Legislative Assembly

Tuesday, 15 September 1981

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

TRAFFIC

Reduction of Road Carnage: Petition

MR HERZFELD (Mundaring) [4.31 p.m.]: I desire to present a petition similar to a number submitted previously in the House. It seeks a reduction of the legal blood alcohol limit from 0.08 to 0.05 and other matters. The petition bears 40 signatures. I have certified that it conforms with the Standing Orders of the House.

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

(See petition No. 91.)

TRAFFIC

Reduction of Road Carnage: Petition

MR McPHARLIN (Mt. Marshall) [4.32 p.m.]: I have a petition along very similar lines to the one presented by the previous member. It has 23 signatures, and I have certified that it conforms with the Standing Orders of the Legislative Assembly.

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

(See petition No. 92.)

EDUCATION

Funding: Petition

MR SKIDMORE (Swan) [4.33 p.m.]: I have two petitions to present. The first is addressed to the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled. It reads as follows—

> The petition of the undersigned citizens of Western Australia respectfully showeth that:
>
> The Government of Western Australia should provide sufficient funds for the Government schools as is required to maintain the highest standards of education to all children on an equal basis.
>
> Your petitioners therefore humbly pray that you will give this matter your earnest consideration.
>
> AND YOUR PETITIONERS, AS IN DUTY BOUND, WILL EVER PRAY.

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

(See petition No. 93.)

EDUCATION: FACILITIES

Speech and Language Problems: Petition

MR SKIDMORE (Swan) [4.35 p.m.]: I have a further petition addressed to the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled. It reads as follows—

> We the undersigned citizens of Western Australia deplore the critical lack of facilities and services available to children with speech and language problems.
>
> This critical situation is clearly evident in the long waiting periods involved, in some cases up to 18 months, before young children may expect to be treated for such problems, which can have irreversible adverse effects on their emotional, social, and educational development.
>
> We call on the Government to give full recognition to this critical community need in the coming budget by:—
>
> 1. Increasing the number of positions for speech pathologists.
> 2. Providing more decentralised speech therapy services.
> 3. Introducing speech therapy services within the Education Department.
>
> Your Petitioners therefore humbly pray that you will give this matter earnest consideration and your Petitioners as in duty bound will ever pray.

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

(See petition No. 94.)

LOCAL GOVERNMENT AMENDMENT BILL (No. 3)

Second Reading

MRS CRAIG (Wellington—Minister for Local Government) [4.37 p.m.]: I move—

> That the Bill be now read a second time.

I am pleased once again to be able to bring before this House a Bill to amend and further improve various aspects of the provisions of the Local Government Act.

This Bill proposes amendments to the Act in 13 separate areas. These amendments, in the main, reflect changes sought by local government to enable it to meet the challenges of the future in

such areas as regional waste disposal, fostering sport and recreation through organised sporting associations, and councils' administration of the Act.

Possibly the most significant area of change contained in the Bill is that providing for the establishment and operation of regional councils.

At present, section 329 of the Act enables the establishment of a separate legal entity, called a regional council, comprising representatives of any number of councils which wish to participate, for the purposes of performing a function for and on behalf of those municipalities.

A recent proposal by a group of metropolitan councils to establish a regional council for the purposes of waste disposal, identified deficiencies in the existing provisions of section 329.

For some time now, metropolitan councils, and in particular the inner city municipalities, have been facing difficulties in long-term refuse disposal planning. One of the major problems is the lack of convenient and suitable sites for waste disposal. A possible solution which these councils propose is a co-operative approach to the acquisition and operation of waste disposal sites. The amendments proposed in this Bill will enable councils to take that course of action. They clearly set out the circumstances and manner in which regional councils may be established.

These amendments will remove the problems identified with the provisions of the existing section 329, but retain the principle that regional councils may be formed only on a voluntary basis to carry out particular functions agreed by the constituent councils.

Another significant amendment proposed in the Bill will permit councils to assist financially with the provision of sporting and recreation facilities by sporting organisations.

Councils at present have quite wide powers to establish, develop, and maintain sporting and recreation facilities, but, generally, this power is limited to facilities that are open for public use.

There are many recreational and sporting organisations that have established facilities which, because their use is restricted to members, are not in the strict sense public facilities. Councils are therefore precluded at present from assisting those organisations.

The Bill provides authority for councils to provide, establish, and maintain land and premises in their districts which are primarily used, or intended to be used, for sporting or recreational activities by an association of persons who conduct those activities as a body and not for their own profit.

The amendment will permit councils either to provide the facilities on land under the councils' control, or to give financial assistance to a sporting organisation providing such facilities are on land under its control.

Amendments contained in this Bill, which relate to councils' administration of the Local Government Act, include—

> an increase, to $500 in the maximum penalty which may be prescribed for a breach of council by-laws, and authority for a council to take action to obtain an injunction to ensure the observance of any provision of the Local Government Act or other Acts, and delegated legislation made under those Acts which the council has a duty or obligation to enforce.

Other amendments in the Bill include—

> authority for councils to place obstructions in a private street to prevent the passage of vehicular traffic through that private street;
>
> an extension of the powers of councils to appoint management committees to manage and operate municipal properties;
>
> authority for councils to construct and maintain bicycle paths;
>
> power for councils to prescribe in their by-laws for landing fees at aerodromes under their control;
>
> authority for councils to construct or financially assist with the construction of pedestrian bridges and underpasses in public streets;
>
> provision for councils to raise loans for the construction of caravan parks;
>
> the removal of the necessity, under the Local Government Act, for councils to obtain the Governor's approval for any compulsory acquisition of land prior to the resumption being dealt with under the Public Works Act;
>
> inclusion in the 17th schedule, which is the form of the notice of valuation and rate, of a requirement that the notice contain an explanation as to a ratepayer's right of objection and appeal in respect of the valuation and rate.

All the amendments proposed in this Bill would, I believe, have the general support of local government. In fact, a number of them have been requested by the associations of local government.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Carr.

MISUSE OF DRUGS BILL

In Committee

Resumed from 10 September. The Chairman of Committees (Mr Clarko) in the Chair; Mr Hassell (Minister for Police and Traffic) in charge of the Bill.

Clause 34: Penalties—

The CHAIRMAN: Progress was reported on the clause after the member for Vasse had moved the following amendment—

> Page 25, lines 15 to 17—Delete all words after the passage "7 (1)" down to and including the word "both" and substitute the passage "shall be sentenced to imprisonment for a term of not less than 3 years and not exceeding 25 years and is also liable to a fine not exceeding $100 000".

Mr BLAIKIE: I moved this amendment for what I believed a very important reason; that is, that the laws relating to the trafficking in drugs as contained in the Bill do not reflect the requirements that our society demands. My amendment proposes to have those people who are convicted on a charge of trafficking in drugs liable to an imprisonment period of three years and from then on the court has the discretion, if in its opinion the charge is serious, of imprisoning the person for up to 25 years and/or of imposing a fine of $100 000. The Bill sets down a mandatory penalty of three years when an offence is related to trafficking in drugs.

I regret the legislation probably has been clouded by some other issues over the previous week.

I asked the Minister a question without notice on 26 August—question 415—seeking the number of people charged for offences relating to drug trafficking in 1980, and his answer was 147 people. I asked him a further question as to how many people were acquitted or convicted during that period, and his answer was that seven people were acquitted and 78 charges were still awaiting court determination. Of the number of people charged since 1980 some 62 people were convicted.

It is important that the Chamber fully understands and realises the extent of penalties that were imposed by the courts during that period against those people who were convicted of drug trafficking. Of those 62 people who were convicted, the Minister by subsequent letter dated 4 September advised me that there were 31 people imprisoned. For that 31 the period of the imprisonment was for a maximum of six years and a minimum of six months. Eleven people were put on probation for a maximum of three years including 200 hours of community service orders, and the minimum was two years. In the same period 18 people were fined, the maximum fine being $4 000 and the minimum being $100. Two of those people convicted were placed on good behaviour bonds. In the first instance the good behaviour bond was $1 000 for two years, and in the second instance it was $500 for one year.

I return to the point I wish to emphasise: I believe that information indicates that the penalty is hardly a sufficient deterrent for the persons convicted of drug trafficking. I believe it is serious and that Parliament has a responsibility to ensure those penalties are in fact increased, especially when one considers the fact that people have been imprisoned for only a maximum of either six years or a minimum of six months. We all understand the remissions made for good behaviour and the operations of the Parole Board. I would assume, provided the person behaves himself, a six-year sentence may well end up being only four years or maybe three. I find such a penalty unacceptable for a person who is charged with and convicted of, say, trafficking in heroin, which is a very serious crime.

So I make a plea to this Committee to have a full appreciation of the penalties which have been imposed by the courts over the last 18 months. The maximum sentence has been six years' imprisonment, and a number of people convicted of drug trafficking offences have been given good behaviour bonds. Those sorts of penalties do not act as a deterrent to the crime of drug trafficking or to the huge profits which are available in this area.

My amendment will remove the discretion from the courts to treat drug traffickers in a soft manner and will provide a deterrent to the committing of these crimes for the motive of profit. If the amendment is carried, people convicted of drug trafficking will be sentenced to a term of imprisonment of three years—not put on a bond of $500, as has been the case over the last few years. My amendment will result in a more effective deterrent, and may assist in overcoming the problem of drug trafficking in our community. I sincerely hope it receives the support of members.

Mr PEARCE: Before I was interrupted last Thursday, I was making the point in reply to the member for Vasse that the amendment he has moved will have a far more serious effect than he believes to be the case. Members may recall that amongst the interchanges between the member for Vasse and me was a suggestion by the member for Vasse that I did not know the number of

cannabis plants one had to have in one's possession before one qualified for the difference between an indictable offence and a simple offence. The member for Vasse said a person needed to have a sizable number of plants—in fact, it is 100 cannabis plants, as provided in schedule IV of the Bill—before one qualified for the three years' minimum penalty. That was the way the member for Vasse saw his amendment as getting at traffickers, rather than at users.

I put it to the member for Vasse that if he examines the Bill carefully he will see that in fact is not the case. The amendment moved by the member for Vasse relates to clause 34(1)(a) which in turn refers to "section 6(1) or 7(1)" of the legislation. For the moment, I will ignore heroin; I will consider only cannabis, because I am discussing soft drugs. I draw the honourable member's attention to clause 7(1) of the Bill, which provides that if a person has only one plant in his possession, and sells or gives it or part of it to a friend, he is entitled to be charged with an indictable offence which would qualify him for the honourable member's three years' imprisonment.

Clause 9 of the Bill determines the court of trial, depending on whether the number of plants in one's possession falls above or below the magic number of 100 as provided for in schedule IV of the Bill. However, that refers only to the court in which the matter shall be tried. If a person has one plant in his possession and is charged with an indictable offence under clause 7(1) automatically he would be sent before a court of summary jurisdiction, which is to say, a magistrate's court. My understanding is that the magistrate's court is empowered to impose penalties of up to and including three years' goal. So even if a person has only one cannabis plant and, out of sheer friendship, gives a leaf of it to a friend, that person would qualify for the minimum penalty of three years' imprisonment provided for in the amendment moved by the member for Vasse.

Mr Blaikie: The point I made was in relation to the trafficker, not the user. I did not draw a line of distinction between hard and soft drugs. I believe that, irrespective of the drug involved, the current penalties being handed out are far too light. You will find that in all the time I have spoken on this Bill, I have made virtually no reference to marihuana. However, my opinion is that any person who sells any drug for profit in fact is committing a heinous crime.

Mr PEARCE: That is where the member for Vasse and I part company. I agree that if somebody is in the business of earning millions of dollars each year by trafficking in heroin, and is oblivious to the amount of damage, discomfort, and danger he is causing other people, he deserves all he gets; I have no difficulty accepting that.

Mr Blaikie: If the same person also is making $10 million a year in trafficking in cannabis, cannabis resin, or any other soft drug, he is regarded by me with the same distaste as I have for the person trafficking in heroin, and he should be treated in the same way.

Mr PEARCE: The Opposition understands that is the attitude of the member for Vasse; what I am saying is that it is not my attitude, which is why I suggest to the Committee that it should accept my argument, not his.

I repeat that the member for Vasse is labouring under a misapprehension as to the extent of application of his amendment; it will apply to the person who has only one cannabis plant, which may be grown in a pot in his lounge room. If that person gives only one leaf of that plant to a friend, he qualifies for the minimum penalty of three years' imprisonment as provided for in the honourable member's amendment. I do not agree with that.

I might be able to accept an extension of the 20 years' maximum term to 25 years, because it would give the court more discretion in the matter. However, I cannot accept the width of application of the member's amendment. This is a case where we must look at the social damage we will cause to people if we throw them in gaol for such minor offences. Even if we accept the point of view of the member for Vasse that cannabis is damaging to people—and alcohol is just as damaging—

Mr Blaikie: I have already acknowledged that.

Mr PEARCE: —my argument is that it is hypocritical to accept cigarettes and alcohol, but not cannabis. If the argument were to ban all three drugs, I would consider it.

The point I am making is that whatever the damage done by the use of cannabis to an individual who may grow a few plants, it will not be anywhere near the amount of social damage done by his being put in gaol for those three years. Although our putting people in gaol is fine in cases where they have been dealing with hard drugs in a big way, people like the member for Vasse ought to have a greater understanding of the damage done to people by their being sent to gaol. A person may be a young lawyer or a young doctor, and they are archetypal—

Mr Blaikie: I am far more aware of the situation than perhaps you are. It grieves me very much indeed.

Mr PEARCE: I cannot accept that gaoling such a person for three years is justifiable. It would destroy that person's life completely.

Mr Shalders: They are intelligent enough to know the law and the penalties.

Mr PEARCE: I accept that, and that is also the case with people who speed on our roads. Do not tell me that members of this Chamber have not been picked up for speeding on occasions. I have been caught a couple of times myself. I know the rules and I have been penalised for breaking them, but it would not be justified to send me to gaol for three years for that.

It is necessary to give the courts as wide a range of sentence options as is possible so they can act on each individual case and consider all factors, including the effect the gaol sentence would have on a person's life. Fundamental to my objection to the amendment is that it would take away that option from the courts. The amendment does not appear as if it will be accepted, because it is not supported by the member's colleagues. It would certainly be harmful to many people who are involved in only a minor way.

Mr CRANE: Again I reiterate my support for the amendment moved by the member for Vasse. I listened very intently to the argument put forward by the member for Gosnells and I accept that he is not prepared to have stiffer penalties in these matters.

I remind the Committee that for a long time the public have cried out in anguish to the courts asking them to deal out penalties which are more fitting to the crimes. Most members of our society view the use of drugs very seriously. This is at a time when the use of drugs is gaining momentum. Whilst we are concerned with and sorry for those people who are afflicted with drug usage, we should show no feeling to those who traffic in drugs and cause this misery. These are the people at whom the amendment is aimed. We do not say that we should not help those who use drugs, those people who have a "monkey on their backs". We will show them all the compassion we can, but we should not have compassion for those who cause their affliction.

I do not believe we could show the courts in any better way how we feel about this matter than by expressing our feelings in Parliament. We have said already we are not interfering with the responsibilities of courts to prove people innocent or guilty. That is the responsibility of the courts and something with which we cannot tamper. However, it is the responsibility of Parliament to set the penalties for various offences, including that of drug trafficking. If the Parliament does not set the penalties, who does?

The member for Vasse has moved an amendment to provide for a minimum penalty of three years' imprisonment for drug trafficking. The member clearly indicated the attitude adopted by the courts in the past in relation to people who have been found guilty of trafficking in drugs. Many penalties have left a lot to be desired. The general public consider drug trafficking to be a most serious crime which is causing a great deal of concern.

This Bill is titled the Misuse of Drugs Bill and it does not differentiate between hard and soft drugs. When members consider whether they should support the amendment they should recognise that all drugs of this type are harmful and any trafficking in them for the purpose of making money should be dealt with most severely. That is why this amendment has been moved.

As members of Parliament we have a responsibility in this matter. The people of Western Australia are looking to us and crying out for us to do something because they are concerned with this problem. One has only to read letters which are published in the newspapers and to talk with people to understand this. The effects of drug trafficking are becoming more known; the devastating results caused by those who would make money by their evil doings is becoming more evident. These people are evil. Their trafficking in drugs is causing a great deal of misery and death to mankind. As evil people they must be dealt with in a harsh manner.

I previously quoted an old phrase to the effect that all evil needs to triumph is for good men to do nothing. I presume that we, as members of Parliament, are good people. We accept our responsibilities as good people to do what must be done for the people who are relying on us. I ask all members who are not prepared to support the amendment if they will be able to go home tonight and look their families in the eyes and say, "I did the best for future generations. I feel very secure that I did all that was asked of me when I had the opportunity to do so". I ask them whether they will be able to look in the eyes those people who have come to them at times and asked for help because they had a drug problem. The member for Rockingham sits in another seat and laughs; he seems to show no compassion for people with this problem.

Mr Davies: It is a private conversation.

Mr CRANE: I ask all members to study their feelings and ask themselves whether they are doing what they are being asked to do by the

people of Western Australia. They are asking us to take a firmer line in the matter of drug trafficking. By accepting this amendment we will be showing the judiciary that we are not satisfied with what has happened in the past. We will indicate to the courts that we wish to stamp out this scourge of drug trafficking. I ask members most sincerely to support the amendment. If members cannot do this, I ask whether they will be able to explain to their loved ones the reasons that they cannot support it.

Mr PARKER: When the member for Moore finished his first couple of sentences I thought he was going to burst into a song from the Mikado, because the last person I heard saying that the punishment should fit the crime was the Lord High Executioner in the Mikado. The member for Moore did not seem to realise that back in 1880, Mr Gilbert meant it as an irony and something not to be taken seriously.

Mr Hassell: Are you backing the Lord High Executioner?

Mr PARKER: I think the member for Moore was doing so.

Mr Blaikie: When you mentioned the Lord High Executioner I am quite certain your leader turned a whiter shade of pale.

Mr PARKER: This amendment would take from the judiciary the discretion which they currently have to impose penalties appropriate to individual cases. It is the judiciary which has the individual before them. The judiciary decide on punishments as they relate to the circumstances of each case. There is one set of discretionary activities that the member for Gosnells has suggested the judiciary might want to take into account, and that is the level of trafficking involved. The member for Gosnells made reference to a situation which prevails in a great many cases in relation to soft drugs, and I accept that the member for Vasse does not draw any distinction here.

Mr Blaikie: What I have said has related entirely to trafficking.

Mr PARKER: The member will find that the most prevalent trade in the softer drugs is carried out in a very small way mainly on a friendship basis, and all such people would be caught up in this amendment.

The other area of discretion that the judiciary might want to take into account is the personal circumstances of each individual concerned. A person might well have an impeccable record up till the time he was before the court on a drug charge, and obviously it would have a considerable impact on him if he were to be gaoled for a minimum of three years. Members should consider that many people who have been convicted of more serious offences such as dangerous driving causing death, or manslaughter, are put on good behaviour bonds for relatively short periods, so it is hardly surprising that in cases of the type I have mentioned the judiciary might want to place those people on good behaviour bonds or give a short period of imprisonment instead of a minimum of three years in gaol.

Mr Blaikie: The reason a person might have an impeccable record is that he was not caught before.

Mr PARKER: True, and the judiciary would take that into account. This has been the case in the Mr Asia trial in Yorkshire; many people were found not to have criminal records who obviously had been dealing in drugs for a long time. The judge concerned took that into account when handing out those heavy penalties. I would imagine the same sort of situation would pertain here, and a judge would take into account particular circumstances.

Mr Blaikie: The presiding judge still has a discretion to impose a penalty of a $1 fine or one day's imprisonment, or both. You are presuming what a judge would do. The record of convictions in Western Australia does not back up your argument.

Mr PARKER: As I recall, there was no suggestion that any judge had imposed a $1 fine or a one-day prison sentence.

Mr Blaikie: What about good behaviour bonds and probation?

Mr PARKER: That is the point I am making. The list which the member for Vasse read did not reveal the nature of the trafficking involved. It may well be that the trafficking involved is of a type mentioned by the member for Gosnells which induces or persuades a justice on the basis of remarks made by counsel to make the type of order referred to. I disagree also with the member for Moore when he referred to this matter. I have not heard any great outcry from the community that they be protected in the way described. The reverse has been the case. Penalties imposed for illegal drug use have declined.

The judiciary and the magistracy must be able to use their discretion. In cases involving people like Mr Asia the judiciary would use their discretion to impose heavy penalties provided by the Police Act and such penalties as proposed by this amendment. On the other hand, if a person were convicted of a drug-related offence referred to by the member for Gosnells the situation may

be different. The member referred to someone regarded as technically trafficking, but not profiteering as referred to by the member for Vasse. The particulars of the situation would be the basis of the decision.

Circumstances of a compassionate nature may be involved. Women with young children may be involved. People have been convicted of illegal trafficking—they must be recognised as having committed an offence—but in that trafficking they have been involved with someone else. I refer to the example of young girls being involved in this trafficking. In the Press I have read reports of young girls involved with the importation of illegal drugs because their boyfriends have prevailed upon them to bring the drugs into the country in some way or other. At times young girls have been sailing on yachts which have brought illegal drugs into the country. In some way or other young girls have become involved. It can be said that they should take the blame as much as anyone else, but I suggest to the member for Vasse that such situations are ones which the judiciary might want to take into account when deciding upon a penalty. A judge may decide that a person with children, or in a situation as I have outlined, warrants some form of punishment other than imprisonment.

I think everyone would agree that imprisonment will not achieve rehabilitation. I agree with the Minister's remarks during his second reading speech that no-one expects people in prison to be rehabilitated. We are talking about punishments or, I guess, deterrents for people involved in illegal drug trafficking. I agree with the member for Vasse that people involved in this trafficking when the trafficking is worth hundreds of thousands of dollars or even tens of thousands of dollars, and the profit is the person's livelihood, should be treated as severely as possible. The term of three years' imprisonment would not be at all unreasonable. However, the difficulty with the amendment is that a minimum imprisonment penalty would involve people to whom the member for Gosnells and I have referred. Such people are involved with illegal drug trafficking in a minor way, and this amendment would take away from judges discretion to take into account personal circumstances or other mitigating factors.

The High Court of Australia has now decided it is competent for judges to impose lesser penalties on the basis that a convicted person has co-operated with the police or provided certain information. This amendment would take away the discretion to do that. If an accused knew the maximum amount of the judge's co-operation would be a minimum sentence of three years the accused might be a little less willing to co-operate. I do not think the member for Vasse has properly thought out his amendment, and I believe it should be defeated.

Mr SHALDERS: I am disappointed the Minister will not accept the amendment moved by the member for Vasse; I believe it has a great deal of merit. I accept the point made by the Minister that the Government does not want to be in the position of directing the judiciary. However, people who traffic in illegal drugs are dealers in death and destruction. It is as simple as that.

Mr Pearce: It is not as simple as that.

Mr Tonkin: Do you include hotelkeepers?

Mr SHALDERS: I have stated my belief. The member for Fremantle raised the matter of such people as Mr Asia involved in illegal drug trafficking. No doubt exists in any person's mind that the courts would impose lengthy sentences upon such people. However, illegal drug trafficking is like a pyramid organisation. It is difficult to catch the people at the top; they continually recruit others to deal with illegal drugs on the street. The people at the top recruit others to do the selling. The Mr Bigs are not out selling these illegal drugs to the public.

Mr Parker: Some people who are recruited are hooked on drugs and have no option to do anything but sell the drugs to maintain their habit.

Mr SHALDERS: I accept that point.

Mr Parker: Those people in many cases are just victims, but you say they should be put in gaol.

Mr SHALDERS: They are the authors of their own misfortunes.

Mr Evans: Don't be so sanctimonious. I suppose you have never done anything wrong.

Mr SHALDERS: If the Deputy Leader of the Opposition desires to make an input, he should do so.

Mr Evans: I will.

Mr SHALDERS: I am sure that at a certain meeting on Friday he will act very sanctimoniously.

The CHAIRMAN: Order!

Mr SHALDERS: I will continue with the point in relation to the Mr Bigs of the illegal drug trafficking trade. If the precedent set by the courts shows that they are prepared in the case of a person who has only just become involved in illegal drug trafficking and at a low level of it to impose only a small fine because of mitigating circumstances, the Mr Bigs will have no trouble

at all recruiting other people to do the same illegal acts. The person fined would just be out of action, and a Mr Big would say to someone else, "The precedent set shows that you will get off with a light fine as a first offence. There are no problems. What about if you take over at this level?" These lower penalties would encourage that concept.

It is said that the traffickers at the lower levels do not deserve to go to gaol, and if one considered the personal circumstances of a particular case it may be seen that the offender does not deserve to go to gaol; however, by their not being sent to gaol the illegal drug trafficking would go on in the same manner. If we have people being caught but not punished severely, the illegal trafficking will go on and on. We will still have the young people of our community beset by people trying to flog drugs to them. That is why the amendment of the member for Vasse has merit, and I regret that the Minister cannot accept it.

Mr BERTRAM: My recollection is that this amendment was discussed at considerable length last Thursday. Further I recall that the Minister made it patently clear that the Government will not accept the amendment. That recollection is reinforced by the remarks made by the Minister and recorded at page 3553 of *Hansard*. He states—

> Whilst acknowledging the support of the legislation given by the member for Vasse and his concern about the problem, the Government is unable to accept that the Bill should be amended to prescribe minimum penalties in this central area of criminality.

I ask the Minister: Now that it is Tuesday of the week following the time he made those remarks, does the Government still take the same attitude? Will the Government and, in particular, the Minister, still resist this amendment? Would the Minister be kind enough to communicate his answer to the Committee?

Mr Hassell: I will speak to the Committee later.

Mr BERTRAM: I will work on the assumption that the Government will oppose the amendment. Also I oppose it because it is not satisfactory.

I will comment on one or two of the points raised in this debate, and raised principally by the member for Vasse and the member for Moore. They believe the legislation will not differentiate between hard drugs and soft drugs, but the precise position is that it does differentiate between them.

Mr Blaikie: I hope you will not suggest that the amendment differentiates, because it does not.

Mr BERTRAM: I will refer to the matters I intended to raise. As the situation stands, we are perilously close to wasting our time and the time of the people of Western Australia. This legislation differentiates between hard drugs and soft drugs. I am not aware of its making any mention—if someone is able to correct me, I am open to correction—of nicotine and the carnage it inflicts upon our community.

Mr Blaikie: What does that have to do with the amendment?

Mr BERTRAM: The member made a statement which I am knocking down. In this State hard drugs kill four people each year; soft drugs—in particular, nicotine—kill four people each day! That statement is not a new revelation; I did not determine these figures; they were produced by the Government. In the time since I first raised this matter and asked the Government to do something about the problems associated with nicotine and other substances, a number of people equivalent to the number in my electorate have died as a result of the pushing of nicotine, and that is a number of approximately 17 000. Yet certain members ask us to deal only with other drugs and to ignore completely the situation to which I have referred.

This Parliament has been reminded *ad nauseam* of the problems associated with nicotine use. I am moved by the sudden change of concern in regard to the illegal use of drugs, and I hope that concern will continue and manifest itself in action related to misuse of all drugs.

The member for Moore referred us to sordid stories in regard to people "going cold turkey". I certainly sympathise with people involved in that situation.

Mr Pearce: The argument is a dead duck.

Mr BERTRAM: I am sure many members have seen people choking to death because of the misuse of nicotine.

The CHAIRMAN: I ask the member to resume his seat. I have listened carefully to his remarks. I feel he should relate them much more closely to the fundamental issue before the Chair, and that is a matter of penalties and, in this case, a specific minimum penalty of three years' imprisonment. I ask him to relate his remarks specifically to that which is before the Chair.

Mr BERTRAM: I am happy to do that, although I regard it as a pity that I cannot touch upon the matter to which I have referred. It is a shame I should be denied that opportunity.

Certain members have made no secret of their attack on the judiciary and the magistracy. I

would not be particularly upset about that sustained attack if a proper case were made out. It has not been. I will remind the Committee of one or two facts. The judiciary and the magistracy do not have to do certain things just to attract votes; they can deal objectively with people who have committed an offence. They do not have to think of winning elections. That is an extremely important concept which I would ask this Committee to bear in mind. We do not have the expertise to deal with offenders. One does not have to be in this Chamber for more than a few minutes to realise that fact. We do not have the know-how, the day-to-day contact with the illegal drug scene, or the capacity to deliberate on the fixing of penalties for illegal drug use, or any other illegal act.

However, magistrates and judges have the required expertise and generally speaking apply it fairly well.

The member for Vasse put certain statistics in relation to penalties which he believes were incorrect, but he did not give us facts to justify his argument—not one fact. He just said they were too small—without the facts. Responsible people do not act in that manner.

Juries and tribunals are at risk in that their judgments may be blurred or affected if it is their belief that should they find someone guilty it will mean they must apply a minimum penalty, over which they have no control. In certain cases there is a tendency for juries to not convict someone even though he may be as guilty as sin.

We have seen many cases such as dangerous driving causing death, where the accused people are not convicted; however, if the people were tried by a judge, and not by a jury, they would be convicted. I have illustrated one example, but of course there are many others.

Not so many years ago we had a situation where magistrates in courts had to enforce a minimum penalty for certain traffic offences and there was a continuing stream of people going from the police court to the Minister for Justice's office to obtain a decree from him which negatived instantly the judgment made just a few minutes earlier in the police court.

We then had the situation where provision was made for extraordinary licences, because this arbitrary removal of licences was unacceptable and utterly hopeless.

Unless the Minister and Government have a change of attitude the conclusion of this debate is obvious. The Committee should now proceed to the next clause.

Mr McPHARLIN: I offer my support to the amendment. As I said during the second reading stage of the debate, the harsher the penalty for a person who has been convicted of trafficking in drugs, the better. Trafficking in drugs is a serious offence and must be deterred at every opportunity. Those people who are hooked on drugs are in that position because drugs have been made available to them. The drugs are made available because the peddlers and traffickers are interested in profit only; there is no health advantage in it at all; on the contrary it is a disadvantage. Peddlers obtain large amounts of money for the supply of the drugs in demand.

In *The West Australian* of 14 February 1981 under the heading "Hard line on drugs urged" Mr M. J. Murray who, until recently, was the WA Crown Counsel, said that the level of sentences imposed for cannabis offences in Western Australia was significantly lower than that of those imposed in other States and Britain. He says he believes we should impose more severe sentences in this State and suggested some other ways to approach the problem. He said we need a more realistic appreciation of what can be done by the courts.

He said it is certainly true that harsh penalties will not cure drug addiction, but if we make the consequences of continuing the addiction painful enough, this can give rise to a motivation to drop the addiction. He said the drug problem would be controlled only by a three-level approach which was: education of potential users to the dangers involved—nobody would disagree with that statement; an attack on the availability of prohibited drugs; and action by the courts designed to punish and thereby deter those users and suppliers of the poison for profit. He said where dealers were involved, tough sentences were essential to punish the offenders, to deter others and to protect the community. That is what this amendment is all about. The amendment does offer a greater penalty; it offers a further deterrent to those involved in the trafficking of drugs. The amendment proposed in relation to a person who has been convicted is not more than adequate.

Mr HASSELL: In view of the resumption of this debate and the discussion which has taken place, I believe a few points must be made. Whilst I have sympathy for the approach which has been stated by the supporters of the amendment, it is the view of the Government that it would be wrong to impose provisions in the criminal law—of which this legislation will form part—which would severely curtail the traditional and proper role of the courts. I am referring to

senior courts in the main which determine the appropriate penalty to apply, within the parameters set by Parliament, in the cases which come before them.

I understand full well the points made by the member for Vasse and the member for Moore in their concern about those engaged in trafficking and the distinction which they drew between trafficking in and the use of drugs. That is what the Bill is about. That point was on the top of the list of priorities which led to the introduction of this legislation.

The Government was determined to identify traffickers and to prosecute them effectively under the law as well as take away the profitability of trafficking.

I remind members in this Chamber that we are talking about clause 34(1)(a) which states that when a person is convicted of one of the offences specified he is liable to a fine not exceeding $100 000 or imprisonment for a term not exceeding 25 years. There can be no question that those maximum penalties are very severe and reflect the attitude of the Government towards trafficking.

Clause 34(1)(b) refers to conspiracy and provides for a penalty of a term of imprisonment without the option of a fine. Again, the attitude of the Government is reflected very clearly.

We have to accept that those penalties are severe; however, if one is concerned about the drug trade, one knows a proper approach must be taken towards the judicial system and it is only in the most exceptional cases we could accept an imposition of a minimum penalty in the criminal law. For that reason, and in view of the other points I have made, I must reiterate that the Government cannot support the amendment.

Amendment put and negatived.

Mr BLAIKIE: As my first amendment was defeated my further consequential amendment is not necessary. I am very disappointed that the Committee did not see fit to carry my amendment.

The Parliament will have similar legislation before it again, and I am sure that legislation will be in favour of higher penalties for trafficking.

Mr T. H. JONES: We have been arguing this matter for some hours now, and it seems pointless to extend the debate on such a simple matter. Therefore, I move an amendment—

> Page 25, lines 18 to 22—Delete paragraph (b).

As the paragraph stands, the penalty is a term of imprisonment not exceeding 20 years, and the court does not have the option to impose a fine. We believe that the amendment is consistent with the spirit of this clause.

Amendment put and negatived.

Clause put and passed.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Mr T. H. Jones.

COMMONWEALTH PARLIAMENTARY ASSOCIATION

Regional Representative: Presence in Speaker's Gallery

THE SPEAKER (Mr Thompson): I would like to draw the attention of members to the attendance in the Speaker's Gallery of the Hon. Bill Baxter, the regional representative of the Commonwealth Parliamentary Association in Australia. Mr Baxter is a member of the Legislative Council of Victoria and he has visited Western Australia to be present at this morning's meeting of the Commonwealth Parliamentary Association. In some ways this morning's meeting was a celebration, as the Commonwealth Parliamentary Association has been in existence in this country for 70 years.

QUESTIONS

Questions were taken at this stage.

Sitting suspended from 6.16 to 7.30 p.m.

MISUSE OF DRUGS BILL

In Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Mr Clarko) in the Chair; Mr Hassell (Minister for Police and Traffic) in charge of the Bill.

Progress was reported after clause 34 was agreed to.

Clauses 35 to 37 put and passed.

Clause 38: Evidential status of certificates of analysts and botanists—

Mr T. H. JONES: The Opposition's main argument in relation to this clause is that there is nothing to require the prosecution to give the defence a copy of the certificate which is to be produced at the trial. We consider the defence should be able to examine the certificate in order that it might take expert advice, if necessary, from an analyst or botanist and then decide whether to give notice as required under clause 38 (b).

My proposed amendment will mean the accused person could obtain a copy of the certificate or report within sufficient time to examine it. That is not an unreasonable request. Surely the accused person has the right to know the details of the analyst's report and he should be given time to consider whether or not to obtain further advice on the information contained in that report.

I move an amendment—

> Page 27, line 4—Insert before the word "the", being the first word in paragraph (b), the passage " if at least 21 days before his trial a copy of the certificate has been given to the person charged or his solicitor,".

Mr PARKER: I wish to support the amendment moved by the member for Collie and, in doing so, indicate it is one of the provisions the Opposition seeks to have inserted in the Bill to give some measure of reasonably decent protection to people tried in these circumstances. If people are tried and found guilty, given the protections available to them, so be it—we support that.

Consistently throughout the debate the Opposition has sought to protect the rights of citizens of the State who may find themselves hauled before the courts on some of these charges.

In support of the amendment moved by the member for Collie, let me refer to the snide and lying remarks made by the Minister for Police and Traffic to this Chamber during question time.

Withdrawal of Remark

The CHAIRMAN: Order! I call on the member to withdraw the word "lying".

Mr Pearce: Say "untrue".

The CHAIRMAN: Order! The member for Gosnells should be quiet while I am in the process of making comments of this nature. I am sure he realises it is inappropriate to interrupt in that way.

Mr PARKER: In deference to you, Sir, I withdraw the word "lying" and substitute the word "untruthful".

Committee Resumed

Mr PARKER: I wish to refer to the snide and untruthful remarks made by the Minister for Police and Traffic to this Chamber during question time this evening when he referred to the fact that the so-called "cannabis lobby" had the support of the members for Gosnells and Fremantle. The member for Gosnells is perfectly capable of speaking for himself and I imagine that he will do so; but, as far as I am concerned—I am sure my position is not entirely dissimilar to that of the member for Gosnells—neither I nor the Opposition has given support to the "cannabis lobby" referred to by the Minister, in so far as its aim to legalise marihuana in this State is concerned.

My position is quite clear. A couple of nights ago the member for Vasse indicated he intended to mention my position, but he did not get around to doing so. As he did not do so, I will. Quite consistently at every opportunity I have opposed the insertion in the platform of the Labor Party a clause calling for the legalisation or decriminalisation of marihuana.

The CHAIRMAN: Order! I have given the member the opportunity to complete his denial of the allegations made in that regard. He has done that most adequately. However, I urge the member to desist from that line and to relate his remarks to the amendment before the Chair.

Mr PARKER: I will try to do that, Sir, so that I abide by your ruling. However, it is very difficult to do that when Ministers, by virtue of their positions, take opportunities—opportunities not available to other members—to make remarks which are not true. It is sometimes difficult to overcome that situation, bearing in mind the debating procedures available to members.

The position is that the amendment we support, along with other amendments we have supported throughout the course of the proceedings, and in line with the remarks made during the second reading debate by the member for Collie, various other members on this side of the Chamber, and me have all been directed towards the same end; that is, the protection of the rights of ordinary people who may come before the courts in this State and to ensure that, if there are to be infringements upon their civil liberties, those infringements are justified.

This amendment relates precisely to the comments I made during the course of my second reading speech. Those comments were made also by the Tory Minister for Home Affairs at the time (Mr Reginald Maudling) during a debate in the House of Commons. He was talking about the issue we are dealing with in this amendment. He said that before any Government could legislate to restrict people's rights, whether it was their right to smoke, drink, or look at something, it had to give very serious consideration to whether it could justify the restriction. In this case, we are talking about a person's rights before a court. We are talking about his right to know well in

advance whether he would be in a position to cross-examine a prosecution witness.

All the way through this debate, the Opposition has maintained consistently that that is where it stands. Like all members of this Committee, I have received from various individuals and people with differing views submissions on all these clauses; but it seems to me that the reputable people in the community, irrespective of the tags they go under, want a position whereby people will not be brought into disrepute in the courts for something they have not done, where people will not be treated as criminals when in fact they are not, and where people are not presumed guilty before they are found guilty.

Those are very basic tenets of the system of British justice we have inherited and which the Minister for Police and Traffic appears to be dedicated to destroying. The wording of this clause as it stands serves to show how little regard this Government and this Minister, in particular, have for the welfare and rights of people. They do not have even any fundamental regard for the rights of people who appear before the courts. Maybe this clause indicates the Minister has a secret regard—I am sure he would never utter it publicly and he would probably deny it—for the comments made by the assistant commissioner (Roy Guest) who said it was about time the juries system was abolished, because juries were acquitting too many people and more people should be convicted. What an extraordinary statement!

In this piece of legislation we have a provision which would make it more difficult for people who are innocent to prove they are innocent. If this amendment were successful, we would be in a position where defendants would have some foreknowledge of something which could happen and which could prejudice their defence. That is the sort of issue for which we have been pushing during the time this legislation has been debated.

I have not seen the advertisement to which the Minister referred in his answer to a question without notice, therefore, I am not sure whether its contents are true. However, the Opposition has been arguing for fundamental civil liberties, irrespective of the views of other people in the community, whoever they might be. In some cases they might coincide with our views whilst obviously in other cases they do not. The Opposition is opposed to the decriminalisation or legalisation of marihuana.

Personally, I have clearly, consistently, and always taken that position in the forums available to me, either in this Chamber or in my own political organisation.

Mr PEARCE: There is a fundamental flaw in paragraph (b) which the member for Collie has quite rightly drawn to the attention of this Committee and that is this: If an analyst, chemist, or botanist presents a certificate to the court alleging certain things about the chemical composition of any material given to him for analysis, that analyst, chemist, or botanist cannot be brought into the court to be cross-examined with regard to his evidence unless the defendant gives at least two days' notice in writing to that analyst and to the complainant; that is, the person bringing the charge, and in most cases it will be the Crown prosecutor.

There is no requirement upon the police, the Crown prosecutor, or the analyst to produce that certificate two days before the proceedings begin; that is to say, when someone is being tried in a court for possessing an illegal drug, the Crown prosecutor can produce a certificate to say the drug is an illegal drug of which complaint has been made. The defendant may have no knowledge of the certificate until it is produced at the trial. He then has no opportunity to cross-examine the botanist, because he cannot give the two days' notice.

It would seem to me to be clear that if two days' notice is required from the defendant, there ought to be a statutory provision to make certain the defendant will have the required certificate more than two days before the proceedings so that he can, if necessary, or if he wants, summon the analyst. This provision does not give the defendant that protection.

The member for Collie seeks to insert a provision which would ensure not only that the defendant has the certificate, but also that he has 19 days before he is required to summon the analyst concerned, so the necessary checking of the analyst's evidence can be undertaken.

It seems to me the only quibble the Minister could have with regard to this would concern timing. If 21 days appears to the Minister to be a rather long time, perhaps he would prefer to suggest a different period; but it is necessary a period of time must elapse between the defendant obtaining the certificate and the analyst being cross-examined in court.

No-one can tell me the police in this State are not sufficiently smart, as far as obtaining convictions is concerned, to produce a certificate more than two days before the trial to prevent the analyst being brought before the court for cross-examination.

This provision is the sort we would expect to find in legislation enacted by the South African Parliament at the present time, not by this Parliament. I hope this is an oversight on the part of the Minister, but, as the member for Fremantle has pointed out, given the blatant and knowing untruths uttered by the Minister during question time, one would be very charitable to draw the conclusion this is an accidental oversight. Clearly it is a deliberate ploy by the Minister to try to slip a dirty trick through the Parliament in order to make it easier for the police to obtain more convictions.

The CHAIRMAN: Order! Members will recall previously I asked the member for Fremantle to withdrawn the word "lying" and he substituted the word "untruthful". It has been drawn to my attention that the worth "untruthful" has been regarded as unparliamentary on previous occasions.

I have taken no action in regard to the matter, but perhaps members could use a different adjective in future.

Point of Order

Mr EVANS: Could you, Sir, give an example of an occasion on which the word "untruthful" has been taken to be unparliamentary?

The CHAIRMAN: It has been drawn to my attention this has occurred on a couple of occasions in the past and there is support for that in our records. I did not rule the word "untruthful" to be unparliamentary, because when dealing with these sorts of words it is necessary to take them in context, rather than consider the full meaning of the word only.

I just thought I would draw it to the attention of the Committee for its edification. I obviously do not intend to take any action, but the situation is that on 6 May 1973 it was apparently ruled unparliamentary and again on 13 November 1975. I thought I just should mention that for the benefit of members. Perhaps the Deputy Leader of the Opposition may wish to make a further point before I go any further?

Mr EVANS: Yes, I do. Was a withdrawal required on either of those occasions?

The CHAIRMAN: I am advised that they did withdraw.

Mr PEARCE: Can I seek a further ruling?

The CHAIRMAN: You appreciate I did not rule—

Mr PEARCE: I appreciate your point of view. Only last week we had a situation where the term "drunk" was ruled to be not parliamentary. The term "drinking to excess" caused a little bit of discomfort the other day to a number of Government members. I have accepted that that is a suitable substitute for the term the member for Darling Range used. That is why he is laughing. The actual Standing Order is that one is not supposed to make implications of improper conduct against members. The difference between a "lie" and an "untruth" is that an untruth may be an unconscious one whereas a lie is obviously a deliberate distortion of reality.

The CHAIRMAN: I do not wish to dwell on it, obviously, but I thought I had better bring it to the attention of the Committee so that we all know the situation and we do not get a rush of words we do not consider parliamentary. I am sure there are some members who do not want to use unparliamentary words.

Committee Resumed

Mr HASSELL: I do not want to prolong what I regard as the irrelevancies in the debate.

I think it was the member for Gosnells who, when we were debating this matter last week, got onto the quotation of Shakespeare. Tonight we have had the member for Fremantle, now that he has returned from the Eastern States after receiving instructions from his union masters, quoting the—

Mr Bryce: He uses imagination. Isn't he original?

Mr HASSELL: The member for Fremantle today was quoting Gilbert and Sullivan. I think that the attitude—

Mr Bryce: Your turn is not far away.

Mr HASSELL: The members for Fremantle and Gosnells can be summarised in the statement that perhaps they just protest too much. They are so anxious to try to make themselves out to be clean in relation to this matter when we all know what their real attitude is as demonstrated by speech after speech in this debate, and when we see the people who are on the Labor Party's committees, including Professor Harding—

Mr Pearce: Are you saying Professor Harding is a member of the cannabis lobby?

Mr HASSELL: No.

Mr Pearce: A lot of the members of the Liberal Party might think so, but Chris James is not a member of any Liberal Party.

Mr HASSELL: He may not be now. It is very interesting because I have a list which says that in 1980 he was.

Mr Pearce: "I have a little list!" Back to Gilbert and Sullivan!

Mr HASSELL: The civil rights and law reform committee? I think perhaps he was a member of that committee, but the member for Gosnells would rather not have it publicised—that these people who belong to that fringe of society which advocates these things—

Mr Pearce: Are you saying Professor Harding is on the fringe of society? He is one of the most highly respected people in the jurisprudential field in Australia.

Mr HASSELL: I did not say that about Professor Harding at all.

Point of Order

Mr BERTRAM: On a point of order, a short time ago I endeavoured to participate in the debate on an earlier clause. I was responding to matters which had been raised repeatedly by members opposite—in particular, the member for Moore and the member for Vasse. The Chairman at the time required that I should not discuss the matters which they had raised repeatedly, so I abided by that decision of the Chairman—I always do. I have been listening to the Minister for the last two or three minutes. I realise the Chairman may perhaps have been a bit preoccupied. The Minister has not been talking to the clause. I raise the point that he should be required to talk to the matter before the Chair in the same way as I was required to.

The DEPUTY CHAIRMAN: Order! I think the member has made his point. As the member has rightly said, I was preoccupied and not able to concentrate on the Minister's speech, but I would ask him, if he was straying from the subject matter of the clause, to return to it.

Mr Pearce: Hear, hear!

Committee Resumed

Mr HASSELL: I certainly did not stray any further from the subject matter than did the previous speaker from the Opposition.

The DEPUTY CHAIRMAN: That does not make it right.

Mr HASSELL: Let me relate my remarks to the subject of the amendment. The member for Collie is, after all, the spokesman for the Opposition on this Bill, although one would not think so, the way the two boys from the bush are behaving—the young Turks who have done the deal with the member for Balcatta, the lord high executioner. But the member for Collie is the spokesman and he has moved to put in a provision about a copy of this certificate being given. This is a highly technical amendment and is not necessary. It is not one that we would want to include in the Bill.

Mr Pearce: this is exactly right, but the reasons I outlined—

Mr Bryce: What do you say—it is unnecessary?

Mr HASSELL: The reason it is not necessary is really two-fold. Firstly, the protection of defendants is already covered in the Bill itself. I will refer to that further in a moment. Secondly, the matter is covered by the practice and procedures of the courts, which themselves very much protect the rights of defendants in criminal trials. The provisions of Clause 28(b) provide that the provision of the certificate referred to shall be evidence of certain things, unless the defendant by not less than three days' notice in writing delivers to the botanist or analyst a requirement for that analyst or botanist to attend as a witness.

However, what members on the other side appear to have overlooked are the words in brackets which specifically are—

> (opportunity to deliver which notices shall be afforded to the defendant).

I do not know how the defendant could have the opportunity to deliver those notices unless he had knowledge of the certificate beforehand. I cannot imagine that a court would allow a trial to proceed on the basis of deemed satisfactory evidence when that had not been complied with, bearing in mind the general attitude of the courts to defendants. Secondly, as I said before, the courts themselves would never allow a trial to proceed where a defendant was prejudiced in any way on a technical matter of the rules of evidence. After all, this is an evidential provision. It says in the margin, "Evidential status of certificates of analysts and botanists". There is no possiblity that a court would allow a defendant to be prejudiced by the use of that provision against him in a trial. Thirdly, the reason this amendment is both not necessary and, more particularly not desirable, is that if the provision of 21 days is written into the Statute in that way, it would become an absolute ruling which allowed for no flexibility in the way the trial was led up to or dealt with and, in fact, could work against the interests of a defendant by barring his trial.

I think they are three good and sufficient reasons. From what I have said, it will be seen that the amendment proposed not only is not necessary for any purpose, but also is not desirable. That also is in line with the specific provision of the Bill which protects the position of the defendant.

Amendment put and a division taken with the following result—

Ayes 19

Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Pearce
Mr Bryce	Mr Skidmore
Mr Brian Burke	Mr A. D. Taylor
Mr Terry Burke	Mr I. F. Taylor
Mr Evans	Mr Tonkin
Mr Gill	Mr Wilson
Mr Hodge	Mr Parker
Mr Jamieson	*(Teller)*

Noes 25

Mr Blaikie	Mr Nanovich
Mr Clarko	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Spriggs
Mr Hassell	Mr Stephens
Mr Herzfeld	Mr Trethowan
Mr Laurance	Mr Tubby
Mr MacKinnon	Mr Williams
Mr McPharlin	Mr Shalders
Mr Mensaros	*(Teller)*

Pairs

Ayes	Noes
Mr Bateman	Sir Charles Court
Mr Harman	Mr Young
Mr Davies	Mr P. V. Jones
Mr Carr	Dr Dadour

Amendment thus negatived.

Mr T. H. JONES: I have on the notice paper a further amendment to clause 38 and it deals with subparagraph (iii) which is relevant to those proceedings stated regarding the certificate. As was the case with the last amendment, the Opposition considers that certificate refers only to matters relating to the analysis. It is a simple move which is self-explanatory and no doubt the Minister will appreciate the reasons we feel this should be deleted. So there will be no misunderstanding in relation to the report in question, I move an amendment—

Page 27, lines 18 and 19—Delete subparagraph (iii).

Mr HASSELL: I think the same considerations as applied in regard to the last amendment apply here. There is no risk whatsoever to the defendant's rights in this matter. The subparagraph refers to what may be certified. A botanist or analyst can certify only things of which he has knowledge and those matters appear in the certificate. If the defendant wishes to challenge the certificate he is able to do so in respect of this subparagraph. It is not appropriate to delete the subparagraph because it refers to the things that he ought to be certifying in the certificate—that is, those things that are relative to the proceedings which are being taken. Needless to say, I do not see how he can possibly be certifying anything other than those things about which he has the expertise and knowledge. He should not be certifying whether the man is guilty because if he did so he would be doing what a botanist or analyst cannot do. I cannot accept the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 39: Delegation by Commissioner of Police—

Mr T. H. JONES: The Opposition asks the Minister for an explanation as to what is intended in subclause (5). We believe that the terminology used requires some definition so that Parliament clearly knows what is intended.

Mr HASSELL: The provision in subclause (5) is similar to much legislation under which authority is delegated. It will be found in the Commonwealth Repatriation Act—I hope that is the title—in relation to the things which have to be determined medically. There are many places where delegation of authority is made under statutory powers. If a delegation under a statutory power does not include a provision that the state of mind of the delegate operates as effectively as the state of mind of the delegator, the delegation is not effective because it comes back to the person making the delegation, in this case the Commissioner of Police. It is really very much a subclause which is relevant to the earlier parts of the clause. If subclause (5) were not inserted the delegation made by the commissioner could not be effective in those cases where he had to form an opinion or have a state of mind.

Mr T. H. JONES: All I can say is that the Minister's explanation was very involved. I do not know whether all members in the Chamber followed the Minister. I am wondering why something clearer was not included in the Bill. It may be understood by the legal fraternity and perhaps some members in the Chamber may express their opinion on this matter. I thank the Minister for his explanation, but I do not understand the subclause any more that I did before his explanation. That is the opinion of the Minister and all I can do is accept what he has said.

Mr PEARCE: I, like my colleague, believe that the Minister's statement was not clear. This subclause gives power to certain people to do things and they are exempted from civil action being taken against them as long as the actions taken are taken in good faith because of his state of mind. In other words, if a person is given power under the Bill to do a certain thing and it turns

out to be wrong and he causes discomfort or damage to an individual, that individual cannot institute civil proceedings against that person if the person can say his intentions were not bad when he caused damage to the individual and he caused damage with good intentions or, to put it in a negative way, he did not cause it with evil or malicious intentions.

This subclause tends to add that if a person is given authority under the Bill and then delegates a section of that responsibility, every time civil liberty extends to the person to whom delegation is given he can demonstrate he did not act maliciously.

If the Committee were to accept the amendment of the member for Collie and delete the subclause it would in effect be making a significant decision according to the state of mind of the person making the decision and would not exempt him from civil liability. Those people cannot delegate powers and expect the same freedom from civil liability to flow down the line. That seems to me to be quite a worth while thing because it would mean decisions of this nature would be taken from people who are least significant and capable of making them. It would ensure that the delegated power does not flow too far down the line or that irresponsible decisions are made by people who may not be in a position to know better and who could not escape civil liberty simply by pleading that their intentions were good.

It should be realised that the higher up one goes the more responsibility a decision is likely to have and the more it is likely to be exempted from civil liability. Everybody down the line who happens to receive the delegated power from the person who is authorised to give it, may well find that the lower down the line they go the more foolish the decisions made are likely to be. I support the proposition by the member for Collie that the subclause should be deleted because it will at least ensure that exemption from a civil liberty will be restricted to senior people given the power directly by the legislation and who cannot delegate that power to subordinates who may make irresponsible decisions and be free from liability.

Mr HASSELL: I am sorry if my explanation of subclause (5) was inadequate for the Opposition.

Mr T. H. Jones: It was fairly involved.

Mr HASSELL: I cannot understand the point raised by the member for Gosnells because it is provided for in clause 39(1) that a delegation may be made to a police officer of or above the rank of inspector so the limitation of the extent of admission is already defined. The member's concern about the exemption from civil liberties is really relevant to clause 40.

Mr Pearce: That is right and I have taken the two clauses together.

Mr HASSELL: I was going to make the point that it relates to clause 40, but it is not limited in relation to clause 39. People operate under the authority of this Bill and whether a person is exercising a delegated authority will not make any difference to the operation of clause 40. I think it is really a separate issue to be determined when we come to that clause.

Mr Pearce: Isn't it a fact that if you take the two clauses together you can see that the question of civil liberty may well turn on the opinion, belief, and the state of mind of the person involved?

Mr HASSELL: I do not really see a connection between the two. I think the issue would be in relation to the application of clause 40 where a person is acting in good faith for the purpose of carrying the Act into effect. If the person did not act in that way he would be civilly liable and if he did act in that way he would not be liable and it would not make any difference, in my view, whether he was acting under some authority he had under the provisions of the legislation as distinct from delegated authority. What I tried to say in relation to subclause (5), and it is summarised in this way, is that the subclause is necessary to make the delegation effective. In the absence of that subclause a delegation where the opinion, belief, or state of mind of the commissioner is part of the power, would not be effective without there being a supplementary provision to make the whole clause work.

Frankly, I do not see that objection to that can be taken separately from the objection to the authority of the delegation itself. If one objects to delegations by the commissioner, that in itself is a legitimate argument. I would not accept it in the way the Bill is drafted, but it is a point of view. I cannot really, in a legal sense, comprehend the objection to subclause (5).

Mr T. H. Jones: We just cannot understand it; that is our objection.

Mr PEARCE: I do not accept the point of view put by the Minister because I think clause 39(5) and clause 40 run together in a very natural way. What we are discussing is the exercise of powers depending upon the opinion, belief, or state of mind of the Commissioner of Police. If the Commissioner of Police orders a policeman to do certain things or arranges for certain things to happen, in many ways and in terms of those

things happening, the opinion, belief, or state of mind of the commissioner is totally irrelevant. If he orders people to swoop, in a dawn raid, on a house it makes no difference whether the house is suspected of containing cannabis or whether the tenant is simply trafficking drugs at the time.

What is different is that it may be possible, in certain circumstances, for aggrieved individuals to institute civil action for what has happened and in that civil action the crucial factor will be the state of mind of the Commissioner of Police when he ordered certain actions to be taken according to the powers under the Bill. That is the only circumstance I can see in this Bill where the opinion, belief, or state of mind of the Commissioner of Police is likely to be taken into account. There is no suggestion that there is any legal consequence regarding the opinion, belief, or state of mind of the commissioner except to give him freedom from civil action. If it is done from good motives rather than from evil motives, he is free from the possibility of civil penalties.

However, if that same freedom can be run down the line to the person to whom the Commissioner of Police delegates responsibility, we would have the position of a man in the form of the Commissioner of Police needing freedom from liability to civil action and, equally, a constable on the beat being extended the same freedom from liability in that he has been delegated by the commissioner. That is the point. That is why clauses 39 and 40 run together because it is only in terms of clause 40 that clause 39 makes sense.

The Minister is being a little ingenuous with the Opposition when he says he does not comprehend the point it is making. He is a lawyer and he understands exactly what this term means, and how it is relevant. It is not relevant with regard to criminal action, but to civil action. The purpose of this clause, and the clause which follows, is to free the commissioner from that liability.

Clause put and passed.

Clause 40: Civil liability of persons acting under this Act—

Mr PARKER: I do not object in general terms to members of the Police Force being exempt from civil liability when they are undertaking what they consider to be their statutory duties. However, I do object to the way this clause is worded.

In other parts of the Bill it is proposed there will be, firstly, undercover agents and, secondly, special constables appointed to administer certain sections of the legislation, or to assist in administration, or to operate as police officers. If, say, a police constable or a person with higher rank who is part of the regular service is engaged in an activity of a special nature, in so far as he is involved in his job, it is quite fair for that person to be exempted from civil liability.

However, we are opposed to the situation where people from outside the Police Force are appointed as special constables and are given some of the powers which are conferred upon regular members of the force by virtue of this Bill. It concerns me that those people, who are not trained, may want to do all sorts of private things which have nothing to do with the administration of the Act. For example, take the recent Springbok tour of New Zealand. Special constables may have been enrolled for the purpose of assisting the police in that country to control the demonstrators. Should that happen in Western Australia, those people would be exempted from civil liability by virtue of clause 40. I find that hard to accept.

As I say, I am not opposed in general terms to regular police officers having freedom from civil liability conferred upon them. However, I do object in the case of special constables because they are the people who, in all sorts of circumstances, are likely to do considerable personal and property damage by bashing down people's doors and the like. They are not trained in the way of apprehending or restraining people or in the various other things a police officer is trained to do which may be relevant to the exercise of his duties under this legislation.

In fact, I am opposed to the use of special constables at all. However, since we have passed that clause, and they are now a fact, I oppose clause 40 not because of my attitude to the civil liability of the Police Force, but because that freedom is conferred on people who are not regular members of the force.

Mr HASSELL: I do not recall any discussion in this debate about the appointment of special constables under the legislation.

Mr Parker: It is in the definitions.

Mr HASSELL: We had considerable debate on clause 31, which authorises the appointment of undercover officers, when the honourable member was not present in the Chamber.

These appointments are subject to the very strict provisions of clause 31 and we have made it clear they confer no special rights of lawbreaking on the authorised person in the sense that they confer no right for the authorised person to promote the commission of offences. I find it most

difficult to understand the basis of the objection raised by the member for Fremantle.

Mr Parker: It is not only in relation to undercover officers appointed under clause 31; it relates also to police officers generally throughout the legislation and includes special constables appointed under section 35A of the Police Act.

Mr HASSELL: That applies now in relation to the Police Act. The provision contained in clause 40 is simply a condensed version of that which currently applies in both the Police Act and the Interpretation Act. As it is presented, it is a very mild and limited clause which does not extend any special protection which is not appropriate. The member for Fremantle said that he had no objection to the clause in relation to policemen; I understand the point he made in that respect.

Mr Parker: That is correct.

Mr HASSELL: This clause really could not do any less if it is to do anything. I do not see any danger in it in relation either to policemen or to other people on whom a power is conferred or duty imposed under the Act. The member for Fremantle must keep in mind that the clause refers only to people on whom a power is conferred or duty imposed; it does not apply willy-nilly. The clause must always be read in that context.

It also must be remembered that policemen are not in a master-servant relationship with the Crown; they have their own independence by virtue of their oath of office to uphold the law. It is a provision which, in some senses, is not required for the protection of the Crown, because the relationship does not exist.

I do not see any danger in the clause; in fact, I think a case could be mounted that the clause is not wide enough. Indeed, other provisions were considered in the course of drafting this legislation; it is not an easy area. It is one I run up against in a number of contexts—the context of prisoners and their property, and also in relation to other people who are in the offender category—as to just what extent the Crown might be held liable.

I do not think any substantive opposition could be taken to this clause.

Clause put and passed.

Clause 41 put and passed.

Clause 42: Amendment of certain Schedules—

Mr T. H. JONES: I refer members to the wording of the clause.

It appears there is no provision for disallowance of any amendment to the schedule, as is the case with regulations. The Minister nods agreement. We believe that to be unfair government. The Government simply makes a decision and the Governor by Order-in-Council from time to time may cause to be published in the *Government Gazette* an amendment to the schedules which may have the effect, for example, of changing the quantities involved therein. Drugs mentioned may be deleted from the list; drugs may be added. All this may be done without reference to Parliament.

At least in the case of regulations, some safeguard is provided in that they must lie on the Table of the Chamber for 15 days, and may be disallowed. We are here discussing a Bill and the Opposition has tried to amend it. However, we all know the fate of Opposition amendments; it is the numbers game.

Mr Blaikie: I agree with you; that is what I found.

Mr T. H. JONES: The member for Vasse has been here 10 years and has only just found that out. I found it out after only one day here.

The Opposition does not support the clause. All we are doing here tonight is passing legislation which contains reference to certain drugs, and quantities of drugs; in a couple of days' time, the Government may amend the schedules without reference to Parliament.

Mr HASSELL: The member for Collie is quite correct in saying that any change to the schedules under this clause will not need to be referred back to Parliament either by amendment or by regulation. However, it would have to be published in the *Government Gazette*.

Mr T. H. Jones: How would that help?

Mr HASSELL: It would help if the Opposition wanted to raise it in another way.

The clause is there for one purpose only; that is, to enable the contents of schedules III, IV, V and VI to be kept abreast of developments in the drug field and to enable the schedules to be kept in step with the schedules in the Poisons Act. This provision is the counterpart of section 21 of the Poisons Act. It was our intention to deal with the schedules simply by reference to the Poisons Act, but it was then decided for the sake of compiling this legislation as completely as we could to have these schedules in the Bill.

It will be both necessary and desirable to keep these schedules up to date and the method of doing it will be to amend them in line with the Poisons Act. That is the only use to which it is contemplated these provisions will be put.

Mr PARKER: It may well be that the Minister's contemplation is that the only use to which this clause will be put is to allow the

schedules of this Bill to follow the schedules in the Poisons Act, but the fact remains that the clause can be used for other purposes. It can be used effectively by the Government to legislate without any authority from or redress by this Parliament. If it were a question of regulations we could at least move for their disallowance, but with an Order-in-Council it merely needs to be published in the *Government Gazette* to take effect. The Government of the day could simply decide to determine the content of the schedules by an Order-in-Council.

I do not believe that is something which ought to be allowed to happen, particularly when we consider schedule V, which determines the amounts of prohibited drugs giving rise to the presumption of intention to sell or supply them. If we had the position for which the Opposition argues that to convict for selling, supplying, or trafficking one would have to prove that a certain amount of selling, supplying, or trafficking was being done or contemplated, then, with such a definition which allowed a person to be convicted, one would not worry so much about the content of schedule V or the ability of the Minister to change that schedule.

However, we should consider that the effect of clause 42, taken in conjunction with schedule V, can change the offence that a person is committing from one which is a simple offence carrying a penalty of a three-year gaol term or a $2 000 fine to an offence which carries a 25-year gaol term or a $100 000 fine. That is what can be achieved by the Minister's use of section 42 in conjunction with the amounts prescribed in schedule V.

Item 27 of the schedule indicates that any person with more than 80 cigarettes of cannabis can be charged with possession of cannabis, which carries a penalty of a three-year gaol term or a $2 000 fine. The Minister can change that and make a person liable to a 25-year gaol term or a $100 000 fine. So a person could have his life changed completely by a simple stroke of the Minister's pen without any reference to this place whatsoever. The Minister can legislate on his own without any reference to the Parliament. I do not consider that to be acceptable.

The Minister could decide to increase the number of cannabis cigarettes from 80 to 800 or to reduce it to one. In either event the effect on the person charged would be to reduce the gaol term from 25 years to three years or to increase it from three years to 25 years. I regard it as absolutely extraordinary that, for whatever reason, it could be contemplated that a Minister of the Crown could arrange for such an Order-in-Council which would have such a dramatic effect on a person without there being any reference to Parliament in the first place, or any redress by the Parliament subsequently.

We believe there may be some ground for saying that in some areas the Government needs to make sure its schedules are up to date, but that is not a good enough reason to justify allowing someone to have his sentence changed from three years to 25 years. If it is important for the Crown to ensure its schedules are up to date, it should introduce the necessary legislation to see that is done. That legislation should be introduced with appropriate regularity. This Parliament should sit more often. It should sit more frequently than the 20 weeks or so it does now. If it did, it would not need this sort of provision.

At the very least the Government ought to agree to amend clause 42 so that these Orders-in-Council could be disallowed in Parliament in the same way as regulations can be disallowed. The most reasonable position would be that if any changes are to be made, particularly to schedule V, they ought *ab initio* be brought back to this Parliament. The Minister should consider an amendment so that these orders become reviewable in the same way as are regulations.

The most appropriate thing would be for us to defeat this clause, as suggested by the member for Collie.

Clause put and a division taken with the following result—

Ayes 25	
Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Stephens
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Shalders
Mr McPharlin	*(Teller)*
Noes 18	
Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr Skidmore
Mr Terry Burke	Mr A. D. Taylor
Mr Evans	Mr I. F. Taylor
Mr Grill	Mr Tonkin
Mr Hodge	Mr Wilson
Mr Jamieson	Mr Bateman
	(Teller)

Pairs

Ayes	Noes
Sir Charles Court	Mr Davies
Mr Young	Mr Harman
Mr P. V. Jones	Mr McIver
Dr Dadour	Mr Carr
Mr Spriggs	Mr Bridge

Clause thus passed.

Postponed clause 13: Powers of police officers when property suspected of being connected property—

The CHAIRMAN: Further consideration of the clause was postponed after Mr T. H. Jones had moved the following amendment—

> Page 12, lines 21 and 22—Delete the words "he considers necessary".

At the time the clause was postponed we were considering an amendment moved by the member for Collie. The Minister for Police and Traffic also has an amendment on the notice paper which occurs in the same line, but before the member for Collie's amendment. I rule it will not be appropriate to consider the Minister's amendment, because we have already passed that point. However, if the member for Collie were to withdraw his amendment, we could then deal with the Minister's amendment, and the member for Collie could then move his amendment after the Minister's amendment has been dealt with. Alternatively, we could proceed through the other postponed clauses and the schedules, and at the completion the Minister could move to recommit the Bill in order that clause 13 might be further considered.

Mr T. H. JONES: I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr HASSELL: I move an amendment—

> Page 12, line 21—Insert after the words "such force" the words "as is reasonably necessary".

I believe the amendment meets the substance of the objection raised by the member for Collie, the member for Fremantle, and other members of the Opposition. They said that the legislation purports to take away the objective test of the force that could be used by a police officer and to substitute a subjective test. It was not the Government's intention to increase the power of police officers in that way.

As the clause would read with the amendment the objective test required by the member for Collie would apply, but the clause would read in such a way that it would not apply to the assistance.

The amendment proposed by the member for Collie would subject the force and the assistance to the limitation—the real objection is to the force being subjected to the limitation. We do not believe it is necessary to limit the assistance in the way outlined because the assistance a police officer has is not the issue, but the force he uses is. The amendment meets the Opposition's objection, but not in precisely the same way as required. Amendments in similar terms will be moved to a number of other clauses which have been put aside to deal with in that way. I hope the Opposition finds the Government's approach to be acceptable.

Mr T. H. JONES: I listened closely to the Minister's reason for the Government's not agreeing to our proposed amendment, and agreeing to the amendment he moved. Whilst the amendment will improve the clause, its provisions still are open to interpretation in relation to the assistance a police officer considers necessary. Only time will tell us whether the amendment will give the protection we desire for people coming within the provisions of the clause.

We would be happier if our proposed amendment were inserted, and I intend to move it at the appropriate time so that the Opposition's intention is recorded in *Hansard*.

The Minister indicated he will move similar amendments to a number of clauses. Therefore it is necessary for me to move our proposed amendment only to this clause so that it is recorded. To do otherwise would just be a waste of time.

I sincerely hope we have made our position clear in regard to all other clauses to which proposed amendments similar to that which I intend to move to this clause appear on the notice paper.

Amendment put and passed.

Mr T. H. JONES: For the reasons I have indicated, I move an amendment—

> Page 12, lines 21 and 22—Delete the words "he considers necessary" and substitute the words "is reasonably necessary in the circumstances".

Amendment put and a division taken with the following result—

Ayes 18

Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr Skidmore
Mr Terry Burke	Mr A. D. Taylor
Mr Evans	Mr I. F. Taylor
Mr Grill	Mr Tonkin
Mr Hodge	Mr Wilson
Mr Jamieson	Mr Bateman *(Teller)*

Noes 25

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Stephens
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Shalders
Mr McPharlin	*(Teller)*

Pairs

Ayes	Noes
Mr Davies	Sir Charles Court
Mr Harman	Mr Young
Mr McIver	Mr P. V. Jones
Mr Carr	Dr Dadour
Mr Bridge	Mr Spriggs

Amendment thus negatived.

Mr HASSELL: I move an amendment—

Page 12, line 18—Insert after the existing clause 13, the following new subclauses to stand as subclauses (2) to (4)—

(2) A person shall not be searched under subsection (1) except by—

(a) a person of the same sex as the firstmentioned person; or

(b) a medical practitioner.

(3) A police officer who wishes to search a person under subsection (1) may, if it is not then and there practicable to comply with subsection (2) in relation to the person—

(a) detain the person until; or

(b) detain the person and convey him to a place where,

it is practicable for subsection (2) to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

The reasons for this amendment were explained previously and I think the amendment is acceptable to both sides. The purpose of the subclauses is to ensure a person searched under the provisions of clause 13 is searched either by a person of the same sex or by a medical practitioner. In addition, this amendment is intended to ensure that a person is not detained longer than is reasonably necessary under the circumstances to enable that search to be carried out.

When referring to illegal drug dealing we must bear in mind that we are very much directing our sights at the traders, dealers, and movers of drugs in remote and distant places of the State. We believe the amendment is necessary for the proper protection of individuals affected by the operation of the law, but at the same time we should have the necessary powers as set forth in clause 13.

Mr T. H. JONES: As I indicated earlier on behalf of the Opposition we agree with the spirit of the amendment. However, we need some assurance in regard to proposed subclause (4). The only query I raise with the Minister is this: Where a person is detained longer than necessary what redress will that person have? We must give those people protection. The Parliament has a right to know whether the amendment will give that protection.

Mr HASSELL: The position would be the same as that which applies under existing law. If a policeman detains a person without charging him, or without doing that which the law requires, the policeman would be acting in such a way as to create an unlawful imprisonment. He would be acting without lawful authority, and if his action could not be justified he would be subject to redress at law.

Amendment put and passed.

Clause, as further amended, put and passed.

Postponed clause 14: Granting of search warrants in respect of property suspected of being connected property—

Mr HASSELL: I move an amendment—

Page 12, line 31—Insert after the clause designation "14" the subclause designation "(1)".

The purpose of this amendment is to amend clause 14 in the same way as clause 13 was amended.

Amendment put and passed.

Mr HASSELL: I move an amendment—

Page 13, line 1—Insert after the words "search warrant and" the passage ", subject to this section, ".

Amendment put and passed.

Mr HASSELL: Again we are meeting the point made by the Opposition that there should be an objective test of the force that should be applied, but that this qualification should not be applied to the word "assistance".

I move an amendment—

Page 13, line 5—Insert after the words "such force" the words "as is reasonably necessary".

Mr T. H. JONES: I wish to record that I will not now move to this clause the amendment standing in my name on the notice paper. However, I would like to make our position clear. We maintain that in all these clauses our amendment is more desirable than the amendment of the Minister. Nevertheless, at least the amendment before us is an improvement on the provision in the Bill, and he must thank the Opposition for drawing the anomaly to his attention.

Amendment put and passed.

Mr HASSELL: On the basis of the member for Collie's statement that he will not be moving the next amendment standing in his name, I move an amendment—

Page 13—Add after existing clause 14 the following new subclauses to stand as subclauses (2) to (4)—

(2) A person shall not be searched under a search warrant except by—

(a) a person of the same sex as the firstmentioned person; or

(b) a medical practitioner.

(3) A police officer who wishes to search a person under a search warrant may, if it is not then and there practicable to comply with subsection (2) in relation to the person—

(a) detain the person until; or

(b) detain the person and convey him to a place where,

it is practicable for that subsection to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

This is to ensure that a person who is subjected to a search in searched by a person of the same sex or by a medical practitioner, and that he or she is not detained beyond the period reasonably necessary under the circumstances to permit the search to be undertaken.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Postponed clause 15: Powers ancillary to power of search—

Mr HASSELL: If I may intervene before the member for Collie on this occasion, the amendment appearing in his name on the notice paper is not acceptable. I have a proposed amendment to clause 25 on the notice paper and in some respects clause 25 may be considered to be parallel to this clause.

I did not cause to be placed on the notice paper a similar amendment in relation to this clause because we wanted to consider further whether it was appropriate to amend the clause because of the context in which it appears in part IV which deals with the location, seizure, detention, and disposal of property in connection with the commission of offences. The best advice I can obtain is that, to make the position quite clear, I should amend clause 15 in the same way as it is proposed to amend clause 25. The amendments to both clauses are to meet frontally the suggestion that we are seeking to eliminate the right of a suspected person to remain silent. Therefore, I move an amendment—

Page 13, line 18—Delete the passage "A person who—" and substitute the passage "Subject to subsection (3), a person who—".

I then propose to move an amendment to add subclause (3) which is identical to the amendment to be moved to clause 25.

The member for Collie has on the notice paper an amendment to add a new subclause as follows—

Nothing in this section shall require a person to make any statement which incriminates or tends to incriminate himself.

We cannot accept that amendment because it would be just too easy for people who are subject to inquiry under this clause to avoid the obligation to provide the information. One of the very important and central objectives of the legislation is to identify, prosecute, and convict drug dealers and traders. An equally important objective is to identify the profits and benefits which such a dealer or trader obtains from such activities, and to forfeit those benefits to the Crown; in other words, to take away the profitability of the drug trader.

For that reason the powers of tracing property are set forth in clauses 15 and 25 in a separate context. We do not want to take away from a

defendant his right to remain silent in relation to an offence allegedly committed by him. However, at the same time, we do not want to give him a ready excuse to avoid giving information which would enable property to be traced. Therefore, we do not want to provide as an absolute right that he need not make any statement which incriminates or tends to incriminate him. It is all too easy for such a person to take the action so often taken in America of pleading the fifth amendment.

We want to ensure that such a person must give the information, but that it may not be used against him except in relation to the offence of refusing to give the information itself. That provision is contained in other legislation, and from memory I believe it is in the Evidence Act as well as in a number of other pieces of legislation. It is a well established formula to protect a defendant at the same time ensuring that the information can be obtained.

It meets the point raised by the member for Collie, and it does so in a way that is not inconsistent with those very important objectives of the Bill which I have outlined. At the same time, it gives the law the force that it is intended it should have.

At this stage I make clear that this amendment is preliminary to an amendment I wish to move to line 28. It is at this same stage that the member for Collie wishes to move an amendment.

Mr T. H. JONES: I thank the Minister for his comments. He must appreciate now the Opposition's view that some clauses of the Bill are drafted badly. If I had not placed my amendments on the notice paper, I wonder whether his amendments would have seen the light of day. I doubt it. It is quite clear that the Opposition was correct when it said that some provisions in the Bill required attention. Unfortunately, the Minister has not always adopted this attitude.

Mr Hassell: The only other amendments you have had passed here were amendments to one of my Bills.

Mr T. H. JONES: At least I have achieved something from our 30 hours of arguing on the Bill. In view of the Minister's amendments, it is not our intention to proceed with our amendment. We believe our amendment would have preserved the fundamental rights of a person to remain silent. The Minister's amendment goes some way towards meeting our views.

Amendment put and passed.

Mr HASSELL: I thank the member for Collie for not proceeding with his amendments. I give him the complete credit for which he asks for raising the issue. I set out to meet what we saw to be the substance of the points he made. I move an amendment—

> Page 13—Add after subclause (2) the following new subclause to stand as subclause (3)—
>
> (3) Notwithstanding anything in subsection (2), a person shall not refuse or fail to comply with a requirement made to him under subsection (1) by reason only that compliance with that requirement would tend to incriminate him or render him liable to any penalty, but the information given or caused to be given by him in compliance with that requirement is not admissible in evidence in any proceedings against him for an offence other than a simple offence under subsection (2) (b).

This amendment does not appear on the notice paper.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Postponed clause 23: Powers of police officers when things suspected of being used in commission of offence—

Mr HASSELL: I move an amendment—

> Page 18, line 1—Delete the word "If" and substitute the passage "(1) Subject to this section, if".

The amendment once more relates to the powers of detention and search.

Amendment put and passed.

Mr HASSELL: I move an amendment—

> Page 18, line 12—Insert after the words "such force" the words "as is reasonably necessary".

Again, that is in line with what has already been adopted.

Amendment put and passed.

Mr HASSELL: If the member for Collie is not to proceed with his amendment, I move an amendment—

> Page 18—Add after the existing clause 23 the following new subclauses to stand as subclauses (2) to (4)—
>
> (2) A person shall not be searched under subsection (1) except by—
>
> (a) a person of the same sex as the firstmentioned person; or
>
> (b) a medical practitioner.

(3) A police officer who wishes to search a person under subsection (1) may, if it is not then and there practicable to comply with subsection (2) in relation to the person—

(a) detain the person until; or

(b) detain the person and convey him to a place where,

it is practicable for subsection (2) to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Postponed clause 24: Granting of search warrants in connection with prevention or detection of offences—

Mr HASSELL: I move an amendment—

Page 18, line 18—Insert after the section designation "24" the subsection designation "(1)".

Again, this is with a view to inserting the search provisions.

Amendment put and passed.

The clause was further amended, on motions by Mr Hassell, as follows—

Page 18, line 27—Insert after the words "search warrant and" the passage ", subject to this section,".

Page 18, line 31—Insert after the words "such force" the words "as is reasonably necessary".

Page 18—Insert after the existing clause 24 the following new subclauses to stand as subclauses (2) to (4)—

(2) A person shall not be searched under a search warrant except by—

(a) a person of the same sex as the firstmentioned person; or

(b) a medical practitioner.

(3) A police officer who wishes to search a person under a search warrant may, if it is not then and there practicable to comply with subsection (2) in relation to the person—

(a) detain the person until; or

(b) detain the person and convey him to a place where,

it is practicable for that subsection to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

Postponed clause, as amended, put and passed.

Postponed clause 25: Powers ancillary to power of search—

Mr HASSELL: I move an amendment—

Page 19, line 6—Delete the passage "A person who—" and substitute the passage "Subject to subsection (3), a person who—".

Amendment put and passed.

Mr HASSELL: I move an amendment—

Page 19—Add after subclause (2) the following new subclause to stand as subclause (3)—

(3) Notwithstanding anything in subsection (2), a person shall not refuse or fail to comply with a requirement made to him under subsection (1) by reason only that compliance with that requirement would tend to incriminate him or render him liable to any penalty, but the information given or caused to be given by him in compliance with that requirement is not admissible in evidence in any proceedings against him for an offence other than a simple offence under subsection(2) (b).

Here again, the purpose is to protect the strength of the clause in enabling the property related to drug dealing to be traced, at the same time protecting the right of a person, against whom an offence is alleged, not to incriminate himself in such a way that information can be used against him.

Amendment put and passed.

Postponed clause, as amended, put and passed.

New clause 9—

Mr T. H. JONES: I move—

Page 10—Insert after clause 8 the following new clause to stand as clause 9—

Proof of lack of knowledge etc to be a defence in proceedings for certain offences.

9. (1) This section applies to offences under any of the following provisions of this Act, that is to say section 5(1), section 6(1) and section 7(1) and (2) and has effect notwithstanding anything contained in those sections or elsewhere in this Act.

(2) Subject to subsection (3) below, in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceeding for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the prohibited drug or prohibited plant which the prosecution alleges it to have been, and it is proved that the substance or product in question was that prohibited drug or prohibited plant, the accused

(a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular prohibited drug or prohibited plant alleged, but

(b) shall be acquitted thereof—

(i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a prohibited drug or prohibited plant, or

(ii) if he proves that he believed the substance or product in question to be a prohibited drug or prohibited plant or a prohibited drug or prohibited plant of a description, such that, if it had in fact been that prohibited drug or prohibited plant or a prohibited drug or prohibited plant of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which is open to a person charged with an offence to which this section applies to raise apart from this section.

This proposed new clause is taken from the Misuse of Drugs Act of the British Parliament. No doubt the Minister would be aware that that Act has been in operation for some 10 years. As the member for Fremantle mentioned last week, the Misuse of Drugs Bill passed through the House of Commons as a result of a Select Committee of the House considering what should be included in the legislation.

This clause has stood the test of time in that legislation. It will ensure that only persons with a guilty mind can be convicted of any offence. I draw the attention of the Committee to proposed new subclause (2), which would be the main provision in the clause. It would improve the provisions in the Bill.

The reasons for my moving the inclusion of the new clause are self-explanatory.

Mr HASSELL: The clause is not acceptable. I make the point already made by the member for Collie, that it is drawn from section 28 of the Misuse of Drugs Act 1971 of the United Kingdom. That section has been in operation for 10 years. However, the Criminal Code of this State has been in operation since 1913.

Mr T. H. Jones: When are you going to talk about section 24?

Mr HASSELL: Having considered the matter thoroughly, it is our view that the general provisions of the Criminal Code apply in relation to the proposed Misuse of Drugs Act.

This was debated in the Committee last week. The member for Fremantle suggested that the general provisions of the Criminal Code would not apply. I said that I thought they would. I have

checked the matter further, and I am advised that they will, so far as is understood.

Mr Parker: On what basis was the advice?

Mr HASSELL: Because of previous decisions made in that area. They are general provisions which are intended to apply to the criminal law and to the establishment of criminal intent.

Mr Parker: This is the first occasion on which there has been a completely new Bill prescribing criminal offences, other than amendments to the Criminal Code, the Police Act, and what-have-you. This is the first occasion when there has been ever been a Bill completely new in this way for many years.

Mr HASSELL: I am not sure if that is right, but let us assume that it is.

The argument that an Act later in time stands without the application to it of a preceding law applies only to subsequent provisions which conflict with the earlier Act. It does not matter whether the subsequent provisions are contained in a complete Bill, as the Misuse of Drugs Bill is intended to be. That would apply, for example, to amendments to the Police Act, of which there have been many. It has never been suggested that amendments to the Police Act have not been subject to the general intent provisions of the Criminal Code.

The essence of the matter is that this clause would be out of context with our law and with our proposed Act, because it is drawn from a system of criminal law based on the common law. If such a provision were placed in an Act in New South Wales, it would not be alien or foreign to that system because it is a common law system of criminal law. We do not have a common law system of criminal law. We have a codified system of criminal law. The Code was drafted by Sir Samuel Griffith. Such a Code applies in Queensland as well as here. I do not think it applies in any of the other States. The Code has stood the test of time. It has served the community very well. Perhaps it is due for revision; but it has set the rules and the guidelines by which criminal intent and criminality are established in the context of many Statutes.

We could not accept a general provision such as this which would cut right across, not only this Bill, but also the system which we have.

Mr T. H. JONES: I query the situation regarding section 24 of the Criminal Code and its application to the Bill. Section 24 of the Criminal Code reads—

> 24. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.
>
> The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

Can the Minister qualify the situation in relation to the provisions of this Bill and the effect of section 24 of the Criminal Code?

Mr PARKER: I wish to raise this matter also. The Minister was quite correct in saying that I raised this matter last week. On this occasion, I hope the Minister is correct in his assessment of the situation; and I hope that his advice is correct. I am worried that it is not.

Neither the member for Collie nor I am a lawyer. That is well known. It is also well known that the Minister is a lawyer although, as he admitted last week, he is not a lawyer with great expertise in this particular area. One might say that has become increasingly obvious.

Mr Hassell: That is not a fair comment. I did make the point that I have never been a criminal lawyer.

Mr PARKER: The member for Geraldton suggested that although the Minister's status as a lawyer may not be in doubt, his status as a politician is in some doubt.

I imagine that the Minister's advice has come from the Crown Law Department. With all due respect to the department, its track record is not very good. Certainly, in the field of which I have knowledge—the industrial law—the track record of the Crown Law Department has been abysmal.

Mr Bertram: It is entitled to be wrong half the time.

Mr PARKER: It is entitled to be wrong some of the time. It may be that on this occasion it is right. I do not know. However, it appears to me that we should at least have in this Bill a clause to the effect that the proposed Act is to be read subject to section 24 of the Criminal Code.

If the Minister does not like proposed new clause 9, the proposition I have just put might make the position clearer, although we believe the clause to which I have just referred does that.

The Minister might say proposed new clause 9 does not fit into the Bill easily. I do not see it as being in conflict with anything else in the Bill. It simply establishes a certain number of rights and we believe it would be appropriate to insert it.

I do not have a great deal of confidence in the Minister's advice, but I hope it is correct. I do not

know that it is and it worries me that people may be disadvantaged if the advice is found to be incorrect.

Therefore, the safest option would be for the Committee to accept our proposed new clause 9 or for the Minister to give consideration to inserting a provision in the Bill—perhaps in another place or at a subsequent stage—to require it to be read in conjunction with section 24 of the Criminal Code.

Mr HASSELL: I do not believe that is necessary and I do not have any reason to doubt the advice I have been given that this legislation must be read in conjunction with the Criminal Code as are the other provisions of the criminal law and quasi-criminal law in a number of Statutes.

It is not fair to say the Crown Law Department is suspect in the way referred to by the member for Fremantle. I am sure officers of the Crown Law Department make errors from time to time—as we all do—in the interpretation of the law. The field of criminal law is the area of expertise of officers of the Crown Law Department, because of the obligation of the Crown to deal with it.

I do not see a deficiency in the provision, but I do see a serious deficiency in proposed new clause 9.

New clause put and a division taken with the following result—

Ayes 18

Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr Skidmore
Mr Terry Burke	Mr A. D. Taylor
Mr Evans	Mr I. F. Taylor
Mr Grill	Mr Tonkin
Mr Hodge	Mr Wilson
Mr Jamieson	Mr Bateman *(Teller)*

Noes 24

Mr Blaikie	Mr Nanovich
Mr Clarko	Mr O'Connor
Mr Cowan	Mr Old
Mr Coyne	Mr Rushton
Mrs Craig	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Stephens
Mr Hassell	Mr Trethowan
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Watt
Mr MacKinnon	Mr Williams
Mr Mensaros	Mr Shalders *(Teller)*

Pairs

Ayes	Noes
Mr Davies	Sir Charles Court
Mr Harman	Mr Young
Mr McIver	Mr P. V. Jones
Mr Carr	Dr Dadour
Mr Bridge	Mr Spriggs

New clause thus negatived.

First and second schedules put and passed.

Third schedule—

Mr T. H. JONES: It appears there is no reference to heroin in this schedule. It may be that such a reference appears in another schedule; but I ask the Minister to clarify the position.

Mr Pearce: We are very opposed to heroin.

Mr HASSELL: I refer members to the wording of clause 9. It will be necessary for me to check as to the precise answer to the query, but I am reasonably sure the following answer is correct: Heroin does not appear in schedule III, because all heroin trials are to be conducted in the District Court.

Mr Parker: You have opium in schedule III.

Mr HASSELL: I take the point and I shall check the matter and give the member an answer during the third reading debate, if not before.

Mr T. H. JONES: This is a very important matter and perhaps the Minister should report progress and seek leave to sit again. The Minister is discussing the matter with his adviser from the department and, if he provides the answer during the third reading stage, the Opposition has no opportunity to query it.

Mr PEARCE: The omission of heroin from schedule III is not simply an accident—if it is it is incredible—but in fact strikes at the claim the Government has made for the Bill. All along we have said we are very concerned about trafficking in hard drugs such as heroin. The Minister has said the Government wishes to distinguish between the users who are victims with regard to hard drugs like heroin and those who traffic in it for profit.

The whole point in relation to schedule III is that it is an attempt to distinguish between addicts who may have drugs in their possession for their own use and traffickers who will obviously have much larger quantities of drugs in their possession for the purpose of selling or supplying for profit.

If, as the Minister said in his first guess at the answer, all heroin trials are to be dealt with in the District Court, he is saying the distinction between users who are victims and traffickers would not apply in the case of heroin. That seems to be a strange distinction, because it is generally

agreed heroin users are the most helpless victims with regard to drug addiction. Heroin is a serious drug of addiction and someone who is hooked on heroin is of this world for only a short time. To treat someone in that desperate situation as if he were a major trafficker in drugs seems to me to be very strange.

I hope the Minister has been able to obtain from his advisers the reason this serious drug of addiction has been omitted from the schedule. The Minister is so keen to chase after the cannabis users or to use the Bill to place people like me in a situation which is not factual—that is, as being a friend of the drug suppliers—but he is not making a serious attempt to deal with the drug situation, as we suggested in the second reading speech. It is up to the Minister to explain in clear terms this deficiency in the Bill. Perhaps the Minister could explain also why, in the first instance, he did not know the answer and had to track up to the Speaker's Gallery to obtain it.

Mr HASSELL: What I said before was exactly right. There is no need for the member for Gosnells to start being a smart aleck about some particularly technical point of drafting which he happened to draw out of the air, and be critical because initially I was not able to give an answer with total confidence.

However, I point out to the member that what I said was right. Heroin is not included in the third schedule, because the Bill provides that all heroin trials are to be held in the District Court.

Mr Parker: Where does it provide that? It does not provide that in clause 9.

Mr HASSELL: Clause 9 provides that all people charged under the clause shall be tried summarily by a summary court unless particular conditions prevail. Therefore, all those trials will be conducted by a summary court and the effect of leaving heroin out of schedule III is to bring about the situation in which all trials relating to heroin will be conducted in the District Court.

Members opposite referred to the fact that opium was included in schedule III, but it should be borne in mind there is a substantial difference between opium and heroin. For example, it would take approximately 100 lb of opium to produce 1 lb of heroin. That is an indication of the relative strengths of the two drugs.

The member for Gosnells referred to the fact that all heroin trials will be conducted in the District Court. He has made a number of comments about the need to protect people and the fact that the Bill does not do this. This provision will ensure people charged with very serious offences in relation to heroin—in many respects it is the most serious drug with which we have to deal at the moment—will always be tried by a jury in the District Court. That is the reason the provision has been drafted in this manner.

Mr PEARCE: The Minister's explanation does not meet the point I raised previously and possibly he did not hear it because he was obtaining information from his adviser as to why heroin was not included in this schedule. According to the Minister, the main thrust of the Bill is aimed at traffickers and is designed to some extent to protect the victims. If all heroin trials go to the District Court, it will mean heroin addicts will go to the District Court in the same manner as if they were heroin traffickers. Indeed, addicts will be subject to the same penalties as traffickers. Those penalties are very high—up to 20 years in gaol and/or a $100 000 fine.

The whole thrust of the Bill with regard to every other drug is to try to distinguish between the user and the trafficker and the test for this is the quantity of the drug in the person's possession. If a person has a small quantity of drugs for personal use, essentially he is looked upon as an addict or a drug user. If he has a larger amount in his possession, it is assumed the person is a trafficker. In some ways that appears to be a very reasonable division of responsibility. However, with regard to heroin, which is the most serious drug—I do not dispute that and I have said it all along—as the member for Collie has said, the Opposition expects serious penalties to be imposed on people who traffic in it. However, I point out to the Minister that people addicted to heroin require compassion, not gaol sentences. They require treatment and not penal servitude. It is a substantial failure of the declared thrust of the legislation, as set out by the Minister on behalf of the Government, not to distinguish between heroin addicts and traffickers in this schedule.

It seems to me that it is not difficult to reach an amount of heroin that would distinguish a user from a trafficker. The Government has failed to do this and this leads me to ask a very serious question of the Minister and the Government: How dinkum are they when they say that this Bill is designed to get at traffickers and is not really a way of prosecuting those people who use the drugs? What we are saying in this case with regard to heroin tonight is that we are not concerned about the heroin user; we have no compassion for him; and do not look for treatment for him. What we do look for is a gaol sentence. In regard to the users and addicts of a list of drugs running to several pages in the schedule and a dozen syllables, everyone else apart from heroin addicts are to be looked at less seriously even than

those people who traffic in each of those drugs. That seems to me to be a strange anomaly and one which is, in human and compassionate terms, totally unjustifiable. Heroin addicts are those least able to break the addiction. They are in the most serious addictive situation and are those most in need of help. The attitude of the Government is, "Send them to the District Court and then to gaol." What sort of compassionate attitude is that?

Mr PARKER: I wish to raise a completely different point from that raised by the member for Gosnells. I must confess that it is rather difficult to construe clause 9, and to see precisely how it might operate. I have tried to do it for myself, putting in a couple of examples. I do not think that the clause has the effect claimed by the Minister; namely, that all heroin trials would go to the District Court. I will not go into the point raised by the member for Gosnells to which the Minister should reply.

Clause 9 does not, in my view, require that all heroin trials go to the District Court. Indeed, it could be said that it is not clear, as a result of clause 9 and the combined effect of it and the schedule, where the trial of a heroin case would take place and, indeed, what the penalties for heroin use would be. That is my view. I suggest that the Minister would be well advised to check the application of clause 9 with the schedule to find out whether it is not simply an omission of some sort or whether people have been over confident in leaving heroin out of schedule III. It does strike me as strange that it is virtually the only drug left out of schedule III. I believe there may well be a hiatus created as a result of its not being put in schedule III. The Government may find when it comes to the test that it is in a very difficult position with regard to prosecutions. That certainly is not what the Opposition wants, as the member for Gosnells said.

The Government has made great play of the fact that it is after these people. It may well be that if this Bill is passed in this form without these corrections these traffickers of heroin may well be the people who are not caught by the Bill at all. I would suggest the Minister would be well advised to have his advisers and the Crown Law Department look at this question in order to ascertain whether the provision applies in the way in which he states it does.

Mr Pearce: Are we going to have a few answers to these points?

The DEPUTY CHAIRMAN (Mr Crane): The Minister has not moved his amendment yet to schedule III.

Mr HASSELL: I direct the member for Fremantle to the supplementary Bill relating to this Act which is the Acts Amendment (Misuse of Drugs) Bill in which, on page 4, there are additional offences triable by the District Court under sections 61 and 71 of the Misuse of Drugs Act. In the absence of clause 9 of the Misuse of Drugs Bill, all those offences will be tried in the District Court. Clause 9 relates to the third schedule which we have been talking about.

If a person has a drug which is not covered by the third schedule, it is as if clause 9 did not apply in relation to the offence, together with clause 6 or 7 relating to that drug. It has the effect of putting it into the District Court.

I do not want to preclude anyone else who wants to speak in a general way, but I have to move an amendment to item 27 in the third schedule.

I move an amendment—

> Page 31, item 27—Insert after the passage "400 cigarettes" the word "each".

The item would then read "400 cigarettes each containing . . . ."

That is a technical amendment and was something that was just missed along the way. It makes the intention clear.

Amendment put and passed.

Schedule, as amended, put and passed.

Fourth schedule—

Mr T. H. JONES: The Minister will be glad to know this is my last query. I notice in the fourth schedule on page 35 there is the same number of opium plants and cannabis plants included under the schedule. This appears to be a serious mistake. It aligns cannabis with opium. There may be some reason for this. Perhaps the Minister can explain the position.

Mr HASSELL: I do not think items 1 and 2 are opium. I could be wrong.

Mr T. H. Jones: That is my understanding of it. I wish it was put in plain English.

Mr HASSELL: They might be the poppies that produce it.

Mr O'Connor: Would the Minister have a look at it?

Mr T. H. Jones: And perhaps check it in another place?

Mr HASSELL: I will check the point. These schedules have been taken from the existing provisions of the Poisons Act. There are some changes to the basic structure.

Mr T. H. Jones: I may be wrong or I may be right. As long as the Minister will check it out and if there is an anomaly, agree to make a change in another place, I will not pursue the matter now.

Mr HASSELL: I certainly will check it out and advise the member for Collie before we finish with the Bill.

The DEPUTY CHAIRMAN (Mr Crane): If one looks at clause 4 (3) on page 4 of the Bill one finds that "This Act does not apply to the non-viable seeds of the opium poppy *Papaver somniferum*." Then my Latin fails me. That may clarify the situation. It would appear it is the opium poppy.

Mr Pearce: That is exactly the point—the opium poppy. It gives the Latin term which is the one in the schedule.

Mr O'Connor: It does not include that.

Mr PEARCE: The point is not whether or not it includes it. On page 4, as the Deputy Chairman quite accurately points out, the Bill identifies the opium poppy as *Papaver somniferum*, which is one of the plants in the schedule.

Mr Hassell: I understand that. I have undertaken to check the point.

Mr PEARCE: You now concede it is an opium poppy we are talking about?

Mr Hassell: I have said it might be the plant.

Mr PEARCE: It is the plant! Your own Act says that. The Deputy Chairman pointed out that it is. The Act takes a number of opium plants as being equivalent to cannabis plants. It is not a point of view that will be held by the community, I would suggest.

It seems to me that there is a discrepancy between a number of prohibited plants determining court of trial in schedule IV with regard to cannabis and the amount of cannabis one needs to have in his possession with regard to determining court of trial—500 grams as opposed to 100 plants. I am no expert, but it would seem to me that a five-gram cannabis plant would be a very tiny seedling indeed. The 100 plants would seem to me to be a rather more liberal amount of cannabis to have in one's possession than the 500 grams which would determine court of trial under schedule III.

Mr Hassell: The member should look at schedule VI as well.

Mr Pearce: You will get a chance later.

Schedule put and passed.

Fifth schedule—

Mr HASSELL: I move an amendment—

Page 35, item 27—Insert after the passage "80 cigarettes" the word "each".

Amendment put and passed.

Mr PEARCE: We come to another strange thing. If members cast their eyes to item 63 on page 36, they will find that, appearing amongst the list of prohibited drugs, is the famous heroin. We find it is possible for the Minister to determine that the possession of two grams of heroin is enough to give rise to the presumption that the person has that amount of heroin with the intent of selling or supplying it to someone. If it is possible to identify an amount which differentiates between the addicted user and the abuser for purposes of supply to somebody else, by fixing a prescribed amount, it ought to be possible to do that in exactly the same way in schedule V so we can make sure that the addicts go to the court of summary jurisdiction and the traffickers go to the District Court as with every other drug. It certainly gives rise to the criticisms in the Chamber that the exclusion of heroin from the provisions is not a serious act at all, but a simple drafting omission. It is simply explained that the printer left it out or it was taken holus-bolus from the provisions of the Poisons Act and the Poisons Act did not quite catch up with the state of life of today.

It certainly gives one no confidence in the Minister's earlier statement because, as I say, heroin appears in this schedule in a way that distinguishes between addicts and traffickers, not in the same way as the previous schedule was supposed to do.

Mr HASSELL: I am quite prepared to concede that it is difficult to trace this through. I do make the point that the member for Gosnells has misinterpreted what is intended to be done and what is done by these provisions. All the omission of heroin from schedule III does is to put heroin trials in the District Court. It does not raise the penalty for heroin addicts. A simple user of heroin is liable to a maximum of two years' imprisonment or a fine of $2 000. It gives him added protection because heroin is such a serious offence, but it does not raise the penalty against him.

Mr Pearce: I understand that.

Mr HASSELL: What is the complaint? Is it that the trials are to be in the District Court?

Mr Pearce: Because the whole purpose, as I understood the Minister's earlier remarks, in distinguishing between the court of summary jurisdiction and the District Court is that the less serious offences were of summary jurisdiction and the more serious offences would go to the District

Court. In essence, the difference between less serious and more serious offences was just whether a person was an addict or a trafficker.

Mr HASSELL: Yes, except in relation to heroin. When I originally announced this Bill last year a point was included at that time that all heroin trials would be in the District Court.

That has been carried right through without any change and it does not incur a penalty for a user. It has nothing to do with the schedule with which we are now dealing. Where the amount is specified, giving rise to the presumption of the intention to give, it is a separate issue.

Mr PEARCE: In fact, the Minister is wrong in suggesting that philosophically we are looking at a different issue because schedule V differentiates between an addict and a trafficker on the basis that if a person has a large amount of drugs in his possession he is likely to be a trafficker because he has more drugs in his possession than he requires for his own use. That distinguishes between a trafficker and a user in the same way as schedule III attempts to differentiate between people sent to the District Court and other courts. Philosophically there is a slight technological difference between the two schedules. If that is the philosophy of the Bill, to say arbitrarily that heroin is excluded from this philosophical point of view is a logical *non sequitur*. It simply does not follow and it does nothing for heroin addicts who are caught in this strange position. It enables the Government to say to the people, "Look we are taking on heroin users because if anyone takes heroin he will be sent to the District Court".

Schedule, as amended, put and passed.

Sixth schedule—

Mr PARKER: I may be wrong in my interpretation of this schedule and if I am I would be grateful for advice from the Minister. It seems to me we have an extraordinary situation if we compare schedules VI and IV, putting aside the point that the Minister will look into the name of a particular plant.

It seems to me schedule IV determines that if one has, for example, 100 cannabis plants he will be tried in the District Court, but if he has less he will be tried in a court of summary jurisdiction under clause 9.

Mr Hassell: Yes.

Mr PARKER: Schedule VI provides that if a person has more than 25 cannabis plants it is presumed it is his intention to sell or supply.

Mr Hassell: For between 25 and 100 plants the offender will be tried summarily on the presumption he intended to sell or supply.

Mr PARKER: In other words he would be tried summarily for an offence which has a penalty of 25 years or $100 000. I am not going to argue as to how many plants should be concerned. It seems to me that with the figure the Minister mentioned—between 25 and 100—the offender will not have the opportunity to be tried in the District Court. I agree with the Minister that the more serious the offence the greater the requirement to go to a higher court. If a person has between 25 and 100 plants he will be subject to a 25-year penalty or a $100 000 fine and be tried in a court of summary jurisdiction. That strikes me as something of grave concern because a person should be entitled to go before a District Court.

Mr HASSELL: The answer to the member for Fremantle is found in the provisions of clause 34(2)(b). If it is in the category of 25 to 100 plants the person will be tried in a summary court.

Schedule put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (MISUSE OF DRUGS) BILL

Second Reading

Debate resumed from 4 August.

MR GRILL (Yilgarn-Dundas) [10.07 p.m.]: The Opposition opposes this Bill which is complementary to the Misuse of Drugs Bill. We have spent six days in this House telling the Government we oppose that particular Bill, and we oppose this enabling Bill also. The professed intention of this Bill is as follows: Firstly, it amends the Child Welfare Act and provides for the control and treatment of children who become involved with prohibited drugs. Secondly, it increases the jurisdiction of the District Court to allow it to have concurrent jurisdiction in respect of indictable offences where the penalty is in excess of 14 years' gaol. Thirdly, it repeals sections 41A(3), 42, and 43 of the Poisons Act as similar provisions are contained in the Misuse of Drugs Bill.

Lastly, it repeals part VIA of the Police Act because similar provisions are now in the Misuse of Drugs Bill.

The Minister's second reading speech hints that additional provisions relating to the Child Welfare Act will somehow facilitate better treatment and rehabilitation for the young drug offender. The Minister used the words "control" and "treatment" but if one examines the

legislation, one finds no such provisions inserted in either the Child Welfare Act or the Misuse of Drugs Bill. The hint that there will be better treatment and rehabilitation facilities simply is not correct. The Opposition has maintained at all times that better treatment and better rehabilitation facilities are absolutely crucial. The hint that those sorts of facilities will be made available by the implementation of these amendments is misleading this House and the citizens of this State.

Secondly, we say the amendments to the Police Act and to the Poisons Act seem fairly innocuous, and, as similar provisions appear in the Misuse of Drugs Bill, we cannot really object to that, and we do not object to it. Thirdly, and most importantly—this is our prime reason for opposing it—the Bill enlarges the jurisdiction of the District Court. That means that a class of persons in this State—namely, drug offenders—will be discriminated against. They will have to accept second-class justice. Some of the provisions of the Misuse of Drugs Bill will bring down very heavy penalties; indeed, up to a 25-year gaol sentence. Presently any offence which can bring a penalty in excess of 14 years is dealt with by the Supreme Court.

The Bill before us tonight will enlarge the jurisdiction of the District Court—but only in respect of drug offenders—so that the District Court can bring down penalties in excess of 14 years. In other words, drug offenders are being denied the right to be tried before an obviously superior court. They are being denied the right to be tried by judges of superior ability; namely, judges of the Supreme Court of this State.

In his second reading speech, quite accurately the Minister pleads the burden that is now placed on the Supreme Court. We say that it is not sufficient to plead that burden. The answer must be to provide more judges for the Supreme Court, not simply to shift the burden to the District Court and thereby discriminate against a certain section of people charged under our laws.

Clearly it is a discriminatory measure, and we oppose it on that basis. It is no answer to downgrade the quality of law handed down in this State, and that is what is being done in respect of drug offenders. At the present time the delays in the Supreme Court are notorious—people have to wait very long periods for their cases to be heard. That applies not quite so much to criminal cases as it does to civil cases. Nonetheless, the delays are very lengthy indeed. On a number of occasions the Law Society has stated publicly that more senior judges should be appointed. We concede there is a burden on the Supreme Court, but the answer to that burden is not the one contained in this Bill. The answer is to appoint more senior judges. For the reasons outlined, we oppose the Bill.

MR HASSELL (Cottesloe—Minister for Police and Traffic) [10.14 p.m.]: The member for Yilgarn-Dundas basically raised two points. Firstly, he said that the amendments to the Child Welfare Act do not provide for any rehabilitation or cure of juvenile offenders in this area. Basically, the provisions in this Bill which relate to the Child Welfare Act are directed at making it read correctly, having regard for the change of law which will be effected by the enactment of the Misuse of Drugs Bill. Any change in the approach to drug criminality in dealing with juvenile offenders is not intended, implied, or said. As I am sure the member for Yilgarn-Dundas knows, the whole philosophy of the Child Welfare Act is not to impose on juvenile offenders a judicial and determinate system of conviction of sentencing, but to impose a system of treatment. That applies, and will continue to apply, to juvenile drug offenders convicted by the courts.

Mr Grill: Many people will dispute that assertion.

Mr HASSELL: And many people would say it was not adequate.

Mr Grill: That is right.

Mr HASSELL: They might say that we should be following a more strictly determinate system of sentencing and incarceration. Those are issues to be determined in another context, and it would be inappropriate to do that in a Bill which is supplementary and technically in support of other legislation. In the course of the next 12 months I will bring to this House substantial amendments to the Child Welfare Act, and it may be relevant to debate these issues then.

The second point raised by the member for Yilgarn-Dundas is that the Opposition objects to the transfer of drug trials to the District Court. That objection can be taken, but I do not think it can be taken fairly or properly in the terms used by the honourable member.

The Bill before us will upgrade the trial rights of some defendants in terms of their entitlement to a jury. It is the view of the Government, for the purposes of the better use of the court facilities we have, and for the better dealing with all drug cases, that the jurisdiction of the court should be extended so that it can deal with all drug cases. We could argue about this matter one way or the other, and I concede that one could have legitimately a different point of view from the one we have adopted. We do not believe there is any

deficiency in the District Court which suggests it is not appropriate for a person to be tried by jury in that court.

The District Court deals with a significant proportion of the basic criminal law. It would not be right were we to maintain the jurisdiction levels so that some drug cases are tried in that court and some in the Supreme Court in an artificial way. This would be the result if we did not extend the jurisdiction. On the other hand, it would not be practical to contemplate transferring all drug cases to the Supreme Court.

Mr Grill: We are suggesting that where a penalty of more than 14 years is to be imposed, the case should be heard in the Supreme Court.

Mr HASSELL: That is the suggestion of the Opposition. We believe these cases can be dealt with adequately in the District Court.

Mr Grill: Why make distinctions between drug offenders and other offenders?

Mr HASSELL: Because we are dealing with legislation which brings together all the law on drugs. I would use the word "code" but the member has suggested that I have said things on different occasions which I do not think I have.

Mr Grill: Can I ask a question?

Mr HASSELL: The member may ask a question.

Mr Grill: What will be the mechanism which decides in which court the Crown Law Department will proceed, or will it be just an arbitrary decision?

Mr HASSELL: I contemplate that all cases brought under the Misuse of Drugs Bill will be dealt with in the District Court.

Mr Grill: That is not what you said in your second reading speech. Do you want me to quote it?

Mr HASSELL: If the member wishes to quote it, he may do so. However, I have given him my understanding of the way the legislation will operate. We believe it is proper and appropriate for offenders under this legislation to be dealt with in the District Court.

Mr Grill: Could I remind you of these words in your second reading speech—

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

Mr HASSELL: That is not inconsistent with what I have just said. I have said the intention of the legislation is that these cases will be dealt with in the District Court.

Mr Grill: What is the mechanism?

Mr HASSELL: The mechanism is the legislation we have before us, which enables the District Court to deal with these cases, which is where these cases will be taken.

Question put and a division taken with the following result—

Ayes 24

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Herzfeld	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Shalders

(Teller)

Noes 18

Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr Skidmore
Mr Terry Burke	Mr A. D. Taylor
Mr Evans	Mr I. F. Taylor
Mr Grill	Mr Tonkin
Mr Hodge	Mr Wilson
Mr Jamieson	Mr Bateman

(Teller)

Pairs

Ayes	Noes
Sir Charles Court	Mr Davies
Mr Young	Mr Harman
Mr P. V. Jones	Mr Melver
Dr Dadour	Mr Carr
Mr Spriggs	Mr Bridge

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Mr Hassell (Minister for Police and Traffic) in charge of the Bill.

Clauses 1 to 9 put and passed.

Clause 10: Section 42 amended—

Mr GRILL: The Opposition opposes this clause. We do not feel the jurisdiction of the District Court should be extended in this way. It creates a dichotomy, a situation where drug offenders on the one hand face very severe penalties—up to 14 years' imprisonment—and on the other hand are denied access to the Supreme Court. We do not say the judges of the District Court are not adequate to deal with criminal offences attracting penalties of under 14 years' imprisonment. However, obviously the Government can see by numerous pieces of legislation, but in particular, by the Criminal Code, that judges of the Supreme Court simply

are considered to be superior in ability to those of the lower courts. In fact, that should be the case.

Why should people facing very serious penalties—up to 25 years' imprisonment in some cases—be subject to trial in what are in fact inferior courts? It is not correct for the Minister to say he is bringing down a code which will be uniform in all respects so that all drug offenders will be tried in the District Court; that is not a valid argument. There are all types of criminal offenders, many of them mentioned in the Criminal Code, and a distinction is drawn as to where they will be heard by the penalties they may attract. To be consistent, the Government should carry on with that practice here, with the choice of courts being decided by the penalty.

When I asked the Minister what was the mechanism which would be used to decide whether a serious drug case should go before the District Court or the Supreme Court he said that all the cases would go before the District Court. He begged the question. When he was reminded of the words he used in his second reading speech, which clearly indicated there would be concurrent jurisdiction and that the Supreme Court and the District Court would both have jurisdiction, he said that it was not inconsistent with what he was saying at the time, namely, that all of these cases will be heard by the District Court.

Are all these cases to be heard by the District Court, as the Minister suggested, or will some be heard by the District Court and others by the Supreme Court? If some are to be heard in the Supreme Court, we would like to know by what mechanism it will be decided which court shall be used.

I suggest the only answer the Minister will be able to come up with is that an arbitrary choice will be made by the prosecutor—in this case, normally the Crown Law Department. That I submit is manifestly unfair; it is unfair to allow that sort of arbitrary decision to be made and to allow the situation where there is one court for one small and specialised group of offenders and another court for the great multitude of offenders under the Criminal Code and other codes.

The position is simple and it has not been answered anywhere near adequately by the Minister. I would like to hear some answer now from the Minister.

Clause put and a division taken with the following result—

Ayes 23

Mr Blaikie	Mr Nanovich
Mr Cowan	Mr O'Connor
Mr Coyne	Mr Old
Mrs Craig	Mr Rushton
Mr Crane	Mr Sibson
Mr Grayden	Mr Sodeman
Mr Grewar	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Herzfeld	Mr Watt
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Shalders
Mr Mensaros	*(Teller)*

Noes 18

Mr Barnett	Mr T. H. Jones
Mr Bertram	Mr Parker
Mr Bryce	Mr Pearce
Mr Brian Burke	Mr Skidmore
Mr Terry Burke	Mr A. D. Taylor
Mr Evans	Mr I. F. Taylor
Mr Grill	Mr Tonkin
Mr Hodge	Mr Wilson
Mr Jamieson	Mr Bateman
	(Teller)

Pairs

Ayes	Noes
Sir Charles Court	Mr Davies
Mr Young	Mr Harman
Mr P. V. Jones	Mr McIver
Dr Dadour	Mr Carr
Mr Spriggs	Mr Bridge

Clause thus passed.

Clauses 11 to 24 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 10.33 p.m.

QUESTIONS ON NOTICE

HEALTH

Isolated Patients' Travel and Accommodation Assistance Scheme

1814. Mr CARR, to the Minister for Health:

Further to his answer to question 421 without notice of 1981 in which he said the State gives a guarantee that a patient who needs treatment in Perth will be taken to Perth and given the treatment if he is unable to raise the money needed, will he please detail the procedures to be followed by a person needing such assistance?

Mr YOUNG replied:

As the result of representations by the member for Pilbara, the State Government has placed a proposal before the Commonwealth Government which would facilitate the operation of the Commonwealth's IPTAAS.
I will seek leave to table a statement on this subject made by the Hon. Premier and which I think will cover all the members' queries.

The paper was tabled (see paper No. 426).

LIQUOR: BEER

Quantity Sold

1821 Mr BERTRAM, to the Chief Secretary:

(1) How many gallons of beer were sold in Western Australia last year?
(2) Of the total gallonage, how many gallons were sold in each of—
  (a) kegs;
  (b) bottles;
  (c) cans;
  (d) other?

Mr HASSELL replied:

(1) and (2) This information is not available to the Government as it is not released by the Swan Brewery Company Limited or other wholesalers. The only information released by the Swan Brewery is the percentage of their draught and packaged liquor sales, which at present is draught 32 per cent, and packaged 68 per cent.

WATER RESOURCES: MWB

Chairman: Travel Expenses

1822. Mr DAVIES, to the Premier:

(1) Did the Government approve payment of expenses to the Metropolitan Water Board Chairman (Mr A. A. Batty) prior to his departure on 14 August?
(2) What proportion of Mr Batty's trip involves private business?
(3) What is the expense allowance per day for Ministers travelling overseas?
(4) What were the costs of airline expenses for Mr Batty's visit?
(5) Who paid for the airline expenses?
(6) Were the airline bookings organised through the Western Australian Government Travel Centre?

Sir CHARLES COURT replied:

(1) Yes, $4 000 with any further payment subject to documentation of the actual costs incurred.
(2) There were no set proportions. Mr Batty offered to use his professional experience during his trip overseas in a way which will bring benefits not only in his work as chairman, but to the board as a whole. Such benefits when acquired through a consultant's report are much more expensive.
(3) There is no specific travelling or expense allowance laid down for Ministers who travel overseas on official Government business. The Premier considers each case on its merits and if overseas travel is approved all reasonable and necessary expenses incurred and which are attributable to official duties are met by the Government.
(4) to (6) As Mr Batty organised his travel arrangements himself, the answers to these questions are not known.

WATER RESOURCES: MWB

Chairman: Travel Expenses

1823. Mr DAVIES, to the Deputy Premier:

(1) With reference to his comments about the Chairman of the Metropolitan Water Board's overseas trip in *The West Australian* of 5 September 1981, as follows—

"Normally, departments and authorities abide by the Minister's decision", he said. "In this case, the Water Board did not."

what was the Minister's decision which the Water Board did not abide by?

(2) What action did he take as a refusal of the Water Board to abide by his decision?

(3) If the Government has agreed to payment of only $4 000 in expenses and the Metropolitan Water Board has already paid Mr Batty $8 000, what action will be taken to recover any part of the extra $4 000 which has been spent without supporting documentation?

Mr O'CONNOR replied:

(1) to (3) At its meeting of 24 July 1981, the Metropolitan Water Board noted the chairman's willingness to extend a private overseas trip to investigate the latest practices in plants handling liquid wastes—especially sewage—in view of the current concern in the care of groundwater resources. The board decided that $8 000 should be contributed towards the cost of the trip.

When the matter was properly referred for the Premier's consideration, on his behalf I decided that $4 000 should be paid and any further payment would be subject to documentation of the actual costs incurred. Apparently by the time the papers were returned to the board, the chairman had been paid the $8 000.

On his return, the chairman will be required to submit details of his actual costs for consideration and will be asked to refund any excess payment.

FUEL AND ENERGY: SEC

Borrowings Programme

1824. Mr I. F. TAYLOR, to the Minister for Fuel and Energy:

With reference to his answer to question 1715 of 1981—part (c)—relating to the State Energy Commission, what is the State Energy Commission's estimate of total infrastructure borrowings in June 1981 dollar terms required for the Pilbara power pool?

Mr P. V. JONES replied:

I am advised that studies of the Pilbara integrated power scheme carried out by consultants for the State Energy Commission were recently completed. A number of alternative planning options are now being considered to take into account the range of possible variations in timing and rate of growth of power requirements in the Pilbara area. It will not be possible to provide firm cost estimates for the final development of the Pilbara power scheme until the detailed nature and timing of future developments has been determined.

EDUCATION: SCHOOL SWIMMING PROGRAMME

Lifesaving Instruction

1825. Mr DAVIES, to the Minister for Education:

Referring to question 1750 of 1981 relevant to lifesaving instruction, to what extent has lifesaving instruction been included in departmental swimming programmes in "recent years" and what period of time does "recent years" cover?

Mr GRAYDEN replied:

(a) Lifesaving has always been an integral part of vacation swimming classes;

(b) schools include lifesaving and water safety education in health education programmes;

(c) secondary schools include lifesaving as part of their aquatics programmes in physical education;

(d) in some country centres elements of lifesaving—e.g. resuscitation and water safety—are included in in-term time swimming classes;

(e) many schools mount advanced swimming programmes using their own teachers. These programmes offer some lifesaving and training for carnivals and are held at the same time as the school's departmental lessons.

There will be no curtailment of these programmes and, in fact, their continuance will be encouraged.

PRISONS: PRISONER

Minor

1826. Mr JAMIESON, to the Minister representing the Attorney General:

(1) With reference to the Attorney General's letter to the *Sunday Times* of 6 September 1981 dealing with an unnamed minor prisoner—

(a) is he aware that between the time of conviction of this person, and the decision of Executive Council to authorise the change of the prisoner's status from strict to safe custody, the Parole Board, after reviewing the case a number of times between May 1975 and June 1977, had made several recommendations which were ignored by Cabinet;

(b) is the Attorney General aware that because of the rider "in Fremantle Prison", the order of November 1978 made no difference to the prisoner's status whatsoever;

(c) is the Attorney General aware that a person convicted under section 19 (6a) (a) could have normally been expected to be considered for parole within the next year;

(d) is he also aware that the reason for the change of mind on the part of the prisoner, of receiving medical treatment, was the approximate four months, delay before he would receive the treatment, which was of a cosmetic nature only?

(2) As no contact has been made with the prisoner's family, for some considerable time, as to his return to his family, when can some positive action be expected towards his eventual release?

(3) Has any other person proved guilty of attempted rape at the age of 15½ years been held in a security prison for such a time?

(4) What was the actual date in 1974 when the prisoner was taken into custody and held in an institution prior to his conviction on 19 December 1974?

Mr O'CONNOR replied:

(1) (a) Parole Board recommendations are never ignored by Cabinet as the member suggests; however, Cabinet chose not to implement certain recommendations of the Parole Board purely on the ground of protecting the public;

(b) no; although the prisoner remained in Fremantle his status was changed from "strict custody" to "safe custody";

(c) in view of the serious nature of offences for which section 19 (6a) (a) has been used there should be no expectation of parole in the year following conviction;

(d) no.

(2) Release on parole in this case should be preceded by a period of minimum security and work release. The prisoner is presently at the medium security Bunbury Regional Prison and consideration will be given soon to his minimum security placement.

(3) Only one case could be found of another 15½-year-old person being convicted of attempted rape. The Court of Criminal Appeal ordered that this person be committed to the care of the Community Welfare Department until the age of 18 years with a recommendation that he be kept in strict custody at Riverbank for nine months. That sentence was pursuant to section 19 (6a) (b) of the Criminal Code. It is significant to note that although released after 12½ months he committed another serious sexual offence within three months of release and is again in custody at Fremantle Prison, this time under the provisions of section 19 (6a) (a) of the Criminal Code.

(4) 5 July 1974.

TOTALISATOR AGENCY BOARD

Turnover

1827. Mr I. F. TAYLOR, to the Chief Secretary:

(1) With reference to his answer to question 1772 of 1981 relevant to TAB turnover policy, what are the reasons for the policy of the Totalisator Agency Board in not disclosing turnovers of the board in individual towns such as Kalgoorlie-Boulder?

(2) Do the Western Australian Turf Club and the Western Australian Trotting Association have any statutory requirement to inform either—

(a) the Minister; or

(b) the Totalisator Agency Board;

of their distribution to country racing and trotting clubs of funds received from the board?

Mr HASSELL replied:

(1) Commercial reasons. In line with other commercial enterprises, only the financial information in annual reports is made available. This serves to protect the legitimate commercial interests of the TAB.

(2) (a) and (b) No.

STATE FINANCE: STAMP ACT

Exemptions

1828. Mr I. F. TAYLOR, to the Treasurer:

(1) With reference to his answers to question 1771 of 1981 relevant to Treasury revenue, and together with my further question without notice, has the Treasury made any estimate of revenue foregone by the State from the inclusion of a stamp duty exemption clause in each of the agreement acts mentioned in question 1771 of 1981?

(2) If "Yes", what are the Treasury estimates of revenue foregone?

(3) If not, why not?

Sir CHARLES COURT replied:

(1) Treasury has from time to time calculated estimates of the stamp duty which may in theory be foregone on some transactions exempted under these agreement Acts.

However, such estimates have been based on the hypothetical assumption that the transaction would be conducted in Western Australia and would be fully dutiable; but of course this is not necessarily the case.

Moreover, there are other uncertainties, including whether or not a reorganisation of joint venturers will occur within the specified exemption periods and, if so, the valuation of the assets which may be involved in the transfer.

As I have said on previous occasions, successive Parliaments have ratified agreements containing stamp duty exemptions. Such provisions recognise the risks involved in resource development projects and the massive initial capital outlays required by developers whose final legal structure may not be determined until the project is established and the respective contributions and therefore equity shares of the participants are known.

Clearly it would be inequitable to penalise these developers by imposing stamp duties simply because the need for a restructuring of the participants becomes apparent to secure the funding and the development and operation of the project.

In addition, the reorganisation is often in the State's interest and may have been encouraged by the Government.

(2) and (3) Such hypothetical estimates could well be misinterpreted and it would serve no constructive purpose to release them.

EDUCATION: PRIMARY SCHOOL

North Forrestfield

1829. Mr BATEMAN, to the Minister for Education:

(1) Will the proposed North Forrestfield Primary School be built in time for the 1982 school year?

(2) If not, will he give the reason why?

Mr GRAYDEN replied:

(1) and (2) Because action by local residents delayed acquisition of the site for the North Forrestfield Primary School, this school will probably not be ready until mid-first term.

MEAT

Commission

1830. Mr EVANS, to the Minister for Agriculture:

(1) Who are the present members of the Western Australian Meat Commission?

(2) When was each appointed?

(3) When does each member attain the age of 65 years?

(4) When does the appointment of each member terminate?

Mr OLD replied:

(1) (2) and (4)

Member	Date of Current Appointment	Term of Appointment (years)
F. Hamilton	1981	2
A. J. Webster	1980	2
J. Ware	1980	3
B. K. Smart	1981	3
M. A. J. Cameron	1980	2
J. Craig	1981	3
J. S. Crisp	1980	3
J. A. Thomson	1980	2

(3) The ages of members are—

5 members 45-50
3 members 50-65

STATE FINANCE: ADVANCES

Interest Rates

1831. Mr I. F. TAYLOR, to the Treasurer:

(1) Does the Government charge interest on Treasurer's advances?

(2) If "Yes"—

(a) what is the current rate of interest charged on such advances;

(b) what is the legislative authority for making such interest charges?

Sir CHARLES COURT replied:

(1) For the most part, the authority "advance to Treasurer" is applied to financing expenditure such as new items or excesses on votes pending appropriation by Parliament in due course. Interest is not charged in these circumstances.

In addition, however, the Treasury is the banker for a number of special departmental accounts and statutory authorities. Circumstances can arise where short-term advances are required to finance transactions pending recoup from another source. An example is the construction of the Jervoise Bay facility by the Industrial Lands Development Authority where contractual payments may be financed by Treasurer's advance pending the raising of loans.

Depending on the circumstances, and particularly if the transaction is of a commercial nature, interest may be charged in these cases.

(2) (a) Interest is charged at the rate equivalent to the rate of yield on the longest Commonwealth tap stock on issue unless approval is given by the Treasurer for the rate to be varied in specific cases. The current rate under this arrangement is 15 per cent.

(b) There is no specific legislative authority for this procedure nor is there any legislative prohibition. The Public Moneys Investment Act envisages cash balances being invested to earn at prevailing rates of interest until required. Advances from the account "advance to Treasurer" are provided from balances in the Public Account which would otherwise be invested. For this reason, if the advance is required for a commercial or income-generating purpose, interest is charged by the Treasury to offset income foregone.

POLICE: COMPLAINTS

Investigation: Independent

1832. Mr DAVIES, to the Minister for Police and Traffic:

(1) Is he aware that in the last year the Federal and New South Wales Parliaments have enacted legislation establishing systems of independent investigations of complaints against the police and in Victoria, in the same period, the Ombudsman has been given the right to review the results of internal investigations by the Police Commissioner?

(2) Will he now consider the formation of an independent tribunal to investigate complaints against police in this State?

Mr HASSELL replied:

(1) Yes.

(2) No.

PRISONS

Visitor System

1833. Mr DAVIES, to the Chief Secretary:

Will he list the persons involved in the prison visitor system for Western Australian gaols?

Mr HASSELL replied:

A list showing the persons involved in the prison visitor system for Western Australian gaols is tabled herewith. List A shows justices of the peace and list B is those non-judicial persons involved.

The paper was tabled (see paper No. 425).

TRAFFIC ACCIDENTS

Inquiry

1834. Mr DAVIES, to the Minister for Police and Traffic:

Will he table the death toll inquiry he called for as a result of road accidents in which six people died over the last weekend?

Mr HASSELL replied:

No.

A report was received by me last Friday and it showed, amongst other things, that seven persons died in five traffic accidents in the period from 4 September to 6 September inclusive.

A preliminary analysis indicated—

(a) four drivers showed evidence of the effects of alcohol;

(b) driver fault was evident in four cases.

In the case of one person killed, a blood alcohol content of 0.239 per cent was apparent and in another case, a blood alcohol content of 0.420 per cent was apparent.

It would be improper to table the report now because inquiries are continuing, and the coroner may be involved in some or all cases. Prosecutions may also be appropriate.

The report serves only to underline the necessity for the continuation of the work of the Road Traffic Authority and its campaign against drinking drivers.

WAGES

Average Weekly

1835. Mr BRIAN BURKE, to the Minister for Labour and Industry:

As at 30 June each year since 1975, what were—

(a) the average weekly—male—earnings;

(b) the minimum weekly—male—earnings;

(c) the rate of taxation deductions from each of the above figures for a single income earner with spouse and two dependent children?

Mr O'CONNOR replied:

(a) to (c) As per the following table—

WESTERN AUSTRALIA

Year ending June	Ave. Weekly earnings per employed male unit	Annual tax liability	Min. weekly Award earnings (State Awards)	Annual tax liability
	$	$	$	$
1975	154.40	1 466.68	103.35	560.92
1976	178.00	1 359.60	122.48	349.15
1977	198.80	1 897.75	139.48	818.35
1978	213.90	1 909.92	150.14	790.81
1979	227.60	2 063.57	161.33	909.16
1980	259.80	2 583.01	172.12	1 075.34
1981	294.14	2 801.28	196.08	1 169.60

Note—

Average weekly earnings obtained from the Australian Bureau of Statistics Catalogue No. 6302. The June 1981 figure is an estimate based on the growth of Australian average weekly earnings between March and June Quarter 1981. Figures for the June Quarter 1981 for Western Australia have not yet been released.

Weighted average minimum award rate obtained from the Australian Bureau of Statistics Catalogue No. 6312.

The tax liability data was provided by the Commonwealth Taxation Department.

TRANSPORT: AMERICAN SAILORS

Concessions

1836. Mr McIVER, to the Minister for Transport:

(1) Do visiting American sailors having rest and rereation leave in Perth enjoy free travel on public transport during the duration of their stay in Western Australia?

(2) If "Yes", who made this decision, and when was the decision made?

(3) If free travel is allowed to United States sailors would he give the same concession to the unemployed and the pensioners of Western Australia?

Mr RUSHTON replied:

(1) and (2) The personnel of visiting naval ships, both Australian and from other countries, have for many years been granted free travel on metropolitan public transport, provided they are in uniform.
Prior to each visit, specific approval must be given by the Premier or Deputy Premier for this privilege to apply.

(3) The two situations mentioned are considered quite different. People receiving unemployment benefits are provided with free travel on public transport under the Federal Government's fare assistance scheme when travelling to or from job interviews arranged by the Commonwealth Employment Service.
In addition to one annual return free trip on Westrail country services, eligible pensioners receive significant concession rates on metropolitan public transport.
It should also be appreciated that normal fares on public transport services are already heavily subsidised by the general taxpayer and in the present difficult financial climate, it is not considered feasible to ask taxpayers to pay for additional travel concessions.

EDUCATION: HIGH SCHOOL

Albany

1837. Mr DAVIES, to the Minister for Works:

(1) Have tenders been accepted for construction of a new high school at Albany?
(2) If so, what was the tender price?
(3) Who was the tender awarded to?
(4) Was a tender received from an Albany builder?
(5) If "Yes" to (4), what was his price?
(6) Does the 5 per cent preference to local builders still apply only to contracts up to $50 000?
(7) Is there any provision within the tender for use of local subcontractors?

Mr MENSAROS replied:

(1) Yes.
(2) $2 631 550.
(3) Jennings Industries (WA) Ltd.
(4) Yes.
(5) $2 660 000.
(6) and (7) Yes.

HEALTH: INSURANCE

Charges

1838. Mr BRIAN BURKE, to the Minister for Health:

As at 30 June each year since 1975, what was the cost for basic medical and hospital insurance with Western Australia's biggest health fund?

Mr YOUNG replied:

Weekly family rates for basic medical and hospital insurance with the Hospital Benefit Fund of Western Australia—

	$
June 1975	3.10
June 1976	not applicable—Medibank Mark I in operation.
June 1977	6.30
June 1978	6.30
June 1979	5.50
June 1980	8.60
June 1981	6.44.

HOUSING: PURCHASE

Criteria

1839. Mr BRIAN BURKE, to the Honorary Minister Assisting the Minister for Housing:

As at 30 June each year since 1975, what was—

(a) the average cost of a three-bedroomed house—new and used;
(b) the average cost of a three-bedroomed State Housing Commission purchase home;
(c) the minimum deposit required and family income to qualify for finance from permanent building societies, savings banks and the State Housing Commission for the purchase of homes in each of the above categories;
(d) the weekly instalment required to discharge loans provided in each instance referred to above?

Mr LAURANCE replied:

(a) *Information not available.*
(b) The average cost of a three-bedroomed State Housing Commission purchase home in the metropolitan area for the financial years 1975 to 1977 was—

June 30th	
1975	$18 287
1976	$23 045
1977	$25 693

The commission ceased erecting homes for the purchase scheme after 1977. However, the commission has re-entered into vendor finance in 1981 and the estimated cost will be $32 000.

(c) and (d) Permanent building societies since 1975 generally require a deposit equal to 10 per cent of the value of house and land, but with special circumstances this can be reduced to 5 per cent.

There is no set family income to qualify for a permanent building society loan. The amount of loan from a permanent building society is dependent on the ability of a family to meet the repayments on assessed loan and it is common practice among permanent building societies to limit repayments to the 25 per cent to 30 per cent range of gross income.

Savings Banks

Terms and conditions of lending from savings banks vary, and as an example the Rural and Industries Bank of WA generally requires a deposit equal to one-third of the house and land.

Similar to the permanent building societies there is no set family income to qualify for a R & I Savings Bank loan. The amount of loan from a savings bank is dependent on the ability of a family to meet the repayments after careful examination of the known commitments.

State Housing Commission

The commission withdrew from loan assistance in October, 1976 and applicants were then referred to building societies for assistance.

Up to the time of withdrawal, deposits and monthly repayments were determined by negotiation with applicants and these factors, in turn, determined the loan amount and repayment period.

The minimum deposit looked to was $500 plus fees and in no case was the repayment period to exceed 45 years.

RAILWAYS: FREMANTLE-PERTH

Reopening

1840. Mr McIVER, to the Minister for Transport:

(1) Has he received correspondence from the Western Australian Football League requesting that suburban services operate on the Perth-Fremantle railway line?

(2) If "Yes", what was his reply?

(3) Would he allow suburban services to operate between Perth and Fremantle during show week?

(4) If "No" to (3), would he state his reasons?

Mr RUSHTON replied:

(1) Yes.

(2) to (4) I am of the opinion that during the trial period of an all-bus operation in the Perth-Fremantle corridor it is not desirable that metropolitan passenger trains should operate on that section. This policy will be maintained, but individual applications, particularly those with a significant historical interest, will be dealt with on their merits.

It has been clearly demonstrated in the past two years that the crowds attending the Royal Show and the football finals can be adequately handled by buses. As the operating costs are substantially less for buses than for trains, the running of passenger train services cannot be justified.

For these reasons I declined the request from the Western Australian Football League.

LIQUOR

Spirits,

1841. Mr JAMIESON, to the Chief Secretary:

(1) Is there any variation in other States or Territories of Australia in the strength of spirits sold in licensed premises?

(2) If so, where and what are the variations?

Mr HASSELL replied:

(1) No.

(2) In Western Australia, the strength of whisky, brandy, bourbon, and rum is specified in the food and drug

regulations of the Health Act as 43 per cent alcohol by volume. In the other States the strength of these spirits is 37 per cent alcohol by volume. All other spirits in Western Australia—excluding overproof rum—comply with the level in other States.

GOVERNMENT EMPLOYEES

Wages

1842. Mr I. F. TAYLOR, to the Minister for Labour and Industry:

(1) How many State Government employees are paid the State minimum wage?

(2) What are the—

(a) classifications;

(b) awards or agreements;

under which these employees are employed?

Mr O'CONNOR replied:

(1) and (2) The member's question is unclear, but, on the assumption that he refers to the number of employees of the State Government receiving the minimum wage in lieu of an award entitlement, I advise that records of this are not readily available.

To ascertain these figures would involve a lengthy survey of all mature age apprentices and trainees employed in Government departments and instrumentalities as well as a study of all Government awards. However, the number is not expected to be significant.

FAUNA AND FLORA

Imports and Exports

1843. Mr TONKIN, to the Minister representing the Minister for Conservation and the Environment:

(1) Are discussions being held with the Commonwealth Government relating to the export and import of plants and animals listed in the convention on international trade in endangered species of wild fauna and flora?

(2) Is the Government intending to change State legislation so as to complement possible Commonwealth action?

Mr O'CONNOR replied:

(1) Correspondence has been entered into with the responsible Commonwealth Minister with respect to the draft principles to be incorporated in new Commonwealth legislation.

(2) A need for complementary State legislation is not apparent.

TOWN PLANNING: MRPA

Mount Street

1844. Mr TERRY BURKE, to the Minister for Local Government:

(1) Can she give an assurance that the metropolitan region planning authority, when granting approval to the development application relating to 55/59 Mount Street gave consideration to the orderly and proper planning of the locality as required under clause 30 of the metropolitan region scheme, and if the Authority did give consideration to those matters, did it conclude that the construction of a high rise block of units was consistent with the preservation of a streetscape which comprises essentially single residental premises of character and charm?

(2) Can she give assurance that in exercising its discretion pursuant to the metropolitan region scheme the MRPA took into account the fact that the proposed development does not comply with the GR codes set out in the Uniform Building By-laws in relation to plot ratios and set back requirements?

(3) Can she give an assurance that she will ensure that provisions of the Local Government Act and the Uniform Building By-laws made thereunder, and the by-laws of the City of Perth are complied with in respect of the grant of a building licence relating to the proposed development?

Mrs CRAIG replied:

(1) The Metropolitan Region Planning Authority did give consideration to the orderly and proper planning of the locality, and in doing so concluded that the construction of the residential units referred to was consistent with the parliamentary precinct policy.

(2) In accordance with the parliamentary precinct policy, the authority accepts the advice of the Perth City Council on plot ratio and setback requirements.

(3) Yes.

APPRENTICES

Aborigines or Part-Aborigines

1845. Mr BRIDGE, to the Minister for Labour and Industry:

What was the number of apprenticeships commenced by Aboriginal or part-Aboriginal apprentices from 1976-1981 in the Kimberley towns of—

(a) Broome;
(b) Derby;
(c) Halls Creek;
(d) Wyndham; and
(e) Kununurra?

Mr O'CONNOR replied:

(a) to (e) On applications for approval of apprenticeship and apprenticeship agreements, no differentiation is made between Aboriginal or other persons. Consequently the statistics sought are not available.

QUESTIONS WITHOUT NOTICE

SHOPPING HOURS

Extension

467. Mr DAVIES, to the Minister for Labour and Industry:

(1) Is he able to confirm or deny the persistent rumours that the Government is about to agree to extend shopping hours on the weekend?

(2) If so, can he tell us how the matter is being handled?

Mr O'CONNOR replied:

(1) and (2) There has been no indication that the Government will extend shopping hours on the weekend. There has been some pressure from some major stores to extend shopping hours. I have had clear indications that the Retail Traders' Association, the trade generally, and the unions, are opposed to it. Some time ago I made the statement that the Government does not intend to make any such alteration.

INDUSTRIAL DEVELOPMENT

Pulp Mill

468. Mr BLAIKIE, to the Minister for Resources Development:

(1) Is he aware of initiatives to establish a pulp mill in the south-west of this State?

(2) As I understand that a parcel of land has been held under option for this purpose in the Boyanup area, can he advise whether this is the area being considered?

(3) If so, to what extent, and by whom?

Mr P. V. JONES replied:

(1) to (3) I am aware that some initiatives have been taken in this regard. The WA Chip and Pulp Co. has some obligation to pursue this kind of development, and it has been doing so. I am aware that in recent months the chief executive (Mr Oldham) has investigated the progress that has been made overseas in regard to pulping plants, such as the most appropriate economic size, and so on. The company is considering this type of development in Western Australia, subject to the normal economic restraints and also subject to the availability of suitable sites. I understand a preliminary investigation of sites has been undertaken in the general area of Boyanup and Donnybrook.

PRISONS

Juveniles

469. Mr BRYCE, to the Chief Secretary:

The Chief Secretary will recall that last session I asked him a series of questions about problems that had arisen between

and the Department of Corrections about decisions involving the release, parole, and transfer of young juveniles who had been sentenced to imprisonment at the Governor's pleasure. The Chief Secretary indicated that a real conflict of opinion existed between the two departments whose responsibility it was to make those decisions. He said that he was about to start work on a solution to the problem. Can the Chief Secretary indicate whether the problem has been resolved?

Mr HASSELL replied:

In all honesty I must say that I do not recall the member's questions, and certainly I do not remember indicating that there was conflict between the Department for Community Welfare and the Department of Corrections about the matter. However, the placement of juveniles sentenced to indeterminate terms of imprisonment under section 19(6a) of the Criminal Code poses a problem for the Department for Community Welfare as we do not have a juvenile gaol. I am not saying that a solution to the problem is the establishment of a juvenile gaol.

Mr Davies: You would soon fill it!

Mr HASSELL: In the light of the number of such offenders sentenced in recent times, it appears that perhaps the department is lacking in secure facilities. This was the reason we pursued arrangements to provide land for the establishment of a facility at a future time when funds are available. If the member wants a more detailed answer to the question, I suggest that he puts the question on the notice paper.

FUEL AND ENERGY: PETROL

Standard

470. Mr SODEMAN, to the Minister for Fuel and Energy:

Further to my advice to the Minister last evening that delivery of standard grade petrol north of Geraldton was to be discontinued and that such action would considerably disadvantage northern communities and pastoralists, what action has he been able to take to rectify the situation, and with what result?

Mr P. V. JONES replied:

Following the advice I received from the member late yesterday, I discussed this matter with the State Energy Commission, and, more particularly, discussions were held with the fuel company concerned, Mobil Oil Aust. Ltd. As a result, some arrangements have been made.

The demand for standard grade fuel in the north has been diminishing considerably, although supplies are still required for boats, motorcycles—which are used in the pastoral industry—lawnmowers, etc. I understand there have been some transport problems. However, arrangements have been entered into with Mr Forgan, the State Manager of Mobil Oil Aust. Ltd. He has been most helpful and he has assured me that supplies of standard grade fuel will be provided for the north in drums on an interim basis. A review of the matter is planned, including an estimate of the exact quantity required and the places in which the fuel is required, so that a long-term arrangement can be entered into.

FOREIGN INVESTMENTS

Land: Restrictions

471. Mr BRIAN BURKE, to the Premier:

(1) Has the Premier been consulted by his Federal counterparts about any proposed restrictions on foreign investment in real estate?

(2) Does he favour restrictions of this kind?

(3) If so, will he outline to the House the sort of restrictions he thinks would be appropriate?

Sir CHARLES COURT replied:

(1) to (3) My colleague, the Minister for Agriculture, and I have canvassed in this House the type of action that the Government has taken already in regard to foreign purchases of real estate in urban land, rural land, pastoral leases, and so on. I believe we have canvassed this matter very effectively. If the member looks at the reports of the Federal Treasurer's comments today he will see that the Federal Treasurer has decided virtually to follow, almost verbatim, the wording of our announcements.

Mr Brian Burke: Did he consult with you?

Sir CHARLES COURT: As I have explained already, consultation has taken place between the Federal Government and the State Governments, as well as between Treasury and Treasury, and between the Foreign Investment Review Board, our Treasury, and the Ministers' committee. including the Minister for Agriculture. When decisions are required, the State's reactions to those decisions are sought.

If the member looks at what the Federal Treasurer is reported to have said, he will see that in effect the Commonwealth is saying that it wants to take the sort of actions we are planning to take. I have announced a number of initiatives we are taking. This is not something that we can do in five minutes.

Mr Brian Burke: Is the Federal Government duplicating your efforts?

Sir CHARLES COURT: No, it will be complementing us and we will be complementing the Federal Government, on actions that can be carried out effectively on a Commonwealth-State basis. This includes certain Commonwealth powers in connection with currency and the movement of funds in and out of Australia.

For instance, one of the actions proposed is to give ourselves the necessary powers—if we need additional powers—to trace more effectively the real parties involved in some of these transactions.

Mr Brian Burke: I think you have done nothing at all—come on!

Sir CHARLES COURT: The member would know enough about this matter, or at least I hope he would know enough about it, to realise that all sorts of legal entities are involved, such as nominal companies, trustees, and limited companies where some difficulties arise in trying to determine who are the exact shareholders and who are the beneficial owners. The Government has set out a very sensible programme to enable us to determine these matters. We will carry out these actions in consultation with the Commonwealth Government.

SHOPPING HOURS

Extension

472. Mr NANOVICH, to the Minister for Labour and Industry:

The Minister replied to an earlier question about extended shopping hours, and I am well aware of his answer. Could he now advise the House whether he has received any representations from the major retailers to allow shopping on Saturday afternoons until the Christmas period only?

Mr O'CONNOR replied:

I cannot recollect a request from the major shopping centres about Saturday afternoon trading until Christmas only. They have requested extended hours on Saturday afternoons, but my understanding is that the request was for a trial period but not restricted to the pre-Christmas period.

They said they would like to see it initially for a trial period. This is probably the point the member is making. Once it becomes a trial period, it is difficult to close it off at the end of the trial period. There was a request for it to be placed on a trial basis.

LOCAL GOVERNMENT: DEPARTMENT

Land: Deals

473. Mr PEARCE, to the Minister for Local Government:

Is her department investigating any local authority with regard to the participation of councillors or council officers in land deals?

Mrs CRAIG replied:

If my department is, I have no knowledge of it. There would be no general examination. When a specific case is referred to the department, if it is thought to be in contravention of the Act, that specific case will be investigated. I am not aware of any investigations at the moment.

POULTRY

Research Station

474. Mr EVANS, to the Minister for Agriculture:

(1) Is it a fact that the Government proposes to close the Pearson Street poultry research station?

(2) If "Yes"—

(a) from when is the closure to take effect;

(b) will the research station be replaced by another institution and, if so, where will the new .nstitution be located;

(c) will the functions of the research station be retained, and if not, what changes will be effected; and

(d) what will happen to the land and buildings at Pearson Street?

(3) (a) Has there been any consultation with the egg producers and boiler producer organisations regarding the closure of the research station;

(b) if "Yes", what were the views of each of these groups;

(c) if "No", why not?

Mr OLD replied:

(1) to (3) I would say only that the situation of all research stations is under consideration at present.

Mr Davies: You are not going to sell the lot, are you?

Mr OLD: Did I say anything about selling?

Mr Davies: You said "under consideration"; but we are frightened of you.

Mr OLD: The future of all research stations is under consideration. It is important that these matters be considered every now and then to ascertain whether they are fulfilling a function. When a decision in relation to Woodlands is made, I will be only too happy to tell the Deputy Leader of the Opposition about it.

NATIONAL PARTY

Cabinet: Representative

475. Mr CRANE, to the Premier:

(1) Has he read the article attributed to the member for Merredin, the parliamentary Leader of the National Party, in the *Midlands and Central Districts Herald* on Thursday, 10 September 1981, in which it was claimed that the National Party had one representative in the Cabinet?

(2) Will the Premier tell us the name of the representative?

(3) If there is none, can the Premier now, in respect of security of the Cabinet, advise of any representative in Cabinet with a direct link with the National Party?

(4) Does he accept the National Party as a part of the Government?

Sir CHARLES COURT replied:

(1) to (4) The member gave me a little notice of the question, and I acquainted myself with the article to which he refers. I must admit that if a member of the National Party is in our Cabinet, he must be the invisible man.

Mr Parker: You might have a double agent in there.

Mr Wilson: That is where the leaks come from.

Sir CHARLES COURT: One would be excused a little wry humour if one suggested we might have to consider the security arrangements within the Cabinet if this extra member exists! In addition, I am wondering whether I should introduce another Bill to provide for a further member of the Cabinet.

Mr Parker: I think the member for Subiaco would support that.

Mr Pearce: The legal profession are hoping you are.

Sir CHARLES COURT: In a more serious vein, I do not know the basis of the article and the reference made. There is certainly no-one in the Cabinet from the National Party. I make it quite clear there are only two parties in the Government—

Mr Stephens interjected.

The SPEAKER: Order!

Sir CHARLES COURT: I can say, in as frank a way as I possibly can, that there are only two parties in the Government. One is the Liberal Party and the other is the National Country Party. That is where it begins and ends. No member of the National Party is in the Cabinet, unless somebody has been masquerading as a Liberal or a member of the National Country Party; and I know of no-one who looks like that.

STOCK: SHEEPSKINS

Treatment

476. Mr EVANS, to the Minister for Agriculture:

I address my question to the Minister for Agriculture—

Mr Old: I hope it is not as long as the last one.

Mr EVANS: We will see if I receive some sort of answer to this one, which is as follows—

(1) Do the registration and control of agricultural chemicals in Australia come under the authority of the State Governments?

(2) If "Yes", does the Government intend to ban the sale of Clout until wool and skin buyers are certain that this chemical does not harm the wool in a way which decreases its value considerably?

(3) (a) Have the views of wool buyers on the effect of the use of Clout on sheep been sought, and if so, what are those views; and

(b) if those views have not been sought, why not?

Mr OLD replied:

(1) to (3) I suggest to the Deputy Leader of the Opposition that he put the question on notice. I know that he has been fishing around with some of the wool and skin buyers, because some of them have contacted me.

Mr Davies: They have been coming to us.

Mr OLD: Some information would need to be researched. I suggest that he put the question on notice.

LAND

Onslow

477. Mr SODEMAN, to the Minister representing the Minister for Lands:

In respect of the current development of residential land in Onslow would the Minister advise—

(a) how many blocks are involved;
(b) what services are being provided;
(c) the method of development;
(d) the proposed method of release;
(e) the conditions of purchase;
(f) when is it anticipated the land will be available for release?

Mrs CRAIG replied:

(a) to (f) Provision of services by way of water, roads, and power is being carried out by the Public Works Department, the Shire of West Pilbara, and the State Energy Commission, on behalf of the Lands Department, to permit the release of 22 residential lots.

The lots will be offered for sale at auction in Onslow, subject to the standard two-year building condition, in late November-early December, in conjunction with other land sales in the Pilbara.

EDUCATION: HIGH SCHOOLS

Right to Life Association: Film

478. Mr DAVIES, to the Minister for Education:

(1) Is the film sponsored by the Right to Life Association again being shown in schools?
(2) Has it been censored?
(3) Who did the censoring?
(4) Has any application been made for showing in schools a film depicting the opposite point of view; and if so, by whom?

Mr GRAYDEN replied:

(1) to (4) The film is still being shown. I attended a screening of this audiovisual presentation—

Mr Pearce: It is a film.

Mr GRAYDEN: It is not a film. It is an audiovisual presentation of slides. Without question, it has tremendous impact—

Mr Pearce: Yes, but it is not true.

Mr GRAYDEN: It is about a subject which, when presented in that way, is quite grisly to some extent. In my opinion, it would be difficult to alter the film or the presentation in any way.

Mr Davies: Has it been altered from the original?

Mr GRAYDEN: It has not been altered. It is still being shown. I certainly would not be a party to any move to prevent its being shown. Of course, it can be shown only if the principal of the school concerned believes that it should be. A great deal of the criticism which has been levelled at the presentation would be obviated if, instead of leaving the slides on the screen for minutes in some cases while the narrative continues, the slides were shown for one or two seconds only. That would be sufficient. As I say, the slides have a tremendous impact. Anyone who saw them would be glad to have seen them. I assure the Leader of the Opposition that no attempt has been made to censure the film—

Mr Pearce: Censor!

Mr GRAYDEN: —in any way; but I hope that those who are showing it will accept my suggestion and put the slide on, take it off, and continue with the narrative.

Mr Davies: What about an opposing point of view?

Mr GRAYDEN: In respect of the opposing point of view, there are numerous ones—not audiovisual presentations, but lectures—which present an opposite point of view.

Mr Davies: Are they being allowed in?

Mr GRAYDEN: Yes, definitely.

MISUSE OF DRUGS BILL

Press Advertisement

479. Mr BLAIKIE, to the Minister for Police and Traffic:

(1) Has the Minister seen an advertisement in *The West Australian* of Monday, 14 September which opposed the Government's Misuse of Drugs Bill? The article was headed "Our kids are in danger. Drugs can kill—so could this Bill" and listed two telephone numbers.

(2) Can the Minister advise the House whether one of those numbers in fact is the telephone number of a Government-sponsored agency?

(3) If so, what does he intend to do about it?

Mr HASSELL replied:

(1) to (3) I saw the advertisement in the newspaper, and I have ascertained the place to which the telephone numbers refer. It was very interesting that the advertisement, after a whole lot of misleading and untrue material, makes the following statement—

> Cannabis repression means heroin escalation.

That is very interesting in the light of the fact that only two days earlier, in Saturday's newspaper, there was a report of a drug case in the Supreme Court concerning a fellow by the name of Colangelo, a therapist. In the article Mr Justice Smith was reported as follows—

> Mr Justice Smith said that the pre-sentence report contained the all-too-familiar story of a person starting on cannabis and progressing quickly to hard drugs.

That was a very interesting point to be made in the Supreme Court of this State at a time when we are debating the Misuse of Drugs Bill, and this wretched little band which forms the cannabis lobby—supported by the member for Fremantle and the member for Gosnells—who are putting out their poisonous misinformation—

Mr Pearce: That is untrue.

Mr Parker: The Minister knows what he is saying is a deliberate untruth.

The SPEAKER: Order! The House will come to order!

Mr HASSELL: This disgusting little band which forms the cannabis lobby is putting out its poisonous misinformation in the form of advertisements and other material, and is using the telephone number of the Uniting Church of Australia—a body of some responsibility in the community—and of the Youth Affairs Council, which in my understanding receives Government support.

I assure the member for Vasse that this kind of activity is viewed seriously by me. If these people do not get the story straight I will have no option but to draw the matter to the attention of the Minister in charge of that group. The official Opposition spokesman on this matter, the member for Collie, would know that this Bill has been dealt with very properly in this House. He knows we have gone out of our way to meet the proper points he has made. However, we will never meet the cannabis lobby.

STATE FINANCE: STAMP ACT

Exemptions

480. Mr I. F. TAYLOR, to the Treasurer:

I refer to two previous questions on the subject of the cost to the Government in terms of revenue foregone or, to put it another way, the financial assistance given to companies as a result of the inclusion of the stamp duty exemption clause in agreement Acts. From his most recent answer it would now seem that estimates indeed have been made by Treasury of the costs involved. However, the Treasurer refuses to provide the Parliament with those estimates because "they may be misinterpreted" and "would serve no constructive purpose". Would he agree to review this decision on the basis that the Parliament and the public have a right to know the level of financial assistance they are providing in these times of financial stringency?

Sir CHARLES COURT replied:

No, I will not review the decision because it was given a lot of very mature thought. I would have assumed that, with the member's background knowledge, he would accept the answers given. I explained in my answers that some estimates had been made, but in many cases, they were quite hypothetical. He would also know that when we are making calculations of this nature we make them on the assumption that, under a certain set of circumstances, the transactions will be subject to duty. I remind the member that this practice has been carried on by successive Governments, and for good reason.

Therefore, it is not a question of revenue foregone or of any subsidy provided; it is a matter of plain, good sense when agreements of this kind are negotiated. There is nothing behind the door; there is nothing secretive about it; the matter comes to Parliament. Therefore, it makes good sense to include the provision in the agreement so there is no doubt whatever and the Commissioner of Taxation is not placed in a position of trying to collect tax he might not be entitled to collect and is not faced with all the unnecessary argument which may ensue. The Government and the Parliament itself have said, "We believe these transactions should be exempt" which leaves the matter in no doubt whatever. It is as simple as that.

I also remind the member that once the time limit has expired the agreements become subject to exactly the same stamp duty as is paid by anyone else, regardless of how big or small the company or person may be. I am surprised the member has pursued this matter, particularly in light of his background.