I gave a number of reasons, some of which the honourable member has referred to, as to why pay-roll tax is such an iniquitous tax. It is true that we cannot get away from it and that it is the largest single item in the revenue side of the Budget.

Efforts have been made to change this by getting the Commonwealth Government to alleviate the position in regard to income tax and other sources of revenue which are available to the Commonwealth Government, but alas to no avail. The Commonwealth Government is set on the course of leaving the States to raise revenue from those sources or not at all. If new sources of revenue are available, they are not apparent to the Government and are certainly not practical. Therefore, as the honourable member has said, it is necessary that we should have a Pay-roll Tax Assessment Act and that we should continue pay-roll tax and increase our authority to maintain this sort of revenue wherever necessary.

It is necessary, unfortunately, that we should have this tax. It is essential that the Government should receive revenue from a tax source to keep up the many necessary purposes on which the Government spends its funds. It cannot look lightly at the prospect of losing $228 million, a major source of its income. For those reasons the Government has to continue putting forward pay-roll tax Bills and endorsing the present procedures for collecting pay-roll tax.

The alleviation which is offered in this Bill has been adequately referred to, as has the subject of concessions for apprentices. I am pleased the member has not duplicated that debate in another place. It is quite unnecessary. The question of providing another 600 positions for apprentices is rather speculative and it could well have created additional problems in perhaps getting employers to concentrate on employing apprentices, to the detriment of other people who might have been employed or who are presently employed because of the concessions which might be received under this proposal.

In any event, I believe this is the best the Government can do in the difficult circumstances of the present Budget. I thank members of the Opposition for their indication of support.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

STAMP AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. J. M. BERINSON (North-East Metropolitan) [10.21 p.m.]: Like pay-roll tax, which we considered a moment ago, stamp duty is a most important source of State revenue. Last year it accounted for $100 million in revenue and in the present year it is estimated to produce $135 million. Of the additional $35 million, approximately $13 million will be produced by the provisions of this Bill, which increases duty over a wide range of transactions. These increases are hardly to be welcomed but are again probably unavoidable. That is all the more so given the pressure which the Grants Commission has brought to bear in recent months to have Western Australia's charges brought into line with those applying in other States.

Whilst it is true that Western Australian stamp duties have been less onerous in the past than those applying elsewhere, in one respect they have been very much less generous, and that is in respect of concessions for home buyers.

The present Bill breaks new ground in this respect, but it does so in such a niggardly way that the question is raised as to whether the exercise is really worth the trouble.

What the Government proposes is a small rebate of stamp duty for home purchasers which would apply to houses worth $50 000 or less, and limited to a maximum rebate of $100 at the $50 000 level. At $40 000 the rebate will be $75, and at $30 000 only $50. That sort of saving is close to irrelevant. It is less than the cost to purchasers of the pest control inspections which many lenders require from purchasers of homes. It is less than the saving to purchasers if their housing loan interest were to be reduced by as little as one-hundredth of one per cent. That is a reasonable measure of the relief which is being offered.

This is another area where the Opposition has presented a reasonable and helpful alternative. What we have proposed—and I again refer to a matter which was dealt with in some detail in the Legislative Assembly—is an interest free spread over five years of the stamp duty on those houses which are the subject of the Government's present proposal.

On a $50 000 house the saving in the first year would be $430. At only the cost to the Government of delay in receipt, that is something which is reasonable, substantial, and worth while. Again, as was the case with the previous Bill, I do not propose—having had a clear indication of the Government's position on the matter in the other House—to pursue this proposal in any greater detail. What I will do though, if only briefly, is to move from the better defined areas of differences on stamp duty into an area which I think is worth more consideration than it has been given in the past.

I believe that some attention should be paid to the possibility of higher stamp duties to be applied in the case of certain land purchases by non-residents of Australia. The same consideration as would apply in these cases would apply also to the levying of land tax. I do not, and never have, questioned the need for foreign investment in Australia, but I do join with those who argue for a more selective role for that investment.

The buying up of established Australian-owned business and the inflow of funds for speculation in shares is of no discernible benefit to this country. The same applies to the foreign contribution to the proliferation of shopping centres and the like, and most particularly to the reported large-scale purchase by foreigners of land and housing. The facts and figures are elusive but regular reports of estate agent missions to South-East Asia can only suggest that there is substantial business of that nature.

The value to Australia of this sort of investment or speculation is highly questionable, to say the least. Its most likely effect is to give an impetus to inflation in housing costs. That helps no-one, least of all the genuine local home purchaser. It is true enough, and I would be the first to assert it, that the primary responsibility on this question rests with the Federal Government through its powers of control over foreign investment. However, the fact that the Commonwealth freely allows investment of up to $350 000 is in itself an encouragement to small-scale purchases such as that in land and housing. If the State and its citizens are to be affected by that process, the least we might do is to provide some disincentives of our own. Stamp duty and land tax are existing mechanisms which are readily applicable for the purpose and, without being dogmatic on the desirability of applying them to this problem, the least that should be done is that their application should be considered.

If they have in fact been considered for that purpose it would be interesting to have from the Attorney some indication of the Government's conclusions. As to the Bill itself, the Opposition does not oppose it.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.28 p.m.]: This form of revenue is quite different from the form of revenue we discussed previously. Stamp duty is a traditional form of revenue while pay-roll tax is of fairly recent origin. Stamp duty has been collected, and has been one of the major forms of revenue for the State Government, since the Government has been in existence, and even before that it was of course a traditional form of revenue which has always applied since very early days. There is nothing new about it. Stamp duty is being increased slightly by this Bill and that has been made necessary by the Government's very stringent financial position and the exigencies as a result of the Commonwealth Government's attitude to the States' share of the tax revenues. It is true that this Bill breaks new ground in that for the first time the Government has recognised the position of the home buyer or small business purchaser when the purchase is below $50 000.

I do not share the view of the Hon. J. M. Berinson, that this is an irrelevant form of relief. I believe it is very important because it breaks new ground and it is a complete departure from the previous practice so far as this State is concerned.

Perhaps it would be nice if we could have made the limit higher but the fact that it has started is a step in the right direction. It is as far as we can go at this time.

The Government had to consider—in the course of the many weeks and the many detailed discussions over the long period of time it took to frame the Budget—what were the various options open to it in order to balance its Budget, and it was unable to go any further than it has gone.

The Government believes that it has at least made some concessions in the direction of home owners. Many other options were suggested and considered, and one was that the provision should apply to first home purchasers only. However, that idea was dismissed because there would be too many difficulties in establishing whether or not it was a first home purchase. For instance, a purchaser may be transferred from one job to another, from one town to another, and so on. For various reasons the Government decided that this provision would be extended to all home purchasers who purchased their homes for an amount below $50 000.

Mr Berinson asked whether we could impose a penalty rate of duty on overseas residents who might purchase properties in this State. Indeed the Government did give consideration to that and also to many other things. For the purpose of this exercise one of the reasons that was dismissed was that it is really not an easy matter to discover in any particular case whether a person is an overseas resident or not. It is indeed a simple matter to obscure the real purchaser by means of nominees and trustees, or by setting up locally registered companies or trustees. Of course there are ways of finding out who are the real owners, but this often involves detailed inquiries and investigations.

The Hon. J. M. Berinson: Don't you think that there is a possibility that enough people are prepared to be honest in disclosures on returns to make the exercise worth while?

The Hon. I. G. MEDCALF: This matter was considered. Indeed, the question of foreign investment in Western Australia is under careful consideration by a subcommittee of Cabinet, not particularly in relation to stamp duty but in relation to the subject generally.

One could say it is a fairly simple matter for overseas residents to make a declaration as to where they live. It is not a simple matter. For example, in the case of a local resident company which has overseas shareholders, where is the line drawn? Where 50 per cent of the shareholders are overseas residents, or where? Such complications make it difficult to include such a provision in this exercise. Whilst one would undoubtedly catch some of the honest people it is those who are not honest that should really be caught. We are talking about revenue and this question of overseas ownership is still under consideration. The honourable member did raise the general question that these people are just here for speculation, but one also has to face the situation that whilst the local buyers might feel at times the people are putting up the price of land unnecessarily, sellers do not have the same feeling.

The Hon. H. W. Gayfer: I have never heard a complaint from the sellers.

The Hon. I. G. MEDCALF: Indeed, one must look at this very carefully.

The Hon. J. M. Berinson: Surely you are not suggesting it is in the public interest to encourage inflation in land and houses, no matter how much benefit that might be to the sellers?

The Hon. I. G. MEDCALF: No, I have never suggested that; I am merely saying that whilst one might find buyers would be very concerned, sellers would not share those views.

The Hon. J. M. Berinson: Whose side are you on?

The Hon. H. W. Gayfer: I do not think Mr Berinson is taking into consideration that the lifting of probate is causing a lot of confidence and vigour in the market. This has happened in other countries.

The Hon. I. G. MEDCALF: I am not taking sides; I am merely explaining the matter is more difficult than first meets the eye; there are more aspects to this than might appear on a superficial inspection. The Government had to consider a lot of things in connection with this Budget, and came to the conclusion there was no scope for the implementation of such suggestions in relation to stamp duty at this stage.

I conclude by pointing out that evidence as to the extent of overseas ownership is far from certain. Indeed, the more sensational reports do not necessarily portray a true picture of what is occurring. That is a matter the Goverment is presently examining.

I thank the Opposition for its 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.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 28 October.

THE HON. J. M. BERINSON (North-East Metropolitan) [10.39 p.m.]: This legislation is to protect revenue in respect of tobacco licence fees. The Opposition accepts the reasons outlined by the Government, and supports 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.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.40 p.m.]: I move—

That the House do now adjourn.

Housing: Federal Minister for Housing and Construction

THE HON. H. W. GAYFER (Central) [10.41 p.m.]: I am not pleased to raise this matter during the adjournment debate. In fact, it is a matter which I view with some concern and one that possibly should be raised only during the precincts of the combined Government party room; it is hardly a matter which should be aired in public.

However, it is not I who is causing the subject to be raised here tonight; it is raised as a result of a Press release which came across my desk a release to which I take strong exception, especially as it was put out by an Honorary Minister of my own Government. The Press release is dated 20 October and, under the headline "McVeigh should go—Laurance" it states as follows—

> Western Australia's Housing Minister Ian Laurance today lashed out at the Commonwealth Government's housing policies and called for the removal of the Federal Minister for Housing and Construction, Mr McVeigh.

The Press release continued—

> "His attempts to denigrate his State counterparts at the Housing Ministers' Conference last month turned the meeting into an acrimonious slanging match.
>
> "It's now more than a month since all the States accepted a Western Australian resolution calling on the Commonwealth to provide some form of income tax deductibility on interest rates.

I wish to make two points in relation to those remarks. I feel there is a little of the pot calling the kettle black when Mr Laurance refers to a "slanging match".

The Hon. J. M. Berinson: Do you think Mr Laurance should resign?

The Hon. H. W. GAYFER: I am not too sure; we will work that out as we go along. Mr Laurance asserted that Mr McVeigh had done nothing in respect of income tax deductibility. That is hardly the province of Mr McVeigh; it is more likely the province of Mr Howard.

The last page of the Press release states as follows—

> "In the last Federal reshuffle, the Housing Minister was dropped.
>
> "The same thing should happen to Mr McVeigh.

It concludes with the following paragraph—

> "What we want now is some action from the Commonwealth—and it is quite obvious that we won't get it from this Minister."

It is obvious that this matter normally would have been raised in the joint party room, and it would have been raised with some heat.

It is not very long since a censure motion virtually naming the Prime Minister was moved in another place. That censure motion was supported by the members of my party, and it dealt with the Government of the day, and the decisions of the Government of the day that we support.

In my 21 years of experience here, there has never been an attack by a member of the Government on a senior member of its own Government, or a senior member of the Federal Government when it has been of the same party.

Mr McVeigh happens to be a National Country Party Minister—

The Hon. P. H. Lockyer: Ah!

The Hon. H. W. GAYFER: I object to a Liberal Minister in this State calling for the resignation of a National Country Party Minister in the Federal sphere. For a start, the Honorary Minister who demanded the resignation had nothing to do with the appointment of the other Minister in the first place. Secondly, the Honorary Minister has stepped out of line. It is more than likely that the policies were not instigated by Mr McVeigh, but were the direction of a Cabinet headed by a person of the same political colour as Mr Laurance. Perhaps Mr Laurance is trying to use Mr McVeigh as a—

The Hon. J. M. Berinson: Scapegoat.

The Hon. H. W. GAYFER: —Mr Berinson has said the word—for the actions or the directions of the Federal Government.

I take strong exception to the remarks of Mr Laurance. Whilst I grant that Mr Laurance is a very junior Minister in this Government—

The Hon. Peter Dowding: Honorary Minister.

The Hon. H. W. GAYFER: —and an Honorary Minister, I would have thought he would have learned by now his lessons in decency, respect, and the basic understanding that exists between the people in the Government and how they treat their own Government or a Federal Government which happens to be of the same political colour.

We are not beyond objecting to the policies of the Federal Government, but we are beyond attacking the individual Ministers responsible for the policies. Indeed, Sir Charles Court defended this type of action himself in another place only a week ago when he said he was not criticising Mr Fraser, but he was criticising the policies of Mr Fraser which differed from his own policies.

The Hon. F. E. McKenzie: What has Mr McVeigh done? He has done nothing to defend himself. I have seen nothing in the Press in the defence of Mr McVeigh. He has not tried to counter it. You are doing it for him. He must have accepted the criticism.

The Hon. D. K. Dans: He acquitted himself very well at the meeting.

The Hon. H. W. GAYFER: I do not follow Mr McKenzie's argument. I know that a Press release compiled by Western Australian Government sources has objected to the presence of a National Country Party Minister in Canberra. It contained the clear message that that man should resign.

My argument is not with the Opposition. This is a domestic row, purely and simply, between the two Government parties.

The Hon. J. M. Berinson: But we are interested.

The Hon. H. W. GAYFER: I thought Mr Berinson would be particularly interested. At the same time, it is a matter that normally should be aired in the joint party room.

The Hon. I. G. Pratt: No, it is not.

The Hon. H. W. GAYFER: It is too late to raise it there, because the Press release has been made public. Once a matter is public, it is beholden on us to correct the mistakes.

The Hon. I. G. Pratt: What is the date of that?

The Hon. H. W. GAYFER: 20 October.

The Hon. D. K. Dans: Is it not a fact that they tried to wash Mr McVeigh's mouth out with soap and water?

The Hon. H. W. GAYFER: I do not know.

The Hon. D. K. Dans: That was done by the Housing Ministers of the various States. He defended himself very well.

The Hon. H. W. GAYFER: I do not know too much of that argument. In fact, I am not particularly interested in the argument; so much drivel goes backwards and forwards, each knocking the other. All I know is that a statement has been released by a junior Honorary Minister of our Government, attacking a National Country Party Minister in the Federal Government. I object to that.

I have never seen that type of thing in my 21 years in the Parliament. It should not happen again.

I would be surprised if the Honorary Minister has not received some sort of warning from his leader—

The Hon. P. H. Lockyer: Go and ask him.

The Hon. H. W. GAYFER: I am asking our leader.

The Hon. P. H. Lockyer: He is part of your Government. Go and talk to him. He will talk to you.

The Hon. H. W. GAYFER: If the Hon. Phil Lockyer is so sensitive—

The Hon. P. H. Lockyer: I am not sensitive at all. In fact, I agree with you; but you should go and talk to him yourself.

The Hon. H. W. GAYFER: The matter is a very sensitive one. However, it has served the purpose that I expected it would.

The Hon. P. H. Lockyer: He will get his name in the paper tomorrow.

The Hon. H. W. GAYFER: I realise that the northern people stick together. Both Mr Lockyer

and Mr Dowding would be extremely sensitive about the points I have raised.

The Hon. P. H. Lockyer: I repeat that I agree with you. I do not think it was the done thing. It was very bad.

The Hon. H. W. GAYFER: If the Hon. Phil Lockyer thought it was so bad, why has he not raised it?

The Hon. P. H. Lockyer: I have raised it with him, as you should have done.

The Hon. H. W. GAYFER: I am endeavouring to clear a wrong. I believe the Honorary Minister will not initiate that sort of action again.

The Hon. P. H. Lockyer: Would you do the same thing if it was a Labor Party Minister?

The Hon. H. W. GAYFER: I believe that the worthy Honorary Minister could have learnt a lesson from his father-in-law who used to sit here. The Hon. George Berry was one of the finest gentlemen who ever came into this House. I am sure he would not condone what happened in this case. More than likely the Hon. George Berry would speak in exactly the same fashion as I have spoken tonight.

Police Department Annual Report: Racist Comments

THE HON. PETER DOWDING (North) [10.52 p.m.]: I rise on a matter of far less domestic interest. It relates to some propositions which appear in the annual report of the Police Department.

I have no doubt that even at this late hour I will receive unanimous support from the members opposite who always interject when the members on this side of the House wish to raise issues which concern Aboriginal people, when they claim that it is a question of apartheid and racism when one makes any special provision for people who suffer because of their race, colour, or creed.

Such people talk about positive discrimination or, as the Americans now call it, affirmative action, as being bad. Of course, I do not subscribe to that proposition because it is complete nonsense. At least if they are to be consistent, those members opposite will agree with me on this occasion.

On page 18 of the Police Commissioner's report, a paragraph headed "Country summary" reads as follows—

> Mining development and continued natural resource exploration in many parts of the State have added to the police workload in several country regions. While the effects of this are quite widespread, only the most significant areas of increase could be catered for in the prevailing police manpower situation.

No doubt we will hear about that in due course. The report continues—

> Police Stations at which increases in general duties staff were effected during the year are South Hedland (1), Karratha (2) and Pannawonica (1). At the same time, only one country station (Dowerin) was reduced (1 man).
>
> The crime trend has remained fairly static throughout the country regions. However, the general deterioration in the behaviour of aboriginals remains evident in many areas. The majority of offences committed by aboriginals are drink-related, and their misconduct can generally be attributed to lack of employment and ready access to liquor.
>
> The need for police intervention in the dispute between the aboriginal community and oil exploration interests on "Noonkanbah" Station in a remote part of the Broome Region saw a police operation quite different to any previously experienced.

The point I raise is that it is a totally unacceptable proposition and a quite racist comment—which is inappropriate in a Government report, be it the report of the Police Department or any other—to say that the general deterioration in the behaviour of Aboriginals remains evident in many areas.

It remains a completely unacceptable proposition, firstly, because it is generalising by race and not by a category of people who are offending. Anyone who knows Aboriginal people—as some members opposite may do—would know that many do not offend against the law, would not contemplate doing so, and would be horrified that they were being lumped together in one group and that the Commissioner of Police was saying that these worthy citizens had shown a marked deterioration in their behaviour.

If the commissioner were to point out that there is an unacceptably high rate of imprisonment of Aborigines, that would be a statistical fact; if he were to point out that there is an unacceptably high imprisonment rate meted out by justices of the peace to people of Aboriginal descent, that no doubt would be a statistical fact. But to make a bland assertion that the behaviour of Aborigines has deteriorated is not only untrue as it applies to that generic group but also it is insulting.

It ill-behoves a Commissioner of Police in charge of a Police Force, which has a most sensitive job in areas where social dislocation has given rise to numerous problems, to make a statement like that, which is entirely racist. I urge this House not to adjourn until it has considered that the statement is not only racist but also untrue and that very few people who have lived and worked in areas with substantial Aboriginal populations would for a moment say that Aborigines, as a generic group, had a standard of behaviour which was deteriorating.

There is no doubt that in any social group in the community, on any racial characteristic, amongst poor people with no jobs, no housing, no education, no past educational opportunities, and no past economic opportunities, whether they are black, white, or brindle, there is likely to be serious social discord. But this ignores the fact that there are many Aborigines throughout the State and many people of Aboriginal descent who do not think it is proper to offend against the law and who would find that reference in the commissioner's report to be not only ill-advised but also insulting.

The Hon. P. H. Lockyer: I agree.

The Hon. PETER DOWDING: I am glad the member agrees, because a number of people have come across this reference and been insulted by it. It is surprising who reads the report, because I do not believe it is a document which is scoured from cover to cover as closely as the popular Press.

I do not believe we have a gathering of angels in the Police Force. I am quite sure that within the force we have a whole range of social and political attitudes. But when the taxpayers provide the funds, when the force is entrusted with the solemn duty of administering the law in this State, and when members of the Police Force, both individually and collectively, are required to exercise very substantial authority in isolated areas far removed in many cases from the sort of supervision provided by the Press, the courts, lawyers—with deference to Mr Withers, who does not like that profession—and parliamentarians, it is fundamentally important that members of the force should be absolutely beyond reproach in issues relating to racism.

With all due respect, we in this State do not have a good name for our race relations. That may be a consequence of a number of things, but it is nevertheless a fact that we do have bad Press on this point. For the commissioner to be either racist or so insensitive that he does not see that this is a most unfortunate reference is in my view a comment on his competence. From the photograph on the front of the report I do not know whether both Mr Porter and Mr Leach together played a part in making the statement. I rather hope it was a statement made by Mr Leach alone. I know Mr Leach has firm views on society with which I disagree in many cases. I do not know Mr Porter's views. I hope Mr Leach will apologise to the Aboriginal people for that reference. There may be increases in social problems in some areas which may include some people, but he should withdraw the general reference to people by use of that generic term. We should set the position right in the Police Force, and the force should come out and say it was a mistake.

I hope there will be a political repudiation from Mr Masters, a repudiation that that statement represents in any way at all the views of the Western Australian Government.

THE HON. P. H. LOCKYER (Lower North) [11.03 p.m.]: This is one of the rare occasions that I must agree in part with the Hon. Peter Dowding. I have not read the report in question but I have no doubt that what Mr Dowding has said is correct. There is no question but that in some areas of the State there has been a deterioration in the activities of some Aborigines, but I make the point that while the commissioner may have said this, it does not reflect on the police officers who operate in most remote areas.

I place on record the performance of two senior sergeants in my province. Sergeant Eddie Lawtie operates in Laverton and is a terribly hard worker for the benefit of these people. His wife, who is unpaid for her work, collects clothing which she sends on to the central desert communities to help the people there. Sergeant George Atkinson at Carnarvon goes to great lengths to help these people, especially those with drink-related problems.

It is unfortunate that the Commissioner of Police should lump all these people together. It is fitting that this matter should be brought to the attention of the Parliament. If some Aboriginal people find his statement offensive I join with the Hon. Peter Dowding in seeking a withdrawal of those remarks or a statement to the effect that something else was meant, if that was the case.

THE HON. W. R. WITHERS (North) [11.05 p.m.]: It is rather unfortunate the Commissioner of Police has placed those words in the report and I agree with the part of the honourable member's submission to the House which related to that; but I would say that is not the fault of the commissioner, but rather it is the fault of legislators who will make racist laws and who will

separate and polarise us into various races. I disagree with the Hon. Peter Dowding when he goes along with compensatory legislation based on race rather than need.

As I said before, we should not have racial legislation, and wherever we do have it, as we do in the Statutes of this State and in the Federal Statutes, we will continue to have misunderstandings as expressed by the commissioner in his report. We will continue to hear people who are in the public eye and people of high standing such as those whom I observed at a conference at the weekend—the Deputy Senior Minister of the Northern Territory and Mr Paddy McGuiness, the Managing Director of *The Australian Financial Review*—refer to people as "blacks" and say they see nothing racist in using such an expression.

People refer to "blacks" and "whites" and see nothing derogatory about it. However, when they use the expression "blacks" they are not referring to skin colour; they mean Aborigines. This is where we become terribly confused, because we have racist Statutes in this State and Federally, and when people refer to "blacks", meaning Aborigines, they are referring to people whose skin colour is fairer than that of some members of this House. They are not referring to people who may be of Nigerian descent and whose skin colour would be far blacker than that of an Aboriginal. When these people refer to "blacks" they do not refer to skin colour, but rather to Aborigines, and that is racist.

The reason people get confused is that we have racist legislation both in this State and Federally, and although I do not agree with the Commissioner of Police and it is most unfortunate he used those terms, I do not blame him, because it is the fault of this State and any Parliament which passes racist laws.

Question put and passed.

House adjourned at 11.08 p.m.

QUESTIONS ON NOTICE

MINING: COAL

Price to SEC

599. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Fuel and Energy:

In view of recent statements in *The Western Mail* concerning the cost of a giga-joule of heat when derived from North-West gas (approximately $2.80 per giga-joule), and the cost of a giga-joule of heat when derived from Collie coal being quoted as below the figure of $2, could the Minister advise what is the cost per giga-joule from coal supplied to the State Energy Commission?

The Hon. I. G. MEDCALF replied:

This figure can be approximate only. It should be noted that there are differences in transportation costs, depending on location of use, and there is need to make allowances for the cost of handling, storage, and crushing operations necessary to prepare the coal for combustion; also air cleaning, and conversion costs. The cost is approximately $1.20 to $1.40 per giga-joule.

Although coal and natural gas can be interchanged for a number of uses, there are differing efficiencies when natural gas or coal is used. Comparisons of the cost per unit of energy should therefore be made with some caution.

MINING: GOLD

Kimberley: Sacred Sites

629. The Hon. PETER DOWDING, to the Minister representing the Minister for Mines:

(1) Was a survey of sacred sites carried out on the area the subject of Temporary Reserve 7788H in the Kimberley goldfield?

(2) Has the Minister inquired whether such a survey was carried out before extending the authority granted to the holder of the reserve?

(3) If not, why was it extended before such a survey was sought?

The Hon. I. G. MEDCALF replied:

(1) to (3) The Minister has advised me that the Department of Mines has received no specific request for a survey of sacred sites over the area of Temporary Reserve 7788H.

It is understood, however, that the occupant of Temporary Reserve 7788H has had discussions with the Warman community as recently as last week, concerning their activities in the area, and that, at the present time, the WA Museum is conducting a general survey of the Osmond Range-Turkey Creek area.

636. *This question was postponed.*

PAY-ROLL TAX

Government Departments and Instrumentalities

644. The Hon. J. M. BERINSON, to the Minister representing the Treasurer:

(1) In the year ended 30 June 1981, what was the total of pay-roll tax payments by departments and State instrumentalities?

(2) In respect of payments by departments and non-trading State instrumentalities—

(a) what is the estimated total cost of the administrative work involved; and

(b) what is the point of the Government collecting payments from itself?

The Hon. I. G. MEDCALF replied:

(1) $53 703 775.

(2) (a) Because of the number of departments and instrumentalities involved it would take considerable time and resources to prepare an estimate.

However, the cost is unlikely to be significant as it merely requires the application of the rate of tax to the amount of the salaries or wages paid during the month;

(b) in common with other States, Western Australia adopted this practice to meet the statistical needs of the Australian Bureau of Statistics when the tax was transferred to the States in 1971. For a more complete statement of this and other reasons for adopting what is, on the face of it, an unnecessary procedure, the member is referred to the *Hansard* record of the second reading speech which appears on pages 1070 and 1071 of the record of 26 August 1971.

INDUSTRIAL DEVELOPMENT

Australian Iron and Steel Pty. Ltd.

648. The Hon. D. K. DANS, to the Minister representing the Minister for Resources Development:

I refer the Minister to a page 1 article in *The West Australian* of 28 October 1981 concerning an expected loss of 700 jobs at Kwinana, and ask—

(1) To what extent, and in what form, has the State Government been involved in talks with Australian Iron and Steel Pty. Ltd. in relation to inadequate export markets for pig iron and possible effects on its Kwinana operations?

(2) Does the Government recognise any obligation on its part to assist in finding a solution which will enable these workers to keep their jobs at Kwinana?

(3) If so, what steps does the Government propose to take in this regard?

The Hon. I. G. MEDCALF replied:

(1) The company advised of pig iron marketing difficulties in December, 1980. At that time, it was hoped the problem would be short-term but, despite increasingly vigorous marketing efforts in recent months, the company has not been able to contract the sales to enable refiring of the blast furnace on a basis which would ensure continuous operating. There has been constant contact between the State and the company during this period.

(2) Yes. The Government is extremely conscious of the importance of BHP's Kwinana operations, and has examined all areas of possible assistance. However, the problem is lack of export markets. Assistance from the Government by way of freight rate concessions, or deferred payments, or other means, are insufficient to enable the company to operate competitively in the present conditions.

(3) The Government has asked the company to recommission the blast furnace, at least for a limited period, and will continue to explore every means of assisting the company to continue operation of the blast furnace.

CONSUMER AFFAIRS: BUILDING COMPANY

Press Article

649. The Hon. PETER DOWDING, to the Minister representing the Minister for Consumer Affairs:

I draw the Minister's attention to the article appearing in *The Sunday Independent* of 25 October 1981, "Home Sweet Unowned Home Hassle" concerning a woman's problems with a building company alleged to have been owned by the Hon. Neil Oliver, and ask—

(a) will the Minister investigate the allegations therein and report to the House;

(b) if not, why not; and

(c) what other action can he suggest the lady concerned should take?

The Hon. G. E. MASTERS replied:

(a) and (b) The Bureau of Consumer Affairs is well aware of the complaint of Mrs Black. Extensive inquiries were undertaken on her behalf until 2 September 1980. Solicitors were then appointed by the Director of Legal Aid to act on her behalf. At that stage, the bureau ceased to act for her, the matter having passed out of its jurisdiction;

(c) as the Minister understands Mrs Black has legal representation, it is assumed such representation will consider the position concerning a restriction on the sale of her Armadale property.

GOVERNMENT ASSISTANCE

Australian Iron and Steel Pty. Ltd.

650. The Hon. D. K. DANS, to the Minister representing the Minister for Resources Development:

(1) Will the Minister provide some estimate of the sum total of State Government assistance to Australian Iron and Steel Pty. Ltd. over the last 20 years?

(2) Would the Minister detail the general categories under which any assistance may have been given?

The Hon. I. G. MEDCALF replied:

(1) and (2) Australian Iron and Steel Pty. Ltd. has received no direct financial assistance by way of grants from the State.

The obligations of the State and the company for its operations have been as set out in the agreements and variations, as ratified by Parliament.

AIS has entered into normal commercial contracts for provision of services from the State.

Westrail, at times, has renegotiated a freight rate with the company on an interim basis to provide an incentive for the company to mine and transport more ore. At all times, the operations have remained profitable to Westrail.

LAND: RESUMPTIONS

Roe Freeway

651. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Urban Development and Town Planning:

With reference to question 606 of Wednesday, 21 October 1981, concerning compensation paid by the MRPA for land resumptions, would the Minister advise—

(1) Whether section 63 of the Public Works Act was used in determining the offer of purchase made to Mr E. L. Scharenguivel of Johnson Street, Belmont?

(2) If not, why not?

(3) Will the MRPA give consideration to assisting this man and his family to be relocated elsewhere in comparable accommodation with similar facilities that he currently has, as it would appear the offer made to him is insufficient to meet that requirement?

The Hon. I. G. MEDCALF replied:

(1) No.

(2) The land has not been taken or resumed.

(3) The Metropolitan Region Planning Authority has offered Mr Scharenguivel full market value as assessed by the Valuer General—formerly Property & Valuation Office, PWD. The valuation was based on sales evidence in the area. The authority has also offered to proceed to arbitration. However, this offer has not been accepted by Mr Scharenguivel.

WESTERN AUSTRALIA HOUSE

London

652. The Hon. J. M. BERINSON, to the Minister representing the Premier:

(1) As part of its economy measures has the Government considered and, if not, will it now consider the closing of Western Australia House and the discontinuance of the appointment of special State representatives in London?

(2) When was the continued need for such representation last evaluated, and by whom?

(3) What is the establishment of the Western Australia House, and what total costs did it incur in the last year for which figures are available?

(4) On what basis is the property held and, if owned or on long-term lease, what is its current estimated value?

The Hon. I. G. MEDCALF replied:

(1) and (2) The Cabinet expenditure review committee examined the functions carried out at Western Australia's

London office as part of its deliberations prior to preparation of the 1981-82 Budget.

(3) Details of staff establishment, costs for 1980-81 and estimates for 1981-82 are set out in the Consolidated Revenue Fund Estimates of Expenditure for 1981-82 under division 10, London Agency.

(4) The property known as Western Australia House is leased on terms which are very favourable to the State Government, considering rents charged for similar London properties.

To determine the current estimated value of the property, the Western Australian Government would probably need to engage a valuer, as such information is not held at present.

In view of the basis under which the property is occupied it is not considered necessary or appropriate to institute such action.

QUESTION WITHOUT NOTICE

EDUCATION: TECHNICAL

College: Claremont

196. The Hon. R. HETHERINGTON, to the Minister representing the Minister for Education:

Can the Minister detail the proposals at present under consideration regarding the future of the Claremont Technical College?

The Hon. D. J. WORDSWORTH replied:

I understand that two proposals currently are under consideration which could enable art courses to be offered at the Claremont Technical College site in future. One involves an annexure of the college as a department of another technical college. The second proposal involves the courses at the college being provided under auspices of Claremont Teachers' College. Both proposals need to be examined in detail to assess their practicability before a decision can be made to adopt either.