Legislative Council

Tuesday, 2 November 1982

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

MEMBERS OF PARLIAMENT: OFFICES OF PROFIT

Inquiry by Joint Select Committee: Report

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.32 p.m.]: I move—

> That the Joint Select Committee inquiring into Offices of Profit of Members of Parliament and Members Contracts with the Crown do report on Wednesday, 3 November 1982.

Question put and passed.

BILLS (6): ASSENT

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

1. Building Societies Amendment Bill.
2. Lotteries (Control) Amendment Bill (No. 2).
3. Acts Amendment (Metropolitan Region Town Planning Scheme) Bill.
4. Cancer Council of Western Australia Act Repeal Bill.
5. Gas Undertakings Amendment Bill.
6. Dairy Industry Amendment Bill.

QUESTIONS

Questions were taken at this stage.

GRAIN MARKETING AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Labour and Industry), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [4.57 p.m.]: I move—

> That the Bill be now read a second time.

This Bill amends the Grain Marketing Act 1975-1981 for the purposes of allowing the Grain Pool to offer growers a "cash out" option on the equity remaining in a pool, after one or more advances have been paid; and improving the marketing arrangements for lupins.

With regard to the first proposal, the Bill will enable the Grain Pool to provide growers with the option of receiving either the estimated funds remaining in a pool as a cash payment soon after harvest at a discount, or receiving the pool payments in the normal way up to 18 months after harvest.

Such options should benefit growers by allowing them greater choice in receiving payments on crops delivered to the Grain Pool. Growers accepting a "cash out" offer will be able to reduce their own borrowings. This should be particularly beneficial to the industry if the Grain Pool is able to borrow funds more cheaply than individual growers.

The Bill requires the Grain Pool to keep accounts for its "cash out" transactions separate from those for the normal pool transactions. This is to ensure that payments to growers who do not accept a "cash out" offer are not affected in any way by the offer. In addition, the Grain Pool is specifically excluded from having access to Treasury guarantees for its "cash out" offers.

As "cash out" offers will be based on estimates of the equity remaining in a pool, the Grain Pool may make a surplus or deficit on each offer. The Bill, therefore, establishes a reserve fund known as the "prior payments reserve fund", into which any surplus from the "cash out" operation will be paid. The Grain Pool will be required to use the reserves as a first priority to meet any prior deficit.

It will also have the options of using the reserve fund either to distribute to growers who have accepted an offer for a particular pool surplus funds which might occur from that offer or, after consultation with the Minister, for any purpose which will directly benefit the grain industry. In using money from the reserve fund, the Grain Pool will be required to have regard for the need to maintain proper reserves.

The Bill redefines "lupins" to mean all varieties of *lupinus angustifolius*, or narrow-leaved lupins. At present the Act defines "lupins" as the narrow-leaved varieties, uniwhite, unicrop, and uniharvest, and the yellow lupin variety, Weiko III. The narrow-leaved varieties marri and illyarrie have been added by Order-in-Council, and the Grain Pool has now requested that the variety yandee be prescribed.

The prescribing by Order-in-Council of each variety of lupin as it is released is obviously cumbersome. Amending the Act to include all narrow-leaved lupin varieties will largely overcome this problem as most lupins being grown at present are narrow-leaved varieties.

The Bill alters the word "proclamation" to "order" in the definition of "appointed date" in sections 21(2) and (3) of the Act. These will then coincide with section 21(1) which specifies that the date for commencement of compulsory marketing of a prescribed grain shall be fixed by Order-in-Council rather than by proclamation.

Finally, the Bill validates the compulsory marketing of the narrow-leaved lupin varieties, marri and illyarrie, since they were incorrectly prescribed on 16 May 1979, and 1 August 1980, respectively.

Both the "cash out" option and the redefinition of lupins have been agreed to by the two producer organisations.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

HOSPITALS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. R. G. Pike (Chief Secretary), read a first time.

Second Reading

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [5.02 p.m.]: I move—

That the Bill be now read a second time.

An opinion from the Crown Solicitor has indicated some doubt as to the authority contained in the Hospitals Act to enable a hospital board to borrow and expend funds to pay for expenditure incurred in the establishment and construction of an entirely new hospital facility, where no building had existed previously.

This has resulted from consideration given to the funding of the recently completed Nickol Bay Hospital. It is necessary to raise $5.296 million to meet construction and establishment costs utilising the borrowing powers of semi-Government authorities under the infrastructure loan borrowing programme approved by the Australian Loan Council.

The hospital has been completed and the borrowing powers of a hospital board can now be utilised in this regard provided that the authority enabling it to do so is contained in the Hospitals Act. The proposed amendment to section 17 will eliminate any doubts in this respect.

It will ensure that the board of a hospital has the necessary borrowing powers to meet the establishment and construction costs of its hospital.

The proposed amendment to section 21 will provide authority for a public hospital board to expend such funds for the establishment and construction costs.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Lyla Elliott.

WESTERN AUSTRALIAN OVERSEAS PROJECTS AUTHORITY AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.05 p.m.]: I move—

That the Bill be now read a second time.

The object of this Bill is to amend the Western Australian Overseas Projects Authority Act 1978-1981 in light of operational experience of the authority.

The authority is continuing to develop its role in assisting Western Australian participation in overseas development projects and consultancies. It is involved in successful projects in Iraq, Libya, Thailand and Nepal, and in the past year has contracted a number of overseas technical consultancies. The major $A7 million dry-land farming project in Iraq has operated continuously throughout the recent hostilities in that area and practical results have been excellent.

To date the authority has remained completely self-funding, and marketing under way suggests that the operations will continue to be viable for the foreseeable future. However, experience with the administration of the authority indicates a need for some amendments to the Act in order to improve efficiencies.

This Bill proposes three changes to section 13 of the Act, which relates to membership of the Western Australian Overseas Projects Authority Board.

The first concerns a problem which has arisen with the provision that the Directors of Agriculture, and Industrial, Commercial and Regional Development, and the Under Treasurer are nominated as permanent directors of the board. While it is desirable that representation be at a very senior level, in practice these officers may not be in a position to attend board meetings and may be unable to appoint a senior member of their department to replace them. The Bill there-

fore makes provision for the appointment by the director of a senior officer to represent the department at board meetings, should it be necessary, rather than it being limited to the permanent head.

Currently the board consists of six directors, of whom three represent private industry and three represent Government departments. From this group, one member is appointed by the Governor to be chairman of the board. As it is possible that the chairman could be a representative of an organisation which could become heavily involved in the overseas projects area, it could affect that chairman's capacity to represent adequately his own organisation's point of view in particular situations.

For this reason, provision is made in the Bill for the appointment by the Governor of a seventh director if required, who would be seen to be not directly involved in overseas development projects.

The third matter relates to the change in the title of the department which is now that of Department of Industrial, Commercial and Regional Development. Members will note that this has been effected in the amendment to section 13(1)(b).

While these amendments will not vary the policy or principles under which the authority operates, they will significantly assist in improving its administrative efficiency.

I commend the Bill to the House.

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

AERIAL SPRAYING CONTROL AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Labour and Industry), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [5.08 p.m.]: I move—

That the Bill be now read a second time.

This Bill amends the Aerial Spraying Control Act 1966-1978 to require any person who owns, or has control over, an aircraft which is fitted out for aerial spraying, to have the required insurance cover.

The main purposes of the Act relate to the protection of crops or other plant growth and animal life from aerial spraying or drift. Pilots undertaking crop spraying must have a pilot rating certificate obtained by passing an examination set by the Department of Agriculture. This ensures that they have a reasonable knowledge of the properties of the herbicides used and the care needed to avoid damage.

In addition, aerial operators are required to have insurance cover against damage caused while undertaking spraying. Insurance claims have been made each year and their settlement has been greatly simplified because of the Act.

At present the Act requires any owner of an aircraft licensed under the air navigation regulations of the Commonwealth to carry insurance cover against causing damage to crops. The Act requires the insurance policy to be lodged with the Director of Agriculture and to be sufficient to cover liability of not less than $30 000 for each claim under the policy.

However, the Act has no provision for the prosecution, for not arranging insurance cover, of a person who does not possess a Commonwealth air navigation licence. Under these circumstances it becomes necessary to prove that a person actually has undertaken aerial spraying using a particular herbicide from a particular aircraft.

At least one operator using several aeroplanes for aerial spraying is completely ignoring the requirements of the Act and, also, the Commonwealth air navigation regulations. However, it has proved impossible to obtain the necessary evidence for a successful prosecution.

The proposed amendment to section 10 of the Act will require that, in addition to the owners of licensed aircraft, the owner or person in control of any aircraft modified to carry out aerial spraying be required to lodge the insurance policy with the Director of Agriculture.

In this situation, a successful prosecution for not possessing the appropriate insurance cover could be obtained on the evidence that the aircraft was adapted for aerial spraying. No longer would it be necessary to prove that the aircraft was actually spraying a particular herbicide onto a particular crop.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

CHICKEN MEAT INDUSTRY AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Labour and Industry), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [5.11 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to change the composition of the chicken meat industry committee and to confer additional powers on that committee.

At present, the Chicken Meat Industry Act provides for the formation of an industry committee consisting of three processor and three grower members, with a non-voting chairman who is an officer of the Department of Agriculture. The intention was that the committee would reach agreement by consensus.

It is proposed under this Bill to reconstitute the committee to consist of a voting chairman who need not be a public servant, two members representing growers, two representing processors and two independent members appointed by the Minister.

The Bill will allow for decisions to be made by a majority vote rather than by consensus as required previously. This improved decision-making ability will eliminate the need to refer to an arbitrator matters on which the committee fails to reach agreement. In the past this process has proved to be both lengthy and expensive.

Provision has been made for the right of appeal against committee decisions. It is expected the new committee will be able to resolve issues and therefore contribute to greater stability in the industry.

The Bill provides also that broiler chickens will not be raised except in shedding approved for that purpose by the committee. This restriction will apply to both grower and processor facilities. Approval of shedding will be valid for such a period as specified by the committee, which may also withdraw approval at any time.

Provision is made for an appeal to the Minister against refusal to approve of shedding or the withdrawal of such approval.

The factors to be taken into account in considering applications for approval of shedding will be—

the productivity of contracted growers;

the standard price for broiler chickens;

the market for chicken meat; and

the suitability of the shedding for broiler growing.

A penalty has been provided to prevent the growing of broiler chickens in facilities other than those approved by the committee.

The additional power of the committee in approving growing facilities will prevent the construction of unnecessary additional shedding at a time of surplus capacity. Surplus shedding has been a problem in the industry since early 1980.

The Bill provides for the Act to expire after a period of seven years subject to a review after five years to continue the legislation if required.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

LAW REFORM (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.15 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to overcome certain problems which could arise from a High Court decision handed down in April this year in Fitch *v.* Hyde-Cates. In order to make clear the import of that decision, it is necessary for me to recount a little legal history.

At common law when a person died, the right of action against the person who caused his death died with him. This problem was overcome in Western Australia by the Fatal Accidents Act 1959. It confers a new right of action on the dependants of the deceased. Damages recoverable are proportioned to the degree of dependency these persons had on the deceased. This Act was really meant to provide fully for those who had been dependent on the deceased.

Also at common law, any cause of action in tort a person may have had, died with him. This problem was overcome by the Law Reform (Miscellaneous Provisions) Act 1941. It continued all subsisting causes of action for the benefit of the estate of the deceased. It specifically excluded claims for damages for pain or suffering, bodily or mental harm or curtailment of expectation of life.

The law was not thought to confer any right to damages for the earnings which the deceased would have had during the years of which he had been deprived by the accident that caused his death—"the lost years".

In April of this year the High Court decided, in Fitch *v.* Hyde Cates, notwithstanding earlier interpretation to the contrary, that the New South Wales provision which is equivalent to our Law Reform (Miscellaneous Provisions) Act does confer, on the estate of the deceased person, the right to damages for the earnings which the de-

ceased would have had during the lost years. It is clear that the corresponding provision in this State must now be interpreted in the same way.

One practical consequence of this new rule is that dependants who recover in a claim under the Fatal Accidents Act may, provided they are also entitled to benefit from the estate, receive a further sum in addition to what the court has decided is warranted by their loss of support from the deceased.

This additional sum will have to be set off against the entitlement to damages under the Fatal Accidents Act. In some circumstances a dependant will end up with more than he would have obtained under the old rule. In other cases anomalies will be created by the setting off because the beneficiaries may have different entitlements under the fatal accidents judgment and the will or intestacy of the deceased.

The other important consequence of the new rule is that in some cases persons or institutions who are entitled to benefit from the estate, and were not dependent on the deceased in any degree, will receive substantial sums that would not have been available previously. This is because the new right to damages accrues for the benefit of the estate as a whole and any person or body having a right to share in the estate will benefit accordingly.

This development in the law will fall most heavily on Government insurers. It has caused great concern to the insurance industry generally, but particularly to the Western Australian Motor Vehicle Insurance Trust. The concern it has expressed is not simply of increased payouts in respect of future deaths, but also of fresh claims being made in relation to cases previously thought to have been settled.

An actuarial report, by E. S. Knight & Co., commissioned by the State of South Australia has estimated that Australia-wide the decision will add approximately $100 million annually to the payout by compulsory third party insurers and perhaps as much as $450 million from additional claims in respect of deaths prior to the decision. In addition, the decision may also cost those covering employers' liability insurance about $37 million per year, as well as increasing their outstanding claims by about $160 million.

The South Australian actuary's report has been studied also by the Motor Vehicle Insurance Trust's consulting actuary, who agrees with the conclusions reached so far as Western Australia is concerned. He considers that there is no reason to doubt the assessment that the High Court decision will add $49 million to the trust's outstanding claims provision as at 30 June 1982, and that it will add $8 million a year to the cost of future claims.

The actuary considers that the effect on premiums paid to the Motor Vehicle Insurance Trust would amount to about a nine per cent increase to cover future accidents, to which would need to be added a further increase of between 11 per cent and 18 per cent to raise the $49 million needed to cover outstanding claims.

He concluded that the total premium increase would need to be in the range of 20 per cent to 27 per cent of present levels depending on whether the money was recovered over the next three to five years.

The alternative is to increase the premiums sufficiently to recover the $49 million in one year and to adjust the premium the following year sufficiently to cover future accidents. It is not considered that this alternative would be acceptable to the community generally. Needless to say, increases would have to be made also in premiums payable on other types of policies affected for the same reason.

The matter has caused concern not only to this State, but also in every other State, except Queensland. In Queensland, the law was amended in 1972 and, consequently, the High Court decision had no effect in that State.

New South Wales and South Australia both have passed amending legislation this year to counteract the effect of the High Court ruling and Victoria has similar legislation before its Parliament at the present time.

The Bill simply seeks to keep the position as it was prior to the High Court decision which has been referred to. It is, in effect, confirming the position as it was generally understood to be in all States previously, and will not remove any benefits under the Fatal Accidents Act.

Thus, it is not open to the objection to which retrospective legislation is often subject, namely, that it changes the rules to the detriment of those who have, very properly, been relying on them. This legislation will do quite the opposite and will prevent a change in the rules which would have very serious financial consequences in this State.

The Bill contains a saving provision so that it will not affect causes of action where courts may have already awarded judgment. In addition, so far as pending claims—if any—are concerned, I understand that the trust, where it might otherwise have been liable, will be agreeable to meeting legal costs for work done to date. A similar arrangement was made in South Australia.

As I have already indicated, the situation is of concern not only to this State, but also to others which have either legislated or are in the process of passing legislation to overcome the problems which have arisen from the High Court decision.

I commend the Bill to the House.

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

ELECTORAL AMENDMENT BILL (No. 2)

Second Reading

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [5.22 p.m.]: I move—

That the Bill be now read a second time.

All the States in Australia have legislation which requires compulsory enrolment and voting. If an enrolled person fails to vote at a Western Australian parliamentary election a penalty may be imposed. The offence is excused if the elector was ill, incapacitated or absent from the State. The Chief Electoral Officer determines whether the reasons provided for failure to vote are valid and sufficient.

For a number of years it has been the practice of the Chief Electoral Officer to excuse non-voters who plead religious conscientious objection. The Chief Electoral Officer had some doubts about this conscientious objection and tested the law in a lower court, which found that religious conscientious objection did not constitute a valid and sufficient reason for failure to vote.

More recently, an appeal was heard by the State Full Court. The finding of that court was that the magistrate was correct.

The position of the person who refrains from voting on religious conscientious grounds is therefore clear. He or she must suffer a penalty, along with all others who do not plead a valid and sufficient reason. The States of Queensland, New South Wales and Victoria provide in their electoral laws that religious conscientious belief is an acceptable reason for failure to vote. This concession appears to have operated without disturbance to the electoral process.

Because of our own experience during those years when the Chief Electoral Officer accepted religious conscientious belief as an excuse, the Government is of the opinion that no difficulties would result from a change to legislation along the lines already in use in the States of Queensland, New South Wales and Victoria.

The Bill before the house will allow an elector who honestly believes that abstention from voting is part of his religious duty to be covered by the plea of a valid and sufficient reason.

I commend the Bill to the House.

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

ACTS AMENDMENT (MINING) BILL

Second Reading

Debate resumed from 27 October.

THE HON. P. H. LOCKYER (Lower North) [5.24 p.m.]: I support the second reading of this Bill and leave my options open to debate some clauses in Committee, because amendments are to be moved.

Whilst the pastoral industry has some queries about the amendments, on the whole it supports mining exploration. I want to make that quite clear because I was surprised when the Hon. A. A. Lewis questioned whether the pastoralists want to allow mining to operate in pastoral areas. He queried whether the pastoralists would prefer to operate rather than allow a mineral find to be mined. That is not the point of this Bill. The point of the Bill is the buffer zones which cannot be mined under the present legislation. It is obvious the member was not aware that this was the case, or perhaps he was trying to make a mischievous point. However, I do not wish to sit in judgment of what he was attempting to do.

On page 4278 of *Hansard* of 22 October 1982, the Hon. A. A. Lewis said—

> . . . it might be in the national interest that mining could be of more value to the nation than the pastoralists' pursuits . . .

That is not the question, as far as the pastoralists are concerned. The Bill deals with access roads and buffer zones.

The pastoral industry of Western Australia has been an important one for a considerable number of years and I do not believe it is unreasonable for the people who live in homesteads to wish to protect the place where they live, as people who live in any town or city would wish to do also. They are querying whether there should be open slather for people to come and go as they please. They are querying whether people should be permitted to pass watering points and go close to certain property, without some reasonable notice being given to the pastoralist concerned. That is the only area which the industry has queried.

Through the instrument of the Pastoralists and Graziers Association—an association for which I have the highest regard—the pastoralists have put forward their points of view and have held a number of meetings with the Minister concerned.

As a result the Leader of the House has foreshadowed an amendment.

It is important that members should know the reason that the pastoral industry feels its voice should be heard in this place. The pastoralists believe, as leaseholders, they are entitled to some protection of their investment. The amendment to section 20(5) is a basic erosion of the protection which the pastoralists have in relation to those structures which represent the bulk of their investment—the improvements on their leases.

To the best of my knowledge, the mining industry is unable to give an example of where a leaseholder has prevented access to a pastoral property. I would be interested if such evidence could be brought forward. The mining industry seeks, by statutory right, without restriction, the right to use another person's capital investment upon which his livelihood depends, so that it can profit.

In many instances, the homestead complex represents the hub of the total pastoral operation and it is through these particular areas—via sheds, through gates, past watering points—that everyone must travel. It is only reasonable that people who wish to engage in mining exploration should give some form of notice to the pastoralist concerned, that they wish to pass through the property.

It is appropriate to make the point that in over 90 per cent of cases, the mining companies and the pastoralists have come to easy agreement. It is an agreement and operation which is welcomed by both parties. Many pastoralists have benefited from the mining and exploration companies passing through their properties.

Such things as bringing parts to pastoralists from capital cities and nearby towns and similar co-operation are commonplace. It is not these people to whom the pastoralists object; they object to the obnoxious style of person and company which have no regard at all for the property, or for the livestock; they leave gates open and generally do not operate in a responsible manner. These are the people to whom the pastoralists object. The others are welcomed with open arms.

Another point raised by the pastoralists, especially in the Gascoyne area, is that a number of properties are watered by artesian bores. It may surprise the House to learn that the replacement cost of one artesian bore could be more than $30 000. Some bores are over 80 years of age, and are not in a perfect state of repair. It is imperative the people and machinery should not be allowed to move freely around these bores. If they caved in and stopped pumping, it could have a disastrous effect. I give as an example the property of Edaggee Station near Carnarvon where if one bore were put out of action it would not be possible to water 20 000 sheep. It would be an absolute and total disaster if the bore failed, and it would take a considerable amount of time to repair. Some of these bores are 600 to 700 feet deep.

It is important that the pastoralists have some say as to where heavy machinery, which is commonplace these days in mining activities, should go. The pastoralists are happy to give and take; they want to make that point quite clear, and that is why they sought consultation with the Minister and with the department. These consultations have been carried out in a forthright and proper manner, and I commend both the department and the Minister.

It is important that the pastoralists' voice be heeded, and that their needs be taken into consideration when we are discussing these clauses during the Committee stages. I ask the Leader of the House to give an undertaking that the Government will keep the Mining Act under consideration—an undertaking similar to that which it gave when it introduced the amendments last time. It is to the Government's credit that it said at the time it would bring forward ongoing amendments, it would see how those amendments went, and would change them if necessary.

One of the matters that should be given consideration is the possibility of separating the pastoral lease properties from freehold properties. We should consider having two separate types because in my view the two are very different. To my mind, there is no sameness between crop and pastoral properties. They should be separated and put into the Act in that way. The Minister in his reply might like to comment on that point, and give an undertaking that this matter will be kept under consideration.

THE HON. N. F. MOORE (Lower North) [5.34 p.m.]: I indicate my support for this legislation. The Hon. Ron Leeson is justified in saying, "I told you so" because we argued the merits and otherwise of the amending Bill over a long period of time. Most people would realise that a teething period is necessary for such legislation so that any amendments seen to be necessary can be brought forward as soon as possible. In that context, I congratulate the Minister for Mines (Mr P. V. Jones) on bringing forward amendments to the legislation based upon the requirements and the needs of the mining industry, as well as other land users in Western Australia. As the Minister acknowledged in his second reading speech, areas of concern still exist which are yet to be altered, and I refer particularly to the freehold land

provision. A variety of other matters are still grounds for concern by various members of the community.

This legislation does a number of good things. It provides for greater security of tenure for a miner who wishes to convert his prospecting licence, or exploration licence, into a mining lease. Under the existing Act, the Minister is not obliged in any way to grant a lease to the miner. This legislation gives the miner more security should he want to convert his prospecting licence or exploration licence into a lease so that he can carry on the activity of mining as opposed to exploration or prospecting. The decision to lift the restriction on the number of prospecting licences that can be issued to a particular individual is a very good move. Under the new legislation a person can be granted any number of prospecting licences; this makes a lot of sense because the licences do not cover a very big area, and Western Australia is a huge State.

The Government has indicated in this amendment that as far as possible it will provide an automatic right of extension of prospecting licences for a further two years. At present a licence may be held only for two years, and then must be relinquished. The amending legislation provides for an extension of two years for a prospecting licence. A new type of licence has been introduced—a prospecting licence of sorts—for gold and precious stones. This may be granted over an existing prospecting licence after the licence has been in force for one year. I have some small doubts about this; I argued for a long time that gold and precious metals ought to be the subject of a separate prospecting licence over any other mineral, and the area should be much smaller and similar to the current goldmining lease. The Government, in its wisdom, has decided it will allow special prospecting licences to be granted on top of existing prospecting licences to explore for gold or precious metals.

The legislation covers also the relationship between exploration and mining companies and pastoral leaseholders. I give notice that I will move an amendment during the Committee stage to provide greater security for pastoral leaseholders. I will argue the merits of my amendment during the Committee stage rather than now.

This amending legislation includes quite a number of amendments to the Mining Act. I will comment further on them, if necessary, during the Committee stage.

I conclude by complimenting the Government on its desire to amend the Mining Act, where necessary, so that in due course we will have an Act which is acceptable to all members of the community. We should bear in mind that when we talk about land use and the conflicting groups and interests in our society, it is nigh on impossible to produce legislation which will keep everybody happy.

It is a little like the olds days in the US when the cow men and the farmers could not become friendly because of their different interests and requirements for the land. In Western Australia we have freehold landholders, leaseholders, and mining companies wanting to use the land, and a time must come when their interests conflict. To draw up legislation to keep them all happy is nigh on impossible. The Government is heading in the right direction.

I will move an amendment in the Committee stage which, if accepted, will make the situation more agreeable to the pastoral community; as Mr Lockyer has mentioned already, this amendment is something they desire. They have negotiated with the appropriate authorities to get the Government to agree. We shall see in the Committee stage whether the Government is prepared to accept my amendment.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.41 p.m.]: I thank members for their support for the second reading of this Bill. I shall make a brief comment on some of the points raised, although general support has been given for the Bill. The Hon. Ron Leeson asked whether the new Mining Act perhaps had contributed to the comparative slow-down in the number of leases and so on. I do not believe it is due to the Mining Act. He suggested that world conditions also must have affected it, and I am quite sure that has had an effect on the situation generally. It would be more than a little rash for anyone to say the Act had caused it. I am certain that if there were sufficient indication of wealth to be obtained under the ground, no amount of Mining Acts or regulations would stop people from taking their usual course of action when some sort of mineral boom occurs.

Mr Lewis asked a number of questions. I believe he did not appreciate that this Bill effects a change in the situation which exists. Mr Lewis referred to the powers of the warden and considered that the other provisions we were inserting were unnecessary, particularly in relation to clause 6. As the Act now stands, it is necessary for the miner to obtain either the consent of the pastoralist or an order from the warden before he is able to enter or pass through the various land categories; that is, through the buffer zones. The miners did not feel this was realistic, and I think it was indicated earlier that the provision was based on the assumption that it would not be

necessary for them to pass through the buffer zones—they could move around and gain access to their holdings by coming in from another direction. That is not only a dubious proposition, but also in some cases it is of dubious benefit to the pastoralist if people come onto his property from all angles.

It is better to approach the property through the recognised entrance, and using the recognised roads. Something had to be done about a situation where miners could be denied access altogether, either at the whim of the pastoralist or at the behest of the Warden's Court. In these circumstances, it was necessary to take some action. The matter was discussed in great detail with the pastoral and mining interests. The Minister has had directly, or through his officers, quite a lot of discussions with the interested parties—the Pastoralists and Graziers Association, the Chamber of Mines of WA (Inc.), and various other people associated with the pastoral and mining industries—and has come up with a new approach which is an attempt to accommodate the interests of both parties.

It is always difficult to accommodate the conflicting interests. Nevertheless, it is necessary for the Government to strike a balance between the competing interests for the sake of the community generally, and the need to preserve law and order. The Government has done this in order to see that both the pastoral and mining industries prosper.

The pastoralists expressed concern at the proposed amendment. They considered they should be notified prior to entry being made, and that the miner should act responsibly and be liable for any damage incurred. That proposition was put to the mining industry, and the miners agreed they should notify the pastoralists, be responsible, act responsibly, and also pay for any damage by a proper compensation award. The miners had no hesitation in accepting the conditions laid down by the pastoralists.

The amendment on the notice paper proposes that a miner must take all reasonable and proper steps to notify the land occupier prior to entry; that he should take all necessary steps to prevent fire damage to property and livestock; that he will cause as little inconvenience to the pastoralist as possible; that he must comply with all reasonable requests of the pastoralist; and that he must restrict the number of times that he passes or repasses over the buffer zone.

We must bear in mind that the miner is not mining on the buffer zone. We are talking about his right to pass over the buffer land—that is, the area within 100 metres of crops or 400 metres of various installations. We are not talking about mining on it; that is not possible under this amendment. We are talking simply about passing and repassing or going across the land in order to reach a tenement on other land.

In addition, the amendment requires the miner to make good any damage which his passing or repassing causes to improvements or livestock. If the compensation cannot be agreed upon between the miner and the pastoralist, the pastoralist has the right to go to the Warden's Court for a ruling. In that respect, the provisions are eminently fair.

The amendments do not require an order of the warden to authorise entry onto the land; but the warden may be called upon to determine compensation if necessary. If the miner wants to mark off or prospect the buffer land, he must obtain the consent of the occupier or be authorised by the warden. In this amendment we are talking only about passing and repassing.

Mr Lewis referred also to his doubt about the need to have a buffer area. Of course, we have had this provision for a long time. The 1904 Act provided for a 400-metre buffer zone around the pastoralists' wells. That provision has existed for 78 years. The 1978 Act continued that provision; the 1978 Act provided also for a 100-metre buffer zone in respect of crops, cultivated fields, and so on. I believe that answers the query raised by the honourable member.

In connection with the comments made by the Hon. Philip Lockyer and the Hon. Norman Moore, the Government appreciates the points they have made and is cognizant of the position of the pastoralists. It has to weigh up the situation fairly carefully, and without attempting to say that one industry is more important than the other. It is not minded to make an invidious comparison because each industry makes a significant contribution, not only to the wealth of the State but also to the security and prosperity of individuals within the State. The Government tries to strike a balance, and it endeavours to do so by having consultations with pastoral and mining interests. It is aware that it is not possible always to have people seeing eye to eye when their interests are not in accord. It then becomes a matter in which a decision has to be made, and that has been the case in this connection.

I assure the Hon. Mr Lockyer that the Government will keep the Mining Act under close scrutiny. Indeed, it gave that undertaking initially, as the honourable member said, and it has carried out that undertaking scrupulously, with the amendments it has made from time to time. I admit freely that the Government has adopted

suggestions made during the debates in this House and in the other place in 1978 and subsequently. The Government has demonstrated it has an open mind on this subject; but from time to time the Government has to make decisions. If the decision made proves to have problems associated with it, I assure the honourable member that the Government will keep a very close watch on the matter. The Mining Act and the interests of the pastoralists will be kept under close watch to ensure that, as far as possible, the Government is able to act equitably and fairly in relation to the conflict of interests.

I thank honourable members for their support, and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L Williams) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 20 amended—

The Hon. I. G. MEDCALF: I move an amendment—

Page 4, lines 1 to 22—Delete paragraph (c) and substitute the following—

(c) by inserting, after subsection (5), the following subsections—

" (5a) The holder of a mining tenement or Miner's Right who passes or repasses over any Crown land that is situated within—

(a) 100 metres of any Crown land referred to in subsection (5) (f); or

(b) 400 metres of any Crown land referred to in subsection (5) (g),

of this section in order to gain access to the other land referred to in subsection (5) of this section for the purpose referred to therein shall—

(c) before so passing or repassing, take all reasonable and practicable steps to notify the occupier of the Crown land so situated of his intention to do so;

(d) when so passing or repassing—

(i) take all necessary steps to prevent fire, damage to trees or other property and to prevent damage to any property or damage to livestock by the presence of dogs, the discharge of firearms or otherwise;

(ii) cause as little inconvenience as possible to the occupier of the Crown land so situated; and

(iii) comply with any reasonable request made by the occupier of the Crown land so situated in relation to the manner in which that holder so passes or repasses;

(e) restrict the number of occasions on which he so passes or repasses to the minimum necessary for the purpose of prospecting on, exploring, mining or marking out that other land; and

(f) make good any damage caused by that passing or repassing to any improvements or livestock on the Crown land so situated,

and the occupier of the Crown land so situated is entitled to be compensated by that holder for any damage referred to in paragraph (f) of this subsection that is not made good by that holder.

(5b) The amount of any compensation payable under subsection (5a) of this section by the holder of the mining tenement or Miner's Right concerned to an occupier of Crown land referred to in that subsection shall be determined—

(a) by agreement between that holder and that occupier; or

(b) in default of agreement referred to in paragraph (a) of this subsection, by the Warden's Court on the application of that holder or that occupier.

(5c) A determination made by the Warden's Court under subsection (5b) of this section is, for the purposes of section 147 (1), a final determination of the Warden's Court."; and

The clause in its present form amends section 20 of the Mining Act by amending subsections (5) and (6) to allow the holder of a miner's right or a mining tenement to pass and repass over the buffer zones around improvements situated on Crown land for the purpose of gaining access to other areas of Crown land.

Subsection (5) of section 20 of the Mining Act provides that the holder of a miner's right or mining tenement cannot enter or interfere with land that is, for the time being, under crop or within 100 metres thereof; used for a stockyard or situated within 100 metres of Crown land that is in actual occupation on which there is a building; the site of or situated within 100 metres of any cemetery; or the site of or situated within 400 metres of certain water installations, without the written consent of the occupier, unless the warden otherwise directs.

Subsection (6) provides that the warden shall not make such an order unless he is satisfied that the land is required for mining purposes, and that compensation is paid for injury to the subject land, or any damage suffered by improvements to the land. When this provision was drafted, it was envisaged that the buffer zone of 100 metres from any building or stockyard, or 400 metres from any water installation, etc., could be bypassed easily. As I mentioned earlier, it was envisaged it would be possible for the miner to go in through some other area on a large pastoral station, and gain access to the place he wanted to explore for minerals or carry out his mining work; but in fact the situation is that access to a pastoral lease is usually through one or other of the buffer zones. For example, a well at the junction of four paddocks would mean that the access would be within the buffer zone.

Of course, it is far more convenient, not only for the miner but also for the pastoralist, for people to use the regular roads and have regular access through the gates, and to do so in the proper manner rather than cut in through some other area.

The mining industry found this situation difficult in that if a miner could not obtain the consent of the pastoralist, it had to apply to the Warden's Court. This meant, in practice, that the miner had to travel many miles—sometimes hundreds of miles—in order to go to the Warden's Court, and then to wait quite a time before the case was heard by the warden. In the meantime, the miner's equipment would be standing by while the miner paid daily hire rates for it. Economically, of course, this is a dead loss for the mining interests and for the country.

It behoves the Government to endeavour to overcome this sort of problem, and that is what we are trying to do. The legislation presently on the books—that is, the existing Mining Act—was designed to prevent the buffer zones from being mined; but as a result people virtually cannot gain access across the buffer zones to other areas which they may, quite legitimately, be permitted to mine.

The Government agreed that it was necessary to amend this section to allow miners simply to pass and repass through the buffer zone to gain access to other areas of Crown land where they could prospect on the land, and the amendment requires the miners to take all necessary steps to prevent fire damage, etc., while passing through the property.

Sitting suspended from 6.00 to 7.30 p.m.

The Hon. I. G. MEDCALF: Before the tea suspension I was referring to the buffer zones and why the Government believed it was necessary to amend the Mining Act. The Government agreed that it was necessary to amend the Act to allow miners to pass and repass through buffer zones—that is, the area within 100 metres of a crop or cultivated land or within 400 metres of water installations—in order to gain access to other pieces of Crown land where the miner would in fact be entitled to proceed to work and mark out a mining tenement. It was never suggested that the miner should be allowed to do that on the buffer zone.

We are talking only about crossing the buffer zone in order to reach another piece of Crown land on which to carry out mining. The amendment the Government proposes requires the miner to take all necessary steps to prevent fire, the discharge of guns, or any damage whatsoever while he is passing through the property; if he does cause any damage, the amendment specifically states that he must compensate the pastoralist for any damage, and if he does not do so to the pastoralist's satisfaction the matter will be determined in the Warden's Court.

The Pastoralists and Graziers Association objected to this amendment on the ground that the rights of pastoralists would be eroded. The association maintains that entry should be only with the consent of the occupier of the land—that is, the pastoralist—or by order of a warden; in other words, that a miner should not be able to pass through these buffer zones without obtaining the pastoralist's consent—actual consent, not just a notification—or unless the warden says it is legitimate to pass through. This creates an impracticable situation as far as real life is concerned and it gives the pastoralist greater power to refuse access onto his pastoral lease than that which is enjoyed by a private owner of freehold land.

The Government is not unmindful of the problems experienced by pastoralists and it is endeavouring to strike a balance between the quite legit-

imate claims and interests of the pastoralist and those of the miner. The Government appreciates that the pastoralist does not want people coming onto his lease unnecessarily, and that is the reason for the further amendment which was read out. The amendment includes the following statutory obligations—I repeat, statutory obligations—which will be imposed on the miner whenever he passes through this land.

Before he passes over this buffer zone—that is, within 100 metres of crops or cultivated land, or within 400 metres of water installations, etc.—he must take all reasonable and practical steps to notify the occupier of the land of his intention to do so. He must take all necessary steps to prevent fire, damage to trees or other property, and to prevent damage to any property or livestock by the presence of dogs, the discharge of firearms or by any other means. He must cause as little inconvenience as possible to the occupier of the land and he must comply with any reasonable request made by the occupier of the land as to the manner in which he should pass over the land. He must restrict to a bare minimum the number of times on which he passes or repasses the land, and he must make good any damage caused while passing over the land or, alternatively, he must pay compensation for any damage caused by him.

I consider the additional amendments proposed to section 20 provide a reasonable compromise for both the mining and pastoral industries. The Chamber of Mines has agreed to accept the inclusion of these additional changes which impose stricter requirements on the miner. The Chamber of Mines believes the mining industry will comply with these requirements.

Those are the reasons for these amendments being before the Chamber. They create a situation where a miner may enter, pass and repass, under certain stringent conditions, over the buffer zone in order to reach another area of Crown land which is outside the buffer zone and on which legitimate mining can be carried out. I therefore believe that the amendments deserve the Committee's support.

The Hon. N. F. MOORE: I move—

That the amendment be amended by deleting paragraph (c) of proposed subsection (5a) and substituting the following—

(c) (I) Before so passing or repassing, give notice to the occupier of the Crown land so situated of when and where it is proposed to so pass and repass;

(II) for the purpose of paragraph (c) (I) hereof the holder of the mining tenement or Miner's Right shall be deemed to have given notice if—

(i) such notice is handed to the occupier of the Crown land before such holder passes or repasses;

(ii) such notice is left at the principal residence on the pastoral lease at least 7 days before such holder intends to pass or repass;

(iii) such notice is posted by prepaid post addressed to the occupier of the Crown land at least 21 days prior to the date upon which such holder intends to pass or repass.

(III) unless the occupier objects in writing then such holder shall be entitled to pass and repass on the occasions or at the places set out in the notice pursuant to clause (I) hereof;

(IV) in the event that the occupier objects in writing to the holder of the mining tenement or Miner's Right passing or repassing in the manner set out in the notice given pursuant to clause (I) hereof then such holder may apply to the warden for approval to do so.

In moving this amendment I am conscious of the fact that I am asking the Chamber to amend the proposed amendment to provide some further rights for pastoral leaseholders. I am mindful of the fact also that about half of the Lower North Province, which encompasses an area of 1.2 million square kilometres of Western Australia and is my electorate, is covered by pastoral leases. It is my responsibility in this place to endeavour to look after the rights of my electors, and in this instance I am referring to the pastoral leaseholders who are the backbone of the Lower North Province.

For too long the people in the pastoral industry have been regarded as being "only" leaseholders. This is the sort of attitude that people have about leaseholders as opposed to freehold landowners. The Mining Act, for example, classifies pastoral land as Crown land and it is treated in the same way as vacant Crown land, whereas pastoral leases are in many cases very large capital investments. I cite the example of Woodleigh Station in the Gascoyne which was sold approximately 12 months ago for $1 million. That $1 million represented the value of the improvements as well as the purchaser's right to lease about one million acres of land in the Gascoyne area. Large pastoral leases involve a big capital investment and they should not be seen just as a piece of

leasehold land which should be treated in the same way as vacant Crown land.

The general attitude, particularly in relation to mining legislation, seems to have been that if it is leasehold land the holder of the lease has minimal rights. I am attempting, by this amendment to the amendment, to give some rights to leaseholders. Fortunately, the attitude of mining companies towards pastoral leaseholders recently has been generally very good, but we see the odd two or three out of every 100 prospectors or mining companies who treat pastoral properties as being something to neglect.

Fortunately, only very few people think like that, but, regrettably, when we legislate we must do so to prevent excessive technicalities.

The pastoral industry has made an enormous contribution to the economy of Western Australia over many years. It is a non-extractive industry in the sense that sheep can continue to run on the land and, unlike the mining industry, it is an industry which will continue forever, provided we look after the land. Mining, on the other hand, being an extractive industry, has a finite existence.

More importantly in relation to the economic contribution of the pastoral industry is the fact that the pastoral industry is responsible for the population in my electorate of 1.2 million square kilometres, and if we add the Pilbara the Kimberley, and the outback areas of Western Australia, we find those areas are populated because of the pastoral industry. Its future is tied to the future of Western Australia.

In 1978 the Mining Bill was passed in this Chamber, which became the Mining Act of 1978. Section 20 said that a miner must obtain written consent—I emphasise "written consent"—of the pastoralist or the leaseholder before he could go through a buffer zone. The buffer zones were defined in that section of the Act. The House approved this. It said the pastoralist had the power of veto; he could prevent a miner from crossing those buffer zones.

Parliament agreed to this; on a reading of the *Hansard* debates of 1978, I discovered that not one member objected to this provision. Even the arch enemy of the new Mining Act in those days, Mr Grayden, did not comment about this part of the Act. Consequently the pastoralist had the power of veto in these areas and the miner had to obtain the pastoralist's written consent before he could go through that zone.

The Bill as it stands, prior to the Minister's amendment, changes that situation dramatically and states that the miner does not have to give notice to the pastoralist of his intention to go through the buffer zones and he does not have to obtain the pastoralist's permission to do so. Under the 1978 Act, when the miner had to get written approval from the pastoralist he had to give notice.

Therefore, there are two aspects to consider—giving notice to the pastoralist and getting his consent. The Bill before the Committee—prior to the Minister's amendment—deletes both those aspects.

Fortunately—and I commend the Government on negotiating with the Pastoralists and Graziers Association, the Chamber of Mines and the Association of Mining and Exploration Companies—a compromise has been found. This compromise is the amendment which the Leader of the House has moved. I point out that this amendment was not accepted by the Pastoralists and Graziers Association but was accepted by the other two bodies.

The amendment requires that the miner take reasonable and practical steps to notify the occupier of the Crown land of his intention to pass over that land. This could result in misinterpretation by and difficulty to the pastoralists concerned. If the pastoralist was in his aircraft mustering stock, would a telephone call to his home constitute reasonable notice, or would a telegram to the station, where there might not be a telephone service, constitute reasonable notice? The mining companies would find it difficult to give any notice at all, even though the amendment says they must give reasonable and practical notice to the pastoralist. The Minister's amendment does not require the miner to obtain the consent of the pastoralist, and that is the major change between the 1978 Act and what is proposed in this Bill.

The 1978 Act requires that the miner give notice and obtain the consent of the pastoralist to go onto the buffer zone, but in the Bill it is proposed he must take steps to give notice but need not obtain the pastoralist's consent. The amendment I have proposed to paragraph (c) of the Minister's amendment will overcome the problem in respect of the pastoralist's having some control over what happens in the area called the buffer zone.

Let us look at the meaning of "buffer zone". A buffer zone is an area within 100 metres of any Crown land that is for the time being under crop or used as a yard, stockyard, garden, cultivated field, orchard, vineyard, plantation, airstrip or airfield. Most pastoral properties have those items, and they are used by the pastoralists. A buffer zone is also an area within 100 metres of any Crown land which is in actual occupation or on

which a house or other substantial building is erected.

It is fair enough that people ought not to go within 100 metres of someone's house, bearing in mind that a homestead is located miles from anywhere and is isolated. The people residing in those homesteads deserve some privacy.

A buffer zone also includes the site of any cemetery or burial ground that is within 100 metres of any Crown land. A buffer zone is also an area within 400 metres of any Crown land which is the site of any waterworks, race, dam, well, or bore. These items are essential ingredients for a pastoral lease. A pastoralist must have water or he would not have a pastoral lease. It is of absolute necessity that the pastoralist has some control over what goes on within 400 metres of those water resources. I would be inclined to think he needs more than 400 metres if he is to have control over stock and things of that nature.

The amendment I have moved requires the miner to give notice to the pastoralist that he intends to pass over his buffer zones. He may go to the homestead and give notice to the occupier on the spot and in this way they can discuss the matter. If the leaseholder is not at home and he cannot be contacted on the property the miner may give notice seven days in advance, and he may give notice also by prepaid post 21 days before he wants to pass over the buffer zone. The reason for the period of 21 days is the poor postal service that pastoralists are required to put up with. It is the minimum time in which they could receive notice through the postal service. It is only common sense that a miner should give notice of the fact that he will go past those things I have just listed within that certain distance.

A buffer zone also includes an area which is 100 metres from a homestead; under the Minister's amendment a person can drive within that 100 metres without getting approval from the pastoralist. This would mean problems could be caused in relation to dust, noise, and invasion of privacy and the pastoralist could do nothing about it.

The second part of my amendment requires that a miner who wants to go across these buffer zones can do so except when the occupier of the pastoral lease objects in writing. There is a difference between what is proposed in my amendment and what is in the 1978 Act. Under the 1978 Act the leaseholder is required to give written approval; in my amendment, unless the occupier objects, the mining company is permitted to go through the property. Paragraph (c)(IV) of my amendment provides for a means of resolving the difficulty if the leaseholder objects. The matter may be referred to a warden, and that is fair and reasonable because an independent arbiter would assess the merits of the case. That would happen about once in every hundred instances because very few pastoralists are opposed to mining; in fact, many of them are miners.

There are many legitimate reasons—and the Hon. Phil Lockyer mentioned them in his second reading speech—that a pastoralist might not want someone to pass over a buffer zone on his land. Remember we are talking only about one-twentieth of the lease if we look at the total area involved—it is just a buffer zone referred to in the Act.

In relation to private landholdings, under the 1978 Act provision was made for an independent arbiter to adjudicate on arguments between private landholders and mining companies. Since then a Bill was passed through this Parliament which gave private landholders a power of veto over mining. We gave them mineral rights. The intention of the legislation is that the Crown owns the minerals, but we have now said to the private landholders that they have the power of veto over mining on their properties, even though in principle the Crown owns the minerals.

All I am asking in my amendment is that we give the leaseholder, who is improving the economy of the State, the power to object to a mining company going across certain parts of his lease which contain 90 per cent of his capital investment; that is the homestead, windmills, bores, airstrip, and gardens. In my amendment the pastoralist is given the right to object and if he lodges an objection it will be heard and judged by a warden. What fairer situation could we get, bearing in mind that we have already given freehold owners *de facto* mineral rights over their properties?

The Chamber should agree to my amendment because of the tremendous contribution the pastoral industry makes and will continue to make to the economy of Australia.

The Hon. P. H. LOCKYER: I support the amendment on the amendment. I congratulate the member who has just resumed his seat on the way he drew up his amendment and the attention he gave to this matter. We are dealing with people's livelihoods when we are talking about the pastoral industry. All pastoralists want is to have some say regarding the movement of miners around their properties. It is not unreasonable, in my view, that a pastoralist should have the say as to whether the miner or prospector who wishes to cross his buffer zone may do so. The honourable member pointed

out the various reasons that a person who is passing through a property should give notice to the pastoralist concerned. One of the main reasons is the safety factor. A great many of these properties, especially those in remote areas, are very dangerous places if a person has no means of getting to water or does not know where to find water. It would be unfortunate if a person who passed through a property perished from thirst. This is a nasty sight to see; I know, because I have seen a person who perished in the heat.

Many reasons can be put to people as to why they should not go onto pastoral properties. No-one knows a property better than the pastoralist himself. A pastoralist may be carrying out shearing on his property and he might not want anyone to go near the sheep, not even the people he has working for him, and he may require miners or prospectors to take an alternative route. In most cases the pastoralist would be more than helpful to the people concerned. All the pastoralist requires is the ability to have a little say over who passes through his property and to advise those persons concerned of the correct route to take as the route they intend to take might be unsuitable for the size of their vehicle, or where motorbike riders might be operating in a paddock and a dangerous situation could arise. All we are asking is that members in this Chamber take into consideration all these matters.

If the pastoralist objects to a person passing through his land, let the warden sit in judgment. I believe that particular stance would be taken only rarely. As I pointed out in my second reading speech, and as my colleague the Hon. Norman Moore has said, pastoralists are not against mining; in fact, they support it. For instance, the Leinster agreement was made between owners of a pastoral company and a mining company. The mining company paid a fair figure for the property and it now employs a large number of people. No-one has ever intended that sort of situation should be taken away.

It is recognised that most of the major mineral deposits in this State originally were found by the small prospector. Let us not discourage him. It is important he should be encouraged to operate on a dual basis with the pastoralists. We should bear in mind we are talking about a person's home and property. I am sure that you, Mr Deputy Chairman (the Hon. R. J. L. Williams) would not like people freely moving past your doorstep and into your backyard without their giving you some notice of their intentions. It is only fair and reasonable that such discussion take place and for that reason, I support the amendment. Notwithstanding the great job done by prospectors, and mining companies, pastoralists have been operating in this State for a considerable time, and should be allowed to have their say.

The Hon. N. E. BAXTER: The parent Act provides that before passing or repassing a property, all reasonable and practical steps must be taken to notify the occupant of the Crown land. What are "reasonable and practical steps"? The definition is not provided in the existing legislation, and this amendment will rectify the situation. Similar provisions have existed for many years in relation to freehold land and I do not think it is unreasonable to include such a provision in this case. If a dispute arises between a pastoralist and a prospector or a mining company, it will be settled by the warden. This sort of principle is enshrined in our mining legislation; the machinery exists to enable decisions to be made and appeals to be heard. The amendment lays down conditions under which a person may pass through a property. It will avoid the situation where prospectors or miners pass through properties, perhaps close to the homesteads, and create problems. In many cases, the pastoralist is not aware of the presence of these people and, before long, problems arise.

Most pastoralists are reasonable people. However, I believe they should be given some right in deciding whether a person shall enter a particular part of their lease. I support the amendment.

The Hon. P. H. WELLS: I oppose the amendment; I do not believe two wrongs make a right. The Hon. Norman Moore referred to legislation relating to freehold land; I disagreed with the amendment passed by Parliament on that occasion, and I still disagree with it.

I do not believe his amendment is workable; it will provide a major hindrance to continued exploration. I suspect that, already, the legislation relating to freehold land has hindered exploration in this State and has caused some companies to shift their operations from the south-west, as a result of which the State is losing great wealth.

It is reasonable to assume that the amendment has been moved as a result of pressure from the member's electorate, and that it will be supported for much the same reason; that is understandable, because those members are here to represent their electorates. However, in the interests of this State and bearing in mind the contribution made to our economy by the mining industry, the amendment should be defeated.

The Hon. Norman Moore suggested problems had occurred because prospectors had gone onto pastoral leases and caused damage. The existing regulations provide that whenever a mining claim is lodged, the occupier of the land shall receive

notice before the claim is granted by the warden. Pastoral leases cover a massive part of our State and the effect of the amendment will be to lock up large sections of the State.

The Hon. N. F. Moore: It will not apply to the entire pastoral lease.

The Hon. P. H. WELLS: I realise the amendment refers to a buffer zone. However, I point out that bores are situated adjacent to access roads for the simple reason that those roads were constructed to provide access to the bores.

The suggestion that the pastoral industry and the mining industry do not get along together is not true. After 20 years of working in the mining industry and, very often, dealing with people in the field, I came to the conclusion a two-way dialogue existed.

The Hon. Garry Kelly: Most dialogues are two-way.

The Hon. P. H. WELLS: I am glad the Hon. Garry Kelly is awake, and is listening. From my experience, before a mining company sent personnel onto somebody's property, the first thing it would do would be to acquaint the occupier of its intentions.

The amendment provides that before passing or repassing Crown Land, all reasonable and practical steps shall be taken to notify the occupier of the land. I ask members how we can really determine what is reasonable in this situation. For example, a person may want to go through a property only once, and may notify the occupier of the land of his intention. However, half-way down the road he may decide for a number of reasons that he must go back. Theoretically, each time he changes his plan of action, he must notify the occupier of the land.

I am not sure of the position if a person does not hold a miner's right; I do not know whether he will be kicked off the land. Often, the access to pastoral leases is by way of roads which run close to and through buffer zones. The only alternative will be for the mining company to construct a new road, which would cause far worse erosion than if the company were allowed to use the existing road sensibly.

I understand the need for concern, and I accept that on odd occasions, problems have arisen. However, the mining industry is not totally at fault; other people have acted irresponsibly by leaving open gates or discharging firearms indiscriminately. Such people need to be apprehended, fined, and made to pay for any damage they have caused. As the Hon. P. H. Lockyer mentioned, water is scarce in this area, particularly for stock, and people who leave open gates do not realise the damage which is caused.

I accept with reluctance the amendment proposed by the Attorney General; it is the better of the two suggestions. However, even the Attorney General's proposition seeks to restrict the number of occasions on which a prospector may pass over the land.

The Hon. N. F. Moore: The old Act requires consent.

The Hon. P. H. WELLS: We need to recognise the mining and pastoral industries can get on with each other. Although I do not represent a pastoral area, due to my continued association with the mining industry, many people have expressed to me fear about the likely effect on the industry of the amendment moved by the Leader of the House, and the Hon. Norman Moore's alternative.

The Hon. Norman Moore mentioned the great capital investment involved in the pastoral industry. That investment is not really at risk. Indeed, I would like him to list the capital investment lost in the last decade as a result of mining companies operating on Crown land. I put to him that the total figure he suggested would be more than equalled by the investment of one mining company in one year. If one adds together the total investment of the mining industry in this State, it would be many times the figure he suggested for the pastoral industry. This State certainly owes the mining industry a great deal. Mining companies have moved into remote areas and commenced operations. They have existed side by side with pastoralists, very often sharing resources. I know of many pastoralists who have arranged with mining companies to have drilling done on their properties, which has left them with bores. I suggest some of the capital investment referred to by the Hon. Norman Moore has been contributed by the mining industry, working harmoniously with pastoralists.

The delay which may occur before disputes are brought before the Warden's Court also will provide a hindrance, in terms of additional costs. A mining company may have workers out in the field, who will have to be recalled until the decision of the court. It is easy for the pastoralist to say, "Our lawyers are putting together the case." A study of the applications to the Warden's Court will reveal the delaying tactics used by some people. This will have the effect of further hindering the location and development of minerals in this State and, in the case of a small mining company, could result in field workers being laid off until the decision of the court.

If we really need to do anything at this time, it is to encourage people with the necessary get up and go to go out into the remote parts of this State and locate minerals, because it will be that wealth which will make this State a little greater.

The Hon. P. H. LOCKYER: With the greatest of respect to my colleague, I cannot agree with his comments. I should like to reiterate a couple of points, of which I am sure he will take cognizance.

Firstly, the very reason the Hon. Norman Moore has included in his amendment the words, "such notice is handed to the occupier of the Crown land before such holder passes or repasses" is to allow discussion to take place between the pastoralist and the person wishing to cross the buffer zone. The question of passing and repassing is dealt with there and then.

The person concerned may not know how many times he will want to pass through the property, but he could make that clear to the pastoralist. He could say, "I will be there for the day", "I may come back tomorrow", or "I could be there for a week."

Another point the honourable member made concerned capital investment on the property. During my second reading speech, I referred to artesian bores. Perhaps the member was not in the Chamber at the time, but I made the point that it would cost at least $30 000 to replace an artesian bore.

The Hon. P. H. Wells: I was not talking about mining, I was talking about going through properties.

The Hon. P. H. LOCKYER: That is the exact point that I am trying to get across to the honourable member. The amendment moved by the Leader of the House includes the following—

> (b) 400 metres of any Crown land referred to in subsection (5)(g).

Heavy machinery passing close to a bore can destroy the bore casing. The pastoralist knows that and he avoids the area when he is using heavy machinery. The pastoralist will pass on that sort of information to the mining people.

The Hon. P. H. Wells: Has that happened?

The Hon. P. H. LOCKYER: Of course it has happened.

The Hon. P. H. Wells: Where?

The Hon. P. H. LOCKYER: It has happened in the Gascoyne on several occasions. It is called co-operation! Co-operation is not a new thing; it has occurred between pastoralists and prospectors for a considerable time. In the main, pastoralists and prospectors get along well together. This legislation is not designed to concern those people who co-operate; it is designed to control the miners who do not want to co-operate with the pastoralists.

Many of the mining companies which operate between Carnarvon and Meekatharra understand the system. Most prospectors are bushmen; they understand bush operations. However, some people simply do not take into consideration matters such as those referred to, and, unfortunately, some prospectors have no experience of the bush. They do not know enough to take a waterbag into the Simpson Desert in the summertime!

Another point I made was that the bore holes frequently are left for the pastoralists. That has happened on many occasions in the Murchison. When drilling operations are finished, the bore holes are taken over and equipped by the pastoralist. If I were a miner, and I had had difficulty obtaining access to my mining lease, I would fill in a bore hole when I had finished with it!

This provision is not designed to control the mining companies and prospectors who co-operate with the pastoralists.

The Hon. I. G. MEDCALF: The Government is well aware of the difficulties inherent in the sort of situation we are discussing. As members have said, in many cases no difficulties arise. The pastoralists are reasonable; the miners are reasonable; and in those circumstances, it really would not matter what was in the legislation. However, unfortunately, for one reason or another problems can develop.

The point about the amendment moved by the Hon. Norman Moore is that it really gives a power of veto to the occupier of the land in certain circumstances. It is not a power of veto to mine; but a power of veto to enter through these access ways. This is very serious from the point of view of the Government. The Government cannot just stand idly by and see mining prohibited. I will explain what I mean when I say that the amendment would give the occupier the power of veto.

The amendment moved by the Hon. Norman Moore provides that it is necessary for a miner to hand or post his notice of entry to the occupier. The first problem for the miner is to find the occupier. It is not just someone working around the place. Clearly, the word "occupier" refers to the person in charge of the lease—the pastoralist or the manager. If the miner cannot find the occupier, he must give not less than seven days' notice if the notice is delivered by the miner to the principal residence on the property, or not less than 21 days' notice if the notice is sent by registered mail.

So the giving of notice must be a very considered action by the miner in order to gain access to the mining lease.

The Government's amendment states that the miner must take all reasonable and practicable steps; in other words, he must do all he reasonably and practicably can in order to give notice to the occupier. That seems to me to cover all these situations.

In the event of a pastoralist refusing entry, the miner must then go to a Warden's Court, and we are right back where we started. If a miner is prospecting at Meekatharra, he must lodge his application before the Waren's Court in Carnarvon. If he is out in the Pilbara somewhere, he must journey to Karratha or Port Hedland to find a Warden's Court. He may have to travel hundreds of miles to lodge his application and his whole operation would be held up simply because a right of entry had been refused. If he cannot gain access to the lease without cutting fences or taking actions which decent people do not like to take, he is virtually denied his right to mine.

Because of the difficult situations that could develop, the Government believes there must be some reasonable compromise. It is sensible and proper to provide that all reasonable and practicable steps must be taken in order to give notice to the occupier. That does not mean that the miner can forget to give notice or that he does not have to give notice. It means he must take proper steps to give the notice.

The question really is: How long should the miner have to wait? An accident could occur and access could be required urgently.

The question was raised about miners passing within 10 yards of a water bore. I suggest that the Government's proposed amendment covers such situations. The miner may be told not to use a track for certain reasons, and situations such as this are catered for in the Government's amendment. It says that one of the things the miner must do is to comply with any reasonable request made by the occupier—

The Hon. N. E. Baxter: What does that mean?

The Hon. I. G. MEDCALF: —of the miner when he passes or repasses over the property. In other words, he must comply with reasonable requests.

The Hon. N. E. Baxter: What does that mean?

The Hon. I. G. MEDCALF: If the pastoralist says to the miner, "I do not want you to go within 10 yards of that bore because it may cave in", the miner must comply with that reasonable request.

The Hon. N. E. Baxter: Who is to say the request is reasonable?

The Hon. I. G. MEDCALF: That is in the Government's amendment, but it is not in the amendment moved by the Hon. Norman Moore. The Government's amendment gives the occupier the opportunity to say, "I want you to do this; I do not want you to do that."

It is not sufficient just to provide the pastoralist with a power of veto which is what the honourable member's amendment would do. We can draw an analogy with the situation relating to private landholders. I believe it is going too far to put pastoral lessees into the same situation as that pertaining to private landholders. However, I believe pastoral lessees are entitled to every consideration, and the Government's amendment provides that all reasonable and practicable means must be taken to ensure that no damage is caused, and that if any damage is caused, compensation is payable.

Half a dozen major additional items have been included in the Government's amendment in order to take care of the pastoralists. I believe that is reasonable.

I can well understand that members who represent pastoral areas are concerned about the pastoralists. I find nothing wrong with that; it is quite proper. The Government has a duty to look at the matter from the point of view of the pastoralists and from the point of view of the miners and to allow the mining industry to continue effectively, but without disruption of the pastoral industry. I ask the Committee to support the Government's amendment.

The Hon. R. T. LEESON: In my opinion the amendment moved by the Hon. Norman Moore is rather impractical under the circumstances. In fact, I tend to agree with the Hon. Peter Wells' comments about the restrictions placed on private land. At the time I felt we went a little too far with those restrictions. At the same time, I can understand the problems that could arise for pastoralists in certain circumstances.

Of course, we come back to the words "reasonable and practicable". When debating the Road Traffic Amendment Bill (No. 2) we discussed whether a policeman having reasonable grounds to suspect a person had done something should be able to pull him up. We argued that matter for hours. Some members who did not believe the words "reasonable grounds" should be included in that legislation agree that the words "reasonable and practicable" are satisfactory in this Bill.

We should be more consistent in our use of those sorts of words in legislation. The words "reasonable and practicable" are open to interpretation and difficult to define. Could the Leader of the House explain more clearly his interpretation of those words? When this legislation is passed, all sorts of interpretations may be placed upon them. Indeed, I wonder whether they are the correct words to use, bearing in mind that pastoralists should have some sort of redress available to them in this matter.

The great problem is the isolation of some of the areas into which prospectors venture and the large distances they have to travel to get there. All sorts of problems will result for prospectors if the Hon. Norman Moore's amendment is agreed to. It would not be practical to have those discussions.

Although freehold land is another situation altogether, most of it is far more accessible than pastoral leases; a difference exists between the two. Could the Leader of the House explain more clearly his interpretation of the words "reasonable and practicable"?

The Hon. N. F. MOORE: My amendment simply seeks that good manners be shown towards pastoralists so that they have the opportunity to object to somebody going within a certain distance of the expensive capital improvements on their properties. It seeks also to give pastoralists the power to object and to go to the warden if the objection cannot be resolved. Therefore, in effect what the Leader of the House has said is quite correct; we are seeking to give pastoralists the power of veto; but, in my opinion, that is fair enough. Why not give pastoralists the power of veto over these areas? We have already given freehold landowners the power of veto over mining, as well as access. All we are asking for here is that pastoralists be given the power of veto—if one likes to call it that—over these buffer zones which represent only a very small part of the total pastoral lease.

Pastoralists would use that power of veto very infrequently, but it would be available so that a prospector or mining company could be prevented from doing something in the buffer zones which would be disadvantageous to pastoralists who, in some cases, operate $1 million businesses.

In any case pastoralists now have the power of veto and that is what this Bill seeks to change; yet, I cannot think of any case in which a mining company has been denied access. The Leader of the House might be able to advise me of examples of this nature, but I cannot think of any. Certainly I have not been approached by a mining company indicating that it has been denied access. I have much to do with mining companies, because apart from representing many pastoralists I represent a number of mining interests.

I agree with the Hon. Ron Leeson's comments about the words "reasonable and practicable". In my introduction to my amendment I mentioned that they are very open-ended. The Leader of the House suggested taking reasonable and practicable steps to give notice means that it is compulsory to do so. I do not read it that way and certainly the pastoralists and graziers do not.

As a member of Parliament who frequently tries to contact pastoralists, I admit that it is very difficult to do so at times. A mining company could say that it had made every effort to contact the pastoralist, but if it could not do so, it would not have an obligation to actually contact him.

This is a question of good manners and advising people what one intends to do. It is certainly not a massive demonstration by the pastoral industry that mining cannot take place any more in pastoral areas because of this legislation. Problems may arise occasionally, but all I suggest is a change to the old power of veto which required that pastoralists had to give written consent. This amendment indicates that, if a pastoralist objects, the prospector or mining company may not proceed, but, if the pastoralist does not object, there is no need for anything to appear in writing.

The Leader of the House referred to accidents and the situation in which mining company representatives may have to move quickly into and out of pastoral leases. We are talking about pastoralists who are the salt of the earth; they are people who understand the bush, accidents, and problems of isolation. They have gone into the most remote and inhospitable parts of Western Australia to carve out a living for themselves. If an accident occurs, I cannot think of one pastoralist who would refuse to help. Indeed, in that situation pastoralists would assist in any way possible by making available their planes or cars to carry the accident victim to a place where he could receive medical treatment.

If all mining companies were just, reasonable, considerate, fair, honest, and reliable we would not need the amendment I have moved, because they would do the right thing by the pastoralists. If all pastoralists fell into that category, we would not need this amendment and the Leader of the House would not be pressing his amendment; but we are talking about human beings, and some mining company representatives have very little consideration for the rights of pastoral leaseholders. In fact, they assume the pastoralist has

no rights and they tread over his property as if he were not there. Those mining companies represent a very small minority, but I put forward this amendment in view not only of the effect they can have on the destruction of capital investment, but also of their nuisance value.

I shall dwell for a moment on the nuisance value caused by some of these people. If a pastoralist is mustering sheep, he closes certain gates and the sheep go in a certain direction. Under the amendment moved by the Leader of the House, if a mining company representative has tried but is unable to give notice, he may drive through a gate which is supposed to be closed and leave it open, scatter sheep in the wrong directions, and mess up the mustering programme of the pastoralist. It is very easy to do that and the cost of aerial mustering is enormous. While the mining company representative has not done any physical damage to the property, he has created a nuisance value at great expense to the pastoralist.

If my amendment were passed, the pastoralist would know the mining company representative intended to move through his area on a particular day. He could say, "Come on another day" or, "I will rearrange my mustering programme to meet your requirements." This would facilitate a rapport between the mining company and the pastoralist.

I am not looking out only for the pastoralist; I am looking out for the mining companies also, and this amendment will facilitate discussion between the two groups so that they come to an amicable arrangement and everybody will be happy. That is all I am asking for.

The Hon. P. H. LOCKYER: The Leader of the House referred to the fact that a person could travel a great distance to a pastoral property and find that no-one was there. However, people should be organised. I am sure the Leader of the House would agree that not one member of a stock firm in Western Australia would fail to organise himself prior to going to a pastoral property, firstly, by ensuring somebody would be at the property when he got there, and, secondly, by letting the people know he was coming. What is the difference between a mining company representative and a stock firm representative? In my view, there is no difference.

This simply means a miner will have to be organised and if a mining company representative or prospector is worth his salt, he will be organised. Prior to leaving Perth he would ascertain whether the person to whom he wished to speak was on the property. A large number of stations are not on the telephone, but, if that is the case, they can be contacted through the Royal Flying Doctor Service network. I am happy to say a new system called "RAD Phone" has been introduced, and a person may telephone a property through the Royal Flying Doctor Service. That service is available at Meekatharra and Carnarvon and it will be available shortly at all Royal Flying Doctor Service networks in the State. Therefore, it is a matter of being organised.

The Leader of the House referred to accidents and the Hon. Norman Moore covered that matter very well. Not one pastoralist of whom I am aware would refuse to give assistance in the case of an accident.

I refer members to the wording of paragraph (d)(iii) of the Leader of the House's amendment, and ask: Who will judge that the request is reasonable? Who will have the final say as to whether it is reasonable?

In conclusion, I shall illustrate what can happen when people do not understand the pastoral industry. A well-known pastoralist in the Murchison uses a system called "trapping" to get his sheep together at shearing time. That means the water is taken out of the trough at which the sheep normally drink. The sheep come to the watering point and, when they cannot obtain a drink, they hang around for a few days hoping the water will come on again. It is an economical method by which the pastoralist can gather the sheep together and take them in to be shorn. This particular well-known pastoralist in the Murchison was doing that when a well-meaning commercial traveller came along.

The Hon. P. H. Wells: Not a miner!

The Hon. P. H. LOCKYER: I am talking about a commercial traveller but it could have been a prospector. He came along and saw this enormous mob of 2 000 or 3 000 sheep at an empty water trough. He arrived at the homestead very hot under the collar and told the hard-working manager of the station who was trying to put through a shearing using half as many staff as he needed, "I will report you to the RSPCA because I found 2 000 or 3 000 sheep down the road with no water. Anyway I have solved the problem; I have given them all water."

The pastoralist was ready to throttle him because he had put the pastoralist to a huge expense. That is an example of what can happen if someone does not have discussions with a pastoralist before going onto his property. Full co-operation is necessary, and I believe the amendment would allow for that co-operation.

The Hon. P. H. WELLS: The Hon. Norman Moore said that the areas of land to be covered

are small, and I understand the point. However, only a small area crossing, say, the Kwinana Freeway, would stop a large amount of traffic. A 6-inch paling across that area could well stop all access. I suggest that these buffer zones would cut across many main roads, and could well stop people obtaining access to even a homestead. In those circumstances I am not sure how a miner would get to a homestead to give notice; he must get to the homestead, but he cannot because he cannot go through the buffer zone, and if he does he will be regarded as someone destroying the property.

The Act states that the word "occupier" in relation to any land means any person in actual occupation of the land under any lawful title granted by or derived from the owner of the land. I suggest that often a prospector following a geological structure would not be certain of the particular pastoral property he is on. Pastoralists are not required to erect signs stating, "You are now moving onto my pastoral property."

The Hon. N. F. Moore: They have maps.

The Hon. P. H. WELLS: Mining companies would have maps to indicate the areas of pastoral properties, but ordinary prospectors may not. Some prospectors do not have the resources of mining companies. Certainly many prospectors would not have radios or similar equipment to keep in contact with others, as was visualised by the provisions of the Act. Regulation 111(3) in the *Government Gazette* states—

> Where the name of the owner or occupier is unknown, the notice may be addressed to those persons by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given without further name or description.

The person seeking to serve notice very often would not be aware of the name of the owner or occupier.

I ask the Attorney General how much the courts would be influenced by the provisions of the regulation covering the service of notices. Regulation 111(1) states—

> Unless otherwise provided in the Act or these regulations, any notice, order, process, or other document, required or authorised under the Act or these regulations, to be given to or served upon any person, may be served—
>
> (a) by delivering it to such person; or
> (b) by delivering it to some person apparently over the age of 16 years, at the place of abode or business of the party to be served;
> (c) by forwarding it by post in a certified or prepaid registered letter addressed to such person at his last known place of abode or business;
> (d) where the party to be served is working in any mine or other works underground, by delivering it at the mine or works to any person apparently in charge of the mine or works.

I am trying to determine the degree to which that regulation would be taken into consideration by the courts in determining what is reasonable. Regulation 111(4) may well influence decisions. It states—

> Where in any case the practice and procedure for service of notices is not sufficiently defined in this regulation, the practice and procedure of Local Courts shall be adopted as far as possible.

I am not aware of the procedures of Local Courts, and I wonder how the reasonableness of something can be determined. What are the criteria upon which the courts would base a decision on whether certain action was reasonable and practicable?

The Hon. I. G. MEDCALF: The Hon. Ron Leeson inquired as to what would be reasonable and practicable steps. If a court were to determine what were reasonable and practicable steps, it would vary its decision in accordance with the circumstances of the particular cases. That is exactly why the provision has been expressed in a fairly general way. It is necessary to appreciate that many different circumstances could arise.

The Hon. Norman Moore and the Hon. P. H. Lockyer come from pastoral areas and, therefore, know a great deal about the different circumstances of different pastoral properties or stations. In some cases a homestead may be reasonably close to a main road, and in others it may be quite a distance from the main road, or merely not visible from the main road. What may be reasonable in one situation may not be reasonable in another, and what is practicable in one situation may not be practicable in another.

We are dealing with a vast area—this State—and must provide in the legislation flexibility to enable the determination of a situation in accordance with differing circumstances. In addition, the presence or absence of an occupier must be borne in mind. It is not always the situation that the occupier is present when needed; he may be away or he may have left someone in charge. For any number of reasons an immediate solution to a problem could be necessary, and if we were to specify exactly how that problem

should be solved, such as appears in the Hon. Norman Moore's amendment, we may be in a fairly difficult situation. On the other hand, it is desirable where possible and certainly in situations where it is reasonable and practicable, to hand the notice to the occupier. That would be if the occupier lives at the homestead, and it is quite apparent where the homestead is. However, we cannot lay down what should be done in all situations.

The comment was made that these situations should be handled with good manners—I cannot agree more. Indeed, the matter we are discussing is a classic example of a situation in which pastoralists and miners should agree and should have good manners. It is necessary that good manners be shown; after all, even though the land is only leased—

The Hon. N. F. Moore: You should not say it is only a lease, because it is still worth a lot of money.

The Hon. I. G. MEDCALF: I am well aware that some of these pastoral leases are worth a lot of money, and certainly we are talking about those leases that are—I do not deny that. However, the land is not freehold; it is something less than freehold, it is leasehold with a term which will expire in the year 2023 or some other year unless it is renewed. The land is still Crown land which has been let out on lease. The areas leased are vast, and in some cases up to one million acres. If I may continue—I did not intend to offend—even though it is only a lease it is still very valuable. Had the member waited a moment he would have heard me say that.

The Hon. N. F. Moore: You are making the same mistake as many other people make.

The Hon. I. G. MEDCALF: As far as the lessee is concerned, the lease is probably one of his most valuable assets, and therefore matters relating to that lease must be approached with great care. A miner or prospector should treat the lessee as having a valuable asset, and as somebody he should approach cautiously to discuss matters relating to that lease. Therefore the reasonable and practicable steps he must take would be interpreted in that way.

The Government takes the view that it is not proper to extend a power of veto to pastoral lessees. If we were to do that we would really have to know what we were doing. Under this amendment we are talking about a power of veto merely to enter, not even to prospect. It is a difficult area, and I believe the Government is trying to reach a reasonable compromise.

The Hon. Phil Lockyer asked what was a reasonable request, and who would interpret what was a reasonable request. Here again we come down to the question raised by the Hon. Norman Moore—it is a question of good manners as interpreted by the courts. If damage were caused and a claim for compensation were made, the Warden's Court would have to determine whether the request was reasonable in the circumstances. I admit that plenty of room is left for good manners, but I make the point that it is extremely difficult to legislate for good manners. On previous occasions we have tried to do that, and we are trying to do that now. We are trying—again I must use this word—to reach a reasonable compromise between the conflicting interests. When I talk about being reasonable, it must be assumed that the word "reasonable" means the standard of a reasonable man. I know members will ask, "How will that be interpreted?" I assure them there are ways in which it can be interpreted, and that on many occasions it has been interpreted. We are trying to reach a fair and just solution.

I respect the comment of the Hon. Norman Moore that if all mining companies were fair and just we would not need this provision—I cannot agree more. However, I would add that if all pastoralists were fair and just we would not need this provision.

The Hon. N. F. Moore: I said that too.

The Hon. I. G. MEDCALF: Well, we agree. I know we would not need any legislation if the whole community was fair and just, but unfortunately some people are not.

I cannot point to specific examples because the provisions of the Act relating to this matter have been in force only since 1 January, but it is felt we need to try to obtain some balance in this area. For the reasons I have given I urge the Committee not to accept the amendment on the amendment.

The Hon. N. E. BAXTER: I have listened with interest to the various speakers on this amendment. Four categories of land exist in Western Australia on which mining can take place. The first is Crown land, on which a person can prospect and explore, and with a mining lease can mine provided the land is not the subject of a mining tenement of any sort.

In the case of private land, under our Act the freeholder has the right of veto of entry upon that land. We have pastoral leases in respect of which the amendment to the Minister's amendment will require that a person, before entering, must take all practical steps to make known his intention to

do so. There is nothing binding about that. It requires only his word to say that he took those reasonable steps. The steps which he must take are not laid down. The amendment proposed by the Hon. Norman Moore lays down all the conditions which should apply in regard to giving notice to the occupier of land of a miner's intention to pass or repass the land.

The fourth type of land is Aboriginal reserves. Before anyone can enter Aboriginal reserves for the purpose of mining or exploration, or for that matter anything else, he has to gain consent, firstly from the group concerned, and secondly, from the Aboriginal Lands Trust.

In respect of land under a pastoral lease we have a situation where the owner or occupier has a capital interest, and we are saying anyone can enter upon that land and carry out exploration if he holds a miner's tenement. That is what is proposed in the amendment moved by the Leader of the House—it does not lay down any conditions.

Under Mr Moore's amendment to the amendment, if a pastoralist does not wish someone to pass through his land, he can go to the Warden's Court to explain the reasons for his objection. An agreement would be reached between the pastoral lessee and the mining company.

The rest of the Government's amendment is also very loose. Proposed subsection (5a) (d)(ii) states that the person shall cause as little inconvenience as possible to the occupier of Crown Land so situated. What is meant by that? Who is to decide what is a "little inconvenience"? Will the lessee or the miner decide? Subparagraph (iii) states that a person shall comply with any reasonable request made by the occupier of the Crown land. Is this a verbal matter or should it be placed in writing? The amendment goes on to refer to restricting the number of occasions on which a person may pass or repass. Who decides the restricted number of occasions? Who is the judge and jury in respect of this decision? This is terribly loose legislation and I believe the amendment moved by the Hon. Norman Moore tightens it to some degree and gives some redress to the pastoral lessee.

The Hon. I. G. MEDCALF: The real problem about the amendment on the amendment is that it lays down too strictly the kind of requirement sought. It is not possible, in all circumstances, to say that the miner must find the occupier of the land and hand him a notice. That is the first requirement. It is not possible under all circumstances to comply with that requirement or to find the occupier and personally hand him the notice before he even enters onto the land.

The second alternative is that, at least seven days before, he must leave a notice on the door of the residence, and the third alternative is that at least 21 days before he must post a notice. I do not personally object to that, but the requirements are too strict to apply throughout the length and breadth of the State.

If we can go one step further, it means that if the occupier says, "No, you cannot come onto my land" that is the end of it. It is a power of veto, not in respect of mining but in respect of the entry onto his land. It would be difficult if this matter were taken to the Warden's Court because it would cause further delay and could involve travelling from Nullagine to Port Hedland. It is a strict requirement.

I know it all depends on the way one looks at the question. I am not looking at it from the point of view of the miners, but I can well understand the pastoralists' point of view. Most pastoralists are very reasonable people, but we have to strike a balance. We must proceed with the Government's amendment. If we take any other steps we will again set back this industry. We will go back further, as was stated by the Hon. Ron Leeson when he said that the requirements of the Mining Act were so strict that we were preventing mining from taking place. I am not saying this amendment on the amendment would prevent mining, but it would greatly impede it. We are trying to obtain a reasonable compromise between the two conflicting interests. For those reasons I cannot agree to the amendment.

Amendment on the amendment put and negatived.

The Hon. N. F. MOORE: Having lost that amendment to the amendment, I must support the Government's amendment. To oppose it would mean going back to the original Bill which was quite unacceptable to the pastoral industry. It took away the need to gain permission or give notice to go on the buffer zones. From a compromise point of view, the Government's amendment to the Bill is about the best compromise, bearing in mind my excellent amendment has been defeated.

The Hon. P. H. LOCKYER: I too am in the same position. I will support the Government's amendment. However I reiterate one point: It is very important that the Government should continue to look at this legislation at all times and if it is seen to be not working, action should be taken to offset the problems. Perhaps it will be possible to keep the Hon. Norman Moore's amendments in close proximity to the legislation when it is being considered next time.

The Hon. N. E. BAXTER: I reluctantly support the amendment before the Committee. I think it is very loose, but we have not much option but to support it.

The Hon. N. F. MOORE: The question of the relationship between mining companies and landholders is of great concern. I am concerned about some of the circumstances that have occurred in the south-west in relation to freehold land and the way the holders are using their power of veto to blackmail some mining companies. Blackmail is the most gentle word I can use for their activities. Bearing in mind the discussions we have had in this debate about leasehold land, I suggest that once the election is out of the way and the new Liberal-Country Party Government is installed, the question of mining and the various types of land use that go with it should be investigated. Great difficulties have arisen from this mining legislation in respect of how various people use the land.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Section 24 amended—

The Hon. N. F. MOORE: This clause refers to the Aboriginal Affairs Planning Authority Act, the purpose for which I could not find in my reading. I wonder whether the Leader of the House might be able to explain to me the reason for this amendment.

The Hon. I. G. MEDCALF: This clause was inserted in the Bill because of an undertaking given by the Government some time ago that the 1978 Mining Act, being later in time than the Aboriginal Affairs Planning Authority Act, would not have the effect of revoking the powers of the Minister in charge of the Aboriginal Affairs Planning Authority Act.

This is to make it quite clear that the Minister for Community Welfare has the ultimate authority to grant the right of entry onto the Aboriginal reserves for mining purposes. The Minister for Mines grants the leases or the tenements, but the Minister for Community Welfare controls the right of entry.

Clause put and passed.

Clause 8: Section 40 amended—

The Hon. N. F. MOORE: This clause removes the limit of 10 prospecting licences which a person could take out. This is one of the best amendments in the Bill because it removes a ludicrous situation in which we said to mining companies that they could have only 10 prospecting licences over the whole area of Western Australia. It did not make a lot of sense, and although I supported the Bill in 1968, I confess I cannot think of any good reason why a limit of 10 should exist. The Government now has acted in the best interests of mining in WA and has introduced a sensible amendment. I commend the Government for it.

Clause put and passed.

Clauses 9 to 11 put and passed.

Clause 12: Section 49 repealed and substituted—

The Hon. N. F. MOORE: This clause also is a very sensible one. It provides the added security to which I referred earlier, to the holder of a prospecting licence or exploration licence if he wants to convert it to a mining lease. A lot of doubt existed in the minds of small prospectors and mining companies that once they had taken out a licence for a couple of years and had proved a mineral deposit, some possibility existed that they might not be able to convert it to a mining lease. This clause adds the security required by the mining industry.

Clause put and passed.

Clause 13 put and passed.

Clause 14: Sections 53, 54 and 55 repealed—

The Hon. N. F. MOORE: This clause deletes the requirement to hold a prospecting licence for six months before one is able to sell it. That requirement seemed to be out of step with the philosophy of the Liberal free enterprise Government which says people should be able to buy and sell things within reasonable rules without putting a time limit on what they may do. I approve of that. This clause relates also to the removal of the limit on the number of prospecting licences which can be held, and is welcome.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Section 56A inserted—

The Hon. N. F. MOORE: This clause provides that a person may take out a prospecting licence for gold or precious stones over an existing prospecting licence. This new licence is to be referred to as a special prospecting licence to cover a maximum of 10 hectares, and it is limited to one per person. This is a step in the right direction in the sense that it provides under certain circumstances for special prospecting licences for gold. I am not sure it goes far enough. I think an argument could be made in favour of having a prospecting licence for all minerals except gold and precious stones which would then be the subject of a licence on their own. This clause says that if a person has a prospecting licence and he is not looking for gold, someone else can come along after one year and take a 10-hectare prospecting licence on top of the

existing licence. I cannot imagine there will be too many of these because anyone taking out a prospecting licence will do so to cover all minerals. I cannot imagine his letting someone look for gold; he will be looking himself. However, the clause looks at gold as something special and separate.

One of the great problems of the 1978 Mining Bill resulted from the fact that it did not treat gold as being different from anything else. All previous legislation regarded gold as separate and distinct. We are heading back towards that in this legislation, but I am not sure we have gone far enough. I will keep an eye on it to see how it works in practice. If it does not work, and if a need exists for a separate gold licence, I indicate that that is a tack I will take to convince the Minister to make a further amendment.

The Hon. I. G. MEDCALF: I agree that this must be treated as being novel, and one might also say experimental, in the sense that it enables a person, after 12 months, to get a small prospecting licence for gold and precious stones over 10 hectares within a larger prospecting licence which has been in existence for the previous 12 months. In answer to the Hon. Norman Moore's question, I indicate that the warden will have to recommend on the facts of each case in which the holder of a larger licence objects. The warden will have to decide whether the holder of that larger licence is exercising his rights to prospect and explore for gold in that particular area. It will be a question of fact. I agree that it will be worth watching to see how it works.

Clause put and passed.

Clauses 17 to 32 put and passed.

Title put and passed.

Bill reported with an amendment.

STAMP AMENDMENT BILL (No. 5)

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.25 p.m.]: I move—

That the Bill be now read a second time.

This Bill introduces amendments to the Stamp Act which were referred to by the Treasurer in his Budget speech.

When speaking to the Budget for 1982-83, the Treasurer mentioned the Government's wish to encourage the progressive development of Perth as a major Australian financial centre and to ensure there are no impediments to an adequate flow of funds for housing. The proposed amendments should assist in the development of a secondary market for mortgages by providing a flat rate of duty and by removing the existing disincentive to trading in short-dated securities.

Presently, the instrument of transfer of a mortgage by way of sale is liable to *ad valorem* conveyance rates of duty ranging from $1 50 per $100 to $4 00 per $100 depending upon the amount of consideration paid. In addition, the dealing may be liable also for duty of up to 1.8 per cent under the credit provisions of the Act if it is a discount transaction.

The current rate of duty is seen as a deterrent to the transfer of mortgages and would certainly inhibit the creation of a secondary market for this type of security. The Bill seeks to amend the legislation so that a flat duty of $10 will be payable on any transfer by way of a sale where the consideration is at market value.

At the same time, it is intended that a sale of the mortgage debt will be exempt from any further duty under the credit provisions of the Act as a discount transaction. It is hoped this move will encourage the development of a secondary mortgage market and consequently that it will make more money available for housing.

The implementation date is proposed for 1 January 1983, and the estimated cost to revenue is $200 000 in a full year.

The second proposal contained in the Bill relates to stamp duty on transfers of company debentures and company notes. The present rate of duty on the transfer of this type of security is 60c per $100 or part thereof. In the ordinary course of events, this is a very small portion of the overall costs associated with any sale when spread over a life of three to five years for a debenture or note.

However, with short-dated securities, the effect of the stamp duty becomes very significant. As a result, the duty is a disincentive to trading in securities which have only a short period to run to maturity and it is this paper which is the main area of market interest.

The effect of the present level of duty is therefore to stifle trading in company notes and debentures which not only inhibits the growth of an active market, but also is counterproductive in relation to revenue. Consequently, in an attempt to encourage a more active securities market in Perth, the Bill proposes to replace the existing duty of 60c per $100 on the transfer of company notes and debentures with a duty of 2.5c per $100

per month of the remaining currency for securities with less than two years to maturity.

By way of example, the proposed duty will be 37.5c per $100 on the transfer of a debenture with more than 14, but less than 15 months to run, and 17.5c per $100 with more than six, but less than seven months to maturity.

The cost to revenue in a full year is estimated to be $100 000.

The Campbell report recommended that selective stamp duties be replaced by a uniform Australia-wide duty for similar types of financial transactions and instruments. The Government has set up a committee to report and advise on the Campbell report, and the stamp duty recommendations will be one of the areas being examined. Further stamp duty amendments may be proposed once the committee has completed its report on this matter.

However, the proposed amendments are in the general direction of the Campbell report recommendations in that they reduce the rates of duty which could otherwise inhibit the development of secondary markets.

I commend the Bill to the House.

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

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.30 p.m.]: I move—

That the Bill be now read a second time.

The principal objective of this Bill is to give effect to the proposal outlined by the Treasurer when presenting the Budget; that is, to grant further relief from pay-roll tax, which will be of particular benefit to the many labour-intensive small businesses.

Other matters covered by the Bill include provisions to—

make liable for pay-roll tax some methods of staff employment which may be used to circumvent the payment of the tax; and

effect certain other minor alterations, including the updating of penalty provisions.

At present taxpayers are entitled to a basic pay-roll tax exemption level of $102 000. This means that when the total wages for the year do not exceed this amount, no pay-roll tax is payable. If the annual pay-roll is greater than $102 000, but does not exceed $201 000, the basic exemption is reduced by $2 for every $3 by which the pay-roll exceeds $102 000 until it tapers to the minimum deduction of $36 000.

The Government proposes to assist small businesses by increasing the basic pay-roll tax exemption level for these taxpayers from $102 000 to $124 992. This represents an increase of 22.5 per cent on the present tax exemption for these businesses—double the increase which would have been necessary to maintain the exemption at the same real level as last year.

The new basic exemption is to be reduced by $2 for every $3 by which the pay-roll exceeds $124 992, which will result in a new minimum deduction of $37 800 in respect of pay-rolls of $255 780 and over. The net result of these proposals is that some 600 taxpayers will be relieved of their total liability for tax. In addition, many other employers' assessments will be reduced by amounts of up to $1 916 per annum. For example, a small business with an annual pay-roll of $150 000 currently would pay tax amounting to $4 000, whereas under the proposed scale the tax assessment will be reduced to $2 084—a reduction of nearly 50 per cent in the tax payable.

Despite the difficult budgetary position facing us this year, the Government did not follow New South Wales and Victoria by increasing the pay-roll tax rate on larger businesses. Consequently, in Western Australia the maximum rate of pay-roll tax payable by larger businesses is 5 per cent compared with 6 per cent in those States.

Because of the changes made to the legislation last year, operative dates, amounts, and formulae are now all included in a schedule to the Act. Consequently, it is only that schedule which needs to be amended to give effect to the proposed increases in the level of exemption. These proposals, along with the other amendments proposed in the Bill, are to take effect from 1 January 1983. The cost to revenue is estimated to be $1.3 million in the current year and $3.2 million in a full year of operation.

A need exists to maintain equity between taxpayers by amending the law to prevent the use of contrived arrangements aimed at avoiding payment of tax. Avoidance practices of one type or another not only erode the revenue collections, but also operate to place an unfair burden on all other taxpayers.

In recent years, the Government has moved against these contrived arrangements as soon as it has had knowledge of their operation. I refer to the more recent amendments in the stamp duty and business franchise (tobacco) tax areas, and previous amendments to the pay-roll tax legislation.

On this occasion, the Bill addresses several arrangements or schemes which enable the liability for pay-roll tax to be reduced or, in some cases, avoided.

To enable members to obtain an appreciation of the objectives of the Bill, a brief explanation is given of the various arrangements known to exist currently and which are to be covered by the proposed amendments. The first of these arrangements relates to certain businesses that might be described as contract employment agencies. It is pointed out that this does not relate to the normal type of employment agency that simply brings an employer and employee together, charges a fee for its services, and then closes its books in respect of that particular person.

The type of arrangement to which the Bill refers is where an employment agent provides the services of a person for a client on a contractual basis by hiring the services of that person to his client. Consequently, the scheme is such that it then differs from the normal arrangement adopted by employment agencies in that the liability for payment of wages remains with the employment agent. At regular intervals, the employment agent renders an account to the employer client that includes the wages of the person engaged, plus a fee for the agency's services. This arrangement may be made verbally or in writing; but the terms of service remain the same.

Although the employment agency is actually paying the wages, some of these arrangements cannot be taxed under the present provisions of the legislation as most of the conditions applicable to a normal master-servant relationship are avoided in one way or another by the agreement made between the employment agent and the hired person. On the other hand, the employer client who receives the direct benefit of the services of the person engaged is not liable to pay tax because he does not actually employ the person; nor does he pay that person wages in the normal manner.

The proposals in the Bill will enable the employment agency, which is the real employer in such cases, to be taxed. It is relevant to this issue that some agencies operating in a somewhat similar manner are currently meeting their tax liability. It should be said also that the Government does not suggest that these types of arrangements were necessarily entered into with the intention of avoiding pay-roll tax, but that has been the effect; and principles of equity require that the matter be resolved.

Another type of arrangement under which pay-roll tax is not payable under current legislation is where payments for services performed and rendered by natural persons are made over to a trust, partnership, or company. This arrangement involves the trust, partnership, or company entering into an agreement with the employer to provide certain services. The natural person agrees to work for that trust, partnership, or company in lieu of working for the employer. In such an arrangement, no employer-employee relationship, in the sense required under the existing legislation, can be established because of the intermediary involvement of the trust, partnership, or company; consequently, the payment of the tax is avoided.

In order to counteract these arrangements, it is proposed that the Commissioner of State Taxation be allowed to disregard the terms of any such agreement in cases where the payments are made to a party related to the person performing the work if, in his opinion, the arrangements were entered into for the purpose of reducing or avoiding the payment of tax. The Bill will require the commissioner to give the taxpayer notice in writing of the facts and reasons for his determination to disregard the terms of the arrangement. Furthermore, the commissioner's determination will be subject to the taxpayer's normal rights of objection and appeal processes.

A further arrangement covered by the Bill relates to the avoidance of tax by dissociation of the activities of branch offices from the head office of a firm. Several situations have arisen whereby head offices have "contracted" managers to operate a branch. The terms of these contracts are usually such that the manager is deemed to operate the branch as an independent and autonomous office. Although the manager carries out what may well be considered as independent functions, such as the hiring and firing of staff, the payment of wages, and the exercise of day-to-day authority over the affairs of the office, he is nevertheless subject to several important controls by the head office such as accounting for all proceeds and complying with certain procedures relating to the operations of the branch. The terms of the contract are such that each of these branch offices stands alone and, individually, they may escape the payment of tax because of the present level of exemption.

It is proposed by this Bill that whenever the head office exercises managerial control by way of administrative, financial, or procedural control over a branch office, the offices will be grouped for the purpose of assessing the tax. However, an exclusion provision is also to be included, similar to that already contained in the other grouping criteria of the legislation. This will enable the commissioner to exclude such an arrangement where he is satisfied that the nature and degree of managerial control or any other relevant matters are such that it would not be just and reasonable so to group the businesses.

The legislative amendments to ensure that pay-roll tax is payable in situations where arrangements or schemes have enabled the liability for pay-roll tax to be reduced or avoided are to be effective from 1 January 1983. The amendments are expected to result in the collection of at least an additional $400 000 in pay-roll tax in 1982-83 and $900 000 in a full year.

As briefly mentioned earlier, some other minor amendments are included in this Bill. These items are the end result of the Government's policy to continually review the legislation in order to remove anomalies and inequities. The most important of these proposals is the updating and simplification of the penalty provisions.

Currently, some 10 different sections have penalties of one type or another. They range from 10 per cent up to 300 per cent in one case, with a minimum of $2 or a flat penalty of $1 000 in other sections. It is proposed that the penalty of $1 000 for a breach of the Act, set 11 years ago, be increased to $2 000. It is proposed also that most additional tax and penal tax provisions be standardised at an amount equal to the amount of tax at issue. In some cases, this will be a reduction in the amount of the penalty that can be imposed currently. However, the larger penalties have not been imposed, and for the sake of simplicity and uniformity, the proposed range of penalties is considered to be realistic.

The present legislation allows the commissioner to remit all or part of this penalty if the circumstances so warrant, and this provision will be retained.

Another of these legislative matters concerns members of a "group" who may nominate which one of their members will be the "designated group employer" for the purpose of obtaining the allowance provided in the Act. However, no statutory obligation is imposed on the group and, in default, the commissioner is unable to so nominate or appoint. The legislation is to be amended so that in these cases the commissioner himself will be able to nominate the "designated group employer".

Finally, and as a result of the Northern Territory's recent move from Commonwealth Government control, consequential amendments to certain references are necessary.

I commend the Bill to the House.

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

ROAD TRAFFIC AMENDMENT BILL (No. 2)

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. G. E. Masters (Minister for Labour and Industry) in charge of the Bill.

Clauses 1 to 14 put and passed.

Clause 15: Section 66 amended—

The Hon. N. E. BAXTER: An amendment appears on the notice paper in the name of the Hon. H. W. Gayfer, and I move that amendment on his behalf—

> Page 10—Delete paragraph (m) and substitute the following—
>
> (m) in subsection 9:
>
> (i) by deleting the expression "40 kilometres" and substituting the expression "70 kilometres";
>
> (ii) by inserting after "analysis", where it occurs at the end of the subsection, the following—
>
> ", and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place"; and

This deals with section 66 of the Road Traffic Act under which, if a person is apprehended on the basis that he has alcohol in his system, and he is taken to a police station or traffic office or some such other other place nominated by a traffic officer, he has the option of having a breath analysis or a blood sample analysis. The provision says that if a medical practitioner is not available, particularly within a distance of 40 kilometres, a blood sample cannot be taken.

The provision refers to a short distance of 40 kilometres which, after all is said and done, in the old terms is only 25 miles or a matter of 25 minutes' travelling time. In this modern day, with modern roads and modern motorcars, the provision ought to be changed to provide that the dis-

tance shall be 70 kilometres or, under the old measurement, 44 miles, which probably takes something in the vicinity of 45 minutes to travel.

In many country areas doctors are not available; in many cases it is necessary to travel long distances in order to have a blood sample taken. Towns such as Koorda in the wheatbelt are a very long way from the services of a doctor. The nearest place is Kununoppin, which is a lot further than 40 kilometres. If a person were taken to Bencubbin, which is much further than 40 kilometres, he could not have a blood sample taken and he would have to have a breath analysis test. He may feel that the equipment is inefficient and may prefer to have a blood sample taken.

The amendment is quite simple and relates to distances and the availability of medical practitioners. It gives a person apprehended a reasonable distance within which to obtain the services of a medical practitioner to take a blood sample for analysis rather than having to rely on a breath analysis test.

The Hon. G. E. MASTERS: I listened with interest to the honourable member's comments and would point out to the Chamber that problems are involved even with the distance of 40 kilometres in some circumstances. He must understand, as I am sure he would, being a country member, that on occasions accidents occur which involve policemen travelling great distances to arrive at the scene of the accident. We must remember a maximum of four hours is involved after which there can be no requirement that a blood sample be taken. So from the time of the accident the policeman has four hours in which to arrive at the scene and take all the steps necessary. Quite often a number of people are injured and a number of vehicles are involved. Obviously his first duty is to render assistance to any injured persons. That could take up to two hours, leaving just two hours from the time of the accident to sort out everything else.

If he apprehends a person under the suspicion of driving under the influence of alcohol it could then be 2½ hours before he returns to the police station; it could take longer. It is then his job to require the person to provide a blood or breathalyser sample. If the person under suspicion of driving under the influence wanted to see a doctor who happened to be 35 kilometres away, it may be the policeman's judgment that that distance is too great if the test is to be carried out within the four-hour period. So in certain circumstances even 40 kilometres could be too far. The policeman may see there is only three-quarters of an hour remaining and he would have to say to the person, "I am sorry; I don't believe a doctor can arrive here in the required time", and by "the required time" I mean within the time left in which the blood test must be conducted. For that reason, in many circumstances, 40 kilometres is a liberal distance.

We must remember that a doctor may be otherwise engaged, which would mean a hunt around the neighbourhood to contact him. He may refuse to attend at that police station. So we have a series of situations where it may be that the four hours prescribed and the 40 kilometres provided for are not sufficient to allow a blood sample to be taken; there may not be sufficient time for the policeman to attend to any people who are injured, to take care of any damaged vehicles so they are of no danger to the public, to take a person to the police station, and then contact a doctor and ask him to attend at the police station to take the blood sample. For those reasons the 40 kilometres is reasonable.

To allow a distance of 70 kilometres would mean the time factor would be even more critical; it may be that a doctor would not have the time to get to the station and carry out the test. In these circumstances 40 kilometres is reasonable; it seems to have caused no problems up to now. Perhaps we could make a judgment on the existing circumstances and not agree to the 70 kilometres which, although it would not be unreasonable always, in many cases it would be. I urge members to oppose the amendment to extend the distance from 40 kilometres to 70 kilometres.

The Hon. N. E. BAXTER: I listened to the Minister's comments with interest. He does not seem to realise that the time factor between 40 kilometres and 70 kilometres is just 19 minutes. The police have four hours in which to operate. The Minister should understand that section 66(6) of the Road Traffic Act covers the situation where, if it appears a doctor will not be able to arrive at the place the person was taken to, a patrolman has it in his power to say, "I cannot get a doctor here within the four hours because we have only so many minutes left; therefore I will have to ask you to take a breathalyser analysis test."

I do not think it is any excuse to say that because of the four-hour provision a policeman can claim it is not possible to get a doctor who is 70 or so kilometres away. It is a weak excuse to say that 19 minutes would prevent a blood sample being taken. If he considers insufficient time is available, the patrolman can say that the person must undergo a breathalyser analysis test because insufficient time is left for a blood sample to be taken.

The Hon. H. W. GAYFER: In sticking to the distance of 40 kilometres or 24 miles, the Minister is being rather pedantic, especially when he indicates that 24 miles is really too far in many cases.

The Hon. G. E. Masters: In some cases.

The Hon. H. W. GAYFER: Why does he not chop out the 24 miles and bring it back to 12 miles? The Minister will not provide much of a service to country towns if he keeps this requirement of 40 kilometres. The Minister should consider the bulk of country towns, perhaps some of those in Mr Brown's electorate. Let us consider Merredin, which is 25 miles from Bruce Rock and 40 miles from Corrigin, and Corrigin is 40 miles from Cunderdin. From Corrigin to Quairading and from Quairading to Kellerberrin we have distances of 40 miles. If these distances are too far and would cause too much trouble, obviously the Minister should reduce the figure to what he thinks is right.

If one travelled 40 kilometres in the city one would pass 20 doctors at least. This provision would be reasonable if the Minister were to cater only for the city. Otherwise, he is being perfectly pedantic about the whole business. The Minister has put in 40 kilometres and is sticking to it; he is not budging for anyone. His arguments do not hold water. His arguments were blown by Mr Baxter when he mentioned the 19 minutes to travel the extra 30 kilometres. The Minister is preventing country people from obtaining the services of a doctor. I do not see any reason to prevent us from giving country people the benefit of the extra 19 minutes. I fail to see the Minister's argument.

The Hon. G. E. MASTERS: I suppose we could put an argument for 20 kilometres or 100 kilometres; all I am saying is that 19 minutes can be a long time when an accident has happened and a policeman has to undertake certain duties, as I mentioned earlier, and then get back to his station with the person involved. We must bear in mind the policeman's first duty is to look after those people who may be injured.

It may take him most of those four hours to carry out those tasks. Having done that he then gets back to the station with the person who may be charged, and requires him to take a blood test.

Experience shows that 40 kilometres is reasonable, bearing in mind it is 40 kilometres from the police station not the scene of the accident. The policeman's duty as far as possible is to make sure that the person undergoes a blood test or breath test within the four-hour period. We could put forward arguments to increase the distance to 100 kilometres, but experience in recent times suggests that 40 kilometres is reasonable and gives the police the chance to carry out their duties in the proper way and to carry out the requirements of this Act when a person is reasonably suspected of being under the influence of alcohol or drugs. It is a judgment the Government has made. We could ask for a second or third opinion, but the Chamber must consider the difficulties facing police officers in these circumstances. I believe this is a reasonable proposition. In some cases 70 kilometres could be reasonable, but in many cases it could be considered unreasonable. I ask members to oppose the amendment.

The Hon. N. E. BAXTER: The Minister has not answered my point about the 19 minutes, which is a small proportion of four hours. He has not answered my proposition about section 66(6), which provides that, if the police officer believes there is no time in which to take a blood sample, he can request the person to take a breath analysis test.

Let us consider a person who is fairly badly injured in an accident and the police suspect he has caused the accident and so desire to have a blood sample of that person, but the nearest doctor is 70 kilometres away. What would they do? They would do their best to see that a blood sample was taken to show that he had alcohol in his system. The police would not find it too far to travel 70 kilometres to have a blood sample taken if they could do so within the four hours.

That blows out the Minister's argument on all three counts: the 19 minutes, the provision of section 66 (6), and the situation where a person is injured and cannot provide a breath analysis and must have a blood sample taken to ascertain whether he has alcohol in his blood before the police can charge him. What is the situation then, Minister?

The Hon. G. E. MASTERS: The 19 minutes provision is a long time if we consider the duties the policeman may have to carry out. A police officer's first duty is to ensure that people injured in the accident are taken care of. If vehicles that represent a danger to other traffic are on the road they must be cleared and all safety measures and precautions must be carried out. We are talking about only four hours from the time of the accident. In those four hours the policeman has to get to the scene of the accident and do all the things I have just spoken about, and then if he considers that a person responsible for the accident may be under the influence of alcohol he must carry out a test and get that person to go to the police station. So in this situation 19 minutes in four hours is a long time indeed. He should consider these cir-

cumstances. I am not saying these matters will arise on every occasion, but often they do, unfortunately.

The Hon. J. M. Berinson: I think I am right in saying that the 19 minutes also becomes 38 minutes in terms of keeping the officer away from his normal duties.

The Hon. G. E. MASTERS: Yes, of course the member is right. This must be considered seriously. Nineteen, 20, or even 10 minutes could be critical. For this reason we must set a limit. Four hours is not a long time in the circumstances of serious accidents, but 19 minutes of that four hour period can be critical. The 40-kilometre provision, for those reasons, has proved to be a reasonable proposition.

The Hon. N. E. Baxter: What about subsection (6)?

The Hon. G. E. MASTERS: It is reasonable to expect a blood test must be conducted by a doctor.

The Hon. N. E. Baxter: The option in relation to the four hours that the traffic officer will have—answer that one.

The Hon. G. E. MASTERS: I cannot hear the member.

The Hon. N. E. BAXTER: In respect of subsection (6), if it would require more than 19 minutes to get a doctor to the office where the patrolman had taken the person and for him to take a blood sample, and the period would go over the four hours because of that 19 minutes, the traffic patrol officer could insist on the breathalyser test being taken. What the Minister says is baloney.

Take the instance of a person apprehended in the country for having his tail light not working. The officer may decide to take him to the traffic office or designated place to have a breath analysis or a blood analysis test taken. When they reach the office no doctor is available and the nearest doctor is more than 40 kilometres away. That person is denied the right of having a blood analysis test because he lives in the country. If he lived in the city it would be easy to obtain a doctor, but as he lives in the country he is denied a blood analysis test and has to have a breath analysis test. Keeping the distance to 40 kilometres denies that person the opportunity of having a blood test when a doctor could be available within 40 to 70 kilometres. The Minister is saying he cannot have the test because it will entail bringing a doctor further than 40 kilometres. The country person is denied the opportunity to have a blood analysis.

The Hon. G. E. MASTERS: We could use the same argument for any distance. It is true that if the policeman considered 19 or 10 minutes extra was too long and that it would go beyond the four hour period, he could require a breathalyser test to be taken instead of a blood test, but that same argument could apply over 40, 50, or 60 kilometres. I do not see that there is a firm argument about it. Mr Baxter could use the same argument in relation to 100 kilometres and say that 45 minutes is nothing out of four hours. If he cannot get there in 45 minutes the policeman can insist on a breathalyser test. Certainly the police officer has the ability to make other arrangements if he thinks that 19, 10, or even 50 minutes will make the time exceed four hours. I really cannot follow the argument the honourable member is putting forward.

The Hon. H. W. Gayfer: I cannot follow yours.

The Hon. G. E. MASTERS: Mr Baxter is saying that if a policeman makes the judgment that the extra 19 minutes would exceed the four-hour period, he can make other arrangements and he can tell the person that he requires a breathalyser test; but if he thinks that the 19 minutes is reasonable and that the doctor can get to the police station within the extra 19 minutes, he should be prepared to accept such a request. We have determined that the 40-kilometre distance is reasonable. It has worked in the past.

The Hon. H. W. Gayfer: There may not be doctors available.

The Hon. G. E. MASTERS: In many cases doctors are not available within a 70-kilometre radius in country areas.

The Hon. H. W. Gayfer: Look at the map. That appears to be a more factual figure.

The Hon. G. E. MASTERS: The member must remember that it works in the metropolitan area as well.

The Hon. H. W. Gayfer: Yes, it works here and that is all that counts.

The Hon. G. E. MASTERS: Of course it is not all that counts. We are always concerned with country people.

The Hon. H. W. Gayfer: One could not tell by your attitude.

The Hon. G. E. MASTERS: That is a wicked thing to say.

The Hon. H. W. Gayfer: It is not.

The Hon. G. E. MASTERS: Let us take the example of an accident occurring in Perth and a person said he wants his doctor from the other side of Armadale, 40 kilometres away, to be called to the scene.

The Hon. H. W. Gayfer: That would be right. That is 24 miles.

The Hon. G. E. MASTERS: If one is going beyond Armadale from the metropolitan area that would seem to be unreasonable.

The Hon. H. W. Gayfer: That is 24 kilometres. You are right. What if you are right out in the hills?

The Hon. G. E. MASTERS: I am a country member.

The Hon. H. W. Gayfer: Yes, you are in the middle, within 40 kilometres.

The Hon. G. E. MASTERS: We are dealing with a very serious problem. We must look at the problems on our roads today and the catastrophic accidents that occur with people being maimed and injured. If we look at the figures we realise alcohol is responsible more than any other thing, for the problem on the road. It is a very serious problem. We are not just mucking around with distances and circles on the map but are dealing with people who have been injured as a result of somebody driving while under the influence of alcohol. We make the policeman's job more difficult, as Mr Berinson said, when we take him off the road for any period longer than necessary as that could endanger someone else's life. In that situation we have to say enough is enough. The 40-kilometre provision seems to be working and seems to be reasonable, and we support it. If at a later stage the member can put forward some examples where serious problems have resulted from this legislation we will have another look at it. I think the provision is reasonable. I ask the Committee to support the proposition put forward by the Government.

The Hon. N. E. BAXTER: The Minister raised the hypothetical case of a person in the metropolitan area wanting to have a blood analysis test taken by a doctor at Armadale. That is quite preposterous because the patrol officer can say, "Why bring a doctor all the way from Armadale when there are doctors within a few hundred yards?" Let me take the case of a person who is apprehended in the Cunderdin area for having a tail light not working. He is suspected of being under the influence of alcohol and taken to the Cunderdin police station. No doctor is available in the town. Where is the nearest doctor—Northam, 66 kilometres away, Kellerberrin, 45 kilometres away, or Wyalkatchem or Quairading, 60 kilometres away? That person is denied the right to have a blood analysis test because the doctor is away and could not be brought from Northam, Quairading or Kellerberrin; yet the Minister wants to stick to the 40-kilometre limit. That is not fair or reasonable. I wish the Minister would see some commonsense in regard to the situation in the country. This Act should have been designed to give a fair chance to everybody, but this provision gives the right to the Government to prefer that a breath analysis test be taken as opposed to a blood test. That is what it amounts to. The Minister is saying that because the Government will stick to the 40-kilometre limit, even if a doctor is not available within that limit, a person cannot have a blood analysis test. That is most unfair.

The amendment is a reasonable one and under section 66(6) if it is not practicable for a doctor to get to the town and he had to travel between 40 and 70 kilometres, the patrol officer would have the right to demand that the person have a breath analysis test.

Amendment put and negatived.

Clause put and passed.

Clauses 16 to 31 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

MOTOR VEHICLE (THIRD PARTY INSURANCE) AMENDMENT BILL

Second Reading

Debate resumed from 27 October.

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [10.15 p.m.]: The Hon. Joe Berinson in his second reading speech on this debate made his first point when he said—

> In 1943 compulsory third party insurance was introduced in respect of motor vehicle accidents and the MVIT was established as the sole insurer for the risks involved.

Although the error does not touch on any issue raised, the fact is that the MVIT was not established as the sole insurer until 1949.

The Hon. J. M. Berinson: If that was my only mistake I will be very happy.

The Hon. R. G. PIKE: His second point was—

> If the trust lost money in any year the combined participating insurers would meet the loss or that part of the loss equal to 5 per cent of the premiums in that year, whichever was the less. Conversely, if the trust made a profit in any year, the participating insurers would share in that profit on the same basis.

The answer is that although the Act limits the distribution of any surplus to an aggregate of 5 per cent of the premium income for the year in question, there is no such limit in respect of a loss. While participating insurers could therefore be required to meet the full amount of a loss in any particular year, in practice this has not occurred. Instead, the provisions of the Act have been utilised which enable a loss in any particular year to be offset against a previous or a future surplus.

The third point the honourable member put by way of a question was—

> Is this solution as reasonable as might at first sight appear?

The answer is that it is considered the only reasonable way of winding up the involvement of participating insurers is to wipe the slate clean. Because many of the unfinalised pools would continue to earn substantial investment income—and thus their deficits would be reduced—

The Hon. J. M. Berinson: That was taken into account in the total.

The Hon. R. G. PIKE: —and because it is possible under the present Act to offset a deficit in one year against a surplus in either an earlier or subsequent year, it is not possible to say exactly what contributions might have had to be made by, or what contributions might have had to be made to, participating insurers.

The Hon. J. M. Berinson: That must be wrong.

The Hon. R. G. PIKE: It is not possible to forecast accurately how each of the pool years would eventually finish up. However, it is very probable that overall the aggregate deficit in all of the pools would have been wiped out even though perhaps some small deficits may have remained in individual years.

The fourth question the Hon. Joe Berinson raised was—

> I invite the Minister to indicate when he replies subsequently whether I am in error in that respect.

The question posed is whether participating insurers who withdraw remain liable for any losses incurred up to the date of their withdrawal. The answer is that they do.

The fifth point raised was—

> It will be seen that in the period from the 1975-76 financial year to 30 June 1981, the amount payable to participating insurers is limited to $0.262 million in respect of the year ended 30 June 1976. As against that modest sum are the following payments due to be made by participating insurers if not for the proposed Bill—

The table on which the calculations have been based, is incorrect. Firstly, it shows the deficit—

The Hon. J. M Berinson: Am I right in saying it is incorrect in that it underestimated the potential update for participating insurers in the MVIT?

The Hon. R. G. PIKE: —or surplus in each of the years from 1976 to 1981 as shown in the MVIT's annual accounts for each of those years. However, the surplus or deficit for a pool year is quite different from that shown in the annual accounts. This occurs because, in the annual accounts the very substantial investment income received in a particular year is all credited to that year, whereas it is spread over the various pool years in proportion to the funds held in respect of each of the various pools; and also because when outstanding claims are revalued each year, all the additional amount is brought into the annual accounts of the year concerned but charged to the pool years to which the claims relate.

The aggregate of the deficits and surpluses for all pool years will always equal the accumulated deficit shown in the annual accounts.

The sixth point the honourable member raised was—

> Assuming therefore a continuation of the seven year lag in finalising accounts this would mean that the trust could look to receive from participating insurers even if both remaining insurers pulled out now, a net amount of about $8.6 million by 1989.

This is not correct.

The Hon. J. M. Berinson: They can look forward to receiving very much more.

The Hon. R. G. PIKE: If the member will bear with me he will get the answer. Although all but one of the unfinalised pools is presently in deficit, the very substantial investment income which will be earned by the trust over the next few years, and which will be apportioned over most of these unfinalised pools, will enable many of the pool deficits to be extinguished. In accordance with the usual practice of the trust, it is probable that the present accumulated deficit will be totally extinguished over the next few years.

The Hon. J. M. Berinson: But participating insurers have no benefit from that because of the need to withdraw.

The Hon. R. G. PIKE: That is the answer to the question that the honourable member put forward. The seventh question the honourable member put forward was as follows—

> On 31 March, in response to question without notice 33 I was advised that the an-

ticipated surplus was $5.5 million. On 16 September 1982 in answer to question 472 I was told that the anticipated deficit was $1.22 million. Then appeared the audited accounts for 1982 which estimated the surplus for the year ended 30 June 1982 at $11.61 million . . .

The only apparent explanation for differences of this magnitude is that the settlement of claims since the original financial accounts were published had led to the substantial changes involved.

The answer is that this "apparent explanation" fairly accurately explains one-half of the reasons for the difference; that being that the additional amount involved in any revaluation or settlement of a claim is shown in the annual accounts of the year in which the claim was revalued or settled but is recorded against the correct pool year. The other half of the reasons relates to investment income; that is to say, in the annual accounts, income earned on investments is credited to the accounts of the year in which the income was received but in the pool accounts it is spread over the various pools in respect of which the funds are held.

The following points have been prepared and submitted for consideration: The Hon. Joe Berinson has advanced the proposition that the Bill proposes to amend the Act by removing participating insurers, treats participating insurers far too generously by abolishing any liability which they might otherwise have had to contribute towards deficits, and also terminates their rights to any surplus.

It is true that each pool since 1975-76 is presently in deficit. At 30 June 1982 the accumulated deficit of all pools stood at $43 million. However, that is not to say that if the present Act were to continue unaltered the participating insurers would necessarily be called on to make good that deficit.

The very substantial investment income which would be earned by the trust during the period in which these pools remain unfinalised would have to be apportioned amongst them. This income would extinguish many of the pool deficits. This, coupled with the procedure allowed by the Act of offsetting a deficit in one year against a previous or future year's surplus, would greatly diminish the likelihood of a deficit having to be met by participating insurers.

In any event, if some deficit did remain, the State Government Insurance Office, which has by far the greatest interest of any participating insurer, would have to make the greatest contribution.

Those are the answers to the points raised by the Hon. Joe Berinson.

The Hon. J. M. Berinson: The SGIO was not in that position in 1976 to 1981.

The Hon. R. G. PIKE: In 1976 the holding by the SGIO was very close to 70 per cent.

The comments made by the Hon. R. T. Leeson and the Hon. W. M. Piesse are summarised by way of answer.

It is true that many damages awards for motor vehicle injuries have reached astronomical heights in recent years. These payments have placed great pressure on the trust and have caused premiums to increase substantially. It is a simple fact that higher awards must result in higher premiums. Ordinarily, there would be a reluctance to interfere with the way in which damages awards have been calculated by the courts but the situation is being closely watched. We would not suggest that people who suffer injury should not be given reasonable recompense for the damage which they have suffered. At the same time, the motorist cannot be expected continually to face up to unlimited increases. Perhaps one day the line will have to be drawn. The Government will continue to monitor the situation very closely.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. I. G. Pratt) in the Chair; the Hon. R. G. Pike (Chief Secretary) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. J. M. BERINSON: I take the opportunity at this stage to request the Minister to move that progress be reported and that a week be allowed for consideration of his comments in answer to the second reading debate. I was very conscious in my own comments at the second reading stage that the matters I was attempting to raise were reasonably complicated and I made no secret of the fact I found them difficult to prepare and present.

In his reply the Minister has produced statements which are impossible to absorb quickly and which require reasonable time for consideration if any appropriate attention is to be paid to them. There would be no point in my attempting to move that progress be reported but I request the Minister to accept the reason for that request and to take that action himself.

The Hon. R. G. PIKE: I am happy to accommodate the Hon. Joe Berinson in that request.

Progress

Progress reported and leave given to sit again, on motion by the Hon. R. G. Pike (Chief Secretary).

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.29 p.m.]: I move—

That the House do now adjourn.

Standing Committees: Standing Order No. 38(g)(9)

THE HON. R. J. L. WILLIAMS (Metropolitan) [10.30 p.m.]: I apologise to the House for rising to speak on the adjournment debate, but under our Standing Orders this is the only time that I may raise the matter to which I wish to refer.

Would you, Mr President, be considerate enough in the near future to try to help me and the Standing Committee on Government Agencies out of a small dilemma we seem to be facing; that is, there seems to be some confusion about the interpretation of Standing Order No. 39(g)(9). At some time in the future, will you make a statement as to the effectiveness of that Standing Order, and particularly its application to the prorogation and dissolution of the Parliament? I thank the House.

Legislative Council: Dress Requirements

THE HON. GARRY KELLY (South Metropolitan) [10.31 p.m.]: I will not delay the House for very long, but I would like to refer to the conditions in this Chamber earlier this evening. While we were debating the Acts Amendment (Mining) Bill in Committee, the conditions were very stifling and uncomfortable to me. I walked into the Chamber without my jacket and I was informed discreetly by the Chairman of Committees that the rule of the House is that coats must be worn at all times while the Chamber is sitting.

I could not find any reference to dress requirements in my copy of the Standing Orders. The Second Clerk Assistant (Mr Allnutt) came to my aid and found a copy of the Standing Orders which included an announcement which you had made, Mr President, on 4 November, 1980. For the benefit of members, it reads as follows—

> Honourable members:
>
> I wish to announce that in response to requests received to give consideration to the relaxation of the convention relating to the traditional mode of dress in the House, it is my intention to permit members, should they so desire, to remove their coats during sittings should the atmospheric conditions, in my opinion, warrant such modification of the convention.
>
> When it is considered that the conditions warrant the change, it is my intention to indicate my approval by placing an advice to this effect on the notice boards of the House.
>
> It is also in order for members to wear safari suits in the House should they so desire, provided that where shirts are worn with this form of dress, ties must also be worn.

Of course, I was not here at that time; I am a fairly Johnny-come-lately to this Chamber, and it is the first time I have experienced such adverse conditions here. However, apart from what I regard as the paternalism of that statement, Sir, the fact is that we are elected here by our constituents to consider and deliberate on legislation, and yet, under the conventions of the House, we cannot decide whether or not it is hot enough to take off our coats.

We are all individuals, and heat affects each of us differently. I found it quite oppressive sitting here this evening with a coat on. I was almost tempted to take off my tie.

I realise, Sir, that dress rules are designed to maintain the decorum of the House, but I submit that the decorum is not enhanced by members sitting here with sweat pouring off them. Nor is such a situation conducive to serious concentration.

As this happened tonight while you were not in the Chair, Mr President, you were not in the practical position to make a decision on the atmospheric conditions. As an aside, the announcement you made in 1980 is silent on the dress requirements of female members of Parliament.

The Hon. I. G. Pratt: Perhaps you should wear a dress.

The Hon. GARRY KELLY: Apparently the female members may wear anything or nothing if they so desire, but the male members may not decide whether it is hot enough to take off their coats.

I ask you, Sir, to reconsider this matter. Had we been in other places tonight, I doubt that any member would have continued to wear his coat. Surely we could be deemed to be mature enough to decide, when we are uncomfortable, that we

should take off our coats. Really, common sense should prevail.

I do not know what are the procedures of the House in regard to dress requirements, but surely some further consideration should be given to this matter. Even in the middle of winter a member could have a hot flush and wish to take his coat off.

The Hon. P. H. Wells: A royal flush perhaps!

The Hon. GARRY KELLY: I ask you, Sir, to further consider this matter.

THE HON. I. G. PRATT (Lower West) [10.36 p.m.]: I wish to point out that in my copy of Standing Orders, following the ruling you gave, Sir, which was quoted by the honourable member, there appears the motion which was carried by this House on 27 March 1973 and which deferred that decision to the President.

Question put and passed.

House adjourned at 10.37 p.m.

QUESTIONS ON NOTICE

FUEL AND ENERGY: GAS

North-West Shelf: Dampier-Perth Pipeline

613. The Hon. TOM McNEIL, to the Leader of the House representing the Minister for Resources Development:

Further to question 351 of Wednesday, 11 August 1982, would the Minister advise—

(1) Who was the successful tenderer for the construction of the water reservoirs required along the Dampier to Perth natural gas pipeline?

(2) When and where will work commence on the water reservoirs?

The Hon. I. G. MEDCALF replied:

(1) and (2) A contract has not yet been let for the construction of the water reservoirs for the northern section of the Dampier to Perth natural gas pipeline. It is anticipated that a contractor will be appointed within the next few weeks.

STATE FINANCE: CONSOLIDATED REVENUE FUND

Wages and Salaries

650. The Hon. D. K. DANS, to the Leader of the House representing the Treasurer:

I refer the Treasurer to his comments in his statement on transactions on the CRF for the financial year 1981-82 wherein he states that—

> . . . it should be noted that increased expenditure arising from award increases is chargeable to departmental votes and will appear as an excess on those votes in a number of cases.

Will he indicate those departments for which increased expenditure arising from award increases during 1981-82 did appear as an excess?

The Hon. I. G. MEDCALF replied:

Those departments whose salary and wages votes were exceeded in 1981-82 are shown in statement 4, page 28, in the public accounts and I would refer the member to that table. The excess expenditure shown against the salaries item of each vote is the net result of a combination of factors. It is not practicable to isolate from departmental records the precise effect of individual factors although the procedure adopted for handling the Budget provision for award increases was the major reason for the excesses shown against the salaries items where they occurred. In this respect the member is referred to my reply to his question 595 of 20 October 1982.

In interpreting the figures it should be noted that expenditure resulting from award increases within individual departmental allocations is offset in varying degrees by savings on salaries votes resulting from other factors including staff turnover, delays in appointments, and the normal variations from estimate that are inherent in the estimation process. In a number of cases, the member will note that the overall result has been that net savings were achieved on the vote.

TRANSPORT: AIR

Airlines of Western Australia: Bus Service

651. The Hon. TOM STEPHENS, to the Minister for Labour and Industry representing the Minister for Transport:

(1) Is it a fact that since the cancellation by Airlines of Western Australia of the bus service between Kununurra and

Wyndham, mail is delivered to Wyndham by a chemist on three days a week, and that the only service for commuters is by a vehicle carrying four passengers?

(2) If so, will the Minister bring pressure to bear on Airlines of Western Australia to restore an adequate service?

(3) Will the Minister take up the matter of the carriage of mail with Australia Post with the suggestion that Australia Post let a contract for an adequate mail service between Kununurra and Wyndham?

(4) In the event of Airlines of Western Australia refusing to provide an adequate bus service, will the Minister make provision for another bus service?

The Hon. G. E. MASTERS replied:

(1) to (4) As the provision of mail services is the responsibility of the Commonwealth and not the State, it is suggested the member contact Australia Post for information on mails.

It is understood that in addition to the chemist, there is a private operator at Wyndham who is licensed with two 21 seater omnibuses for passenger operations between Wyndham and Kununurra, and 10 country taxis are also licensed to operate in the area.

The Commissioner of Transport will continue to monitor transport in this area to ensure it responds to the demand.

EDUCATION: DEPARTMENT

Budget: Expenditure

652. The Hon. D. K. DANS, to the Leader of the House representing the Premier:

I refer the Premier to his reply to question without notice 344 of 4 August 1982, and ask—

(1) Has in fact the document referred to by him been tabled?

(2) If so, when?

(3) If not, will he table the document prior to the end of this Parliamentary sitting?

The Hon. I. G. MEDCALF replied:

(1) No.

(2) Not applicable.

(3) Yes, in due course.

EDUCATION: HIGH SCHOOLS AND SCHOOLS

Suspensions

653. The Hon. ROBERT HETHERINGTON, to the Chief Secretary representing the Minister for Education:

(1) Where children have been suspended from Government schools since 1970, do the incidences of suspension cluster in any particular areas?

(2) If so, will the Minister set out the areas of greatest frequency of suspension?

The Hon. R. G. PIKE replied:

(1) Variations in the frequency of suspension between different schools do occur from time to time but these variations are not of such duration as to establish a clear pattern.

(2) Not applicable.

EDUCATION

Students: Behavioural Problems

654. The Hon. ROBERT HETHERINGTON, to the Chief Secretary representing the Minister for Education:

What services exist to deal with children who have serious behavioral problems at school, and how are school children referred to such services?

The Hon. R. G. PIKE replied:

In the first instance the school guidance officer. Secondly, referral to and/or admission to socio-psycho educational resource centres; or referral to appropriate external agencies.

Children are referred initially by guidance officers in consultation with family, district guidance officers, senior education officers (clinical) or the superintendent.

EDUCATION: HIGH SCHOOLS AND SCHOOLS

Suspensions

655. The Hon. ROBERT HETHERINGTON, to the Chief Secretary representing the Minister for Education:

Can the Minister inform me how many school children have been suspended each year from 1970 to 1982 (to date)—

(a) at primary level;
(b) at secondary level;

giving in each case the number suspended once, twice, three or more times?

The Hon. R. G. PIKE replied:

(a) and (b) Although the department grants ultimate approval for suspensions, no detailed statistics are kept centrally.

However, over the period in question, suspensions have been between 200 and 300 per year of which less than one-quarter are of primary school stdents. In order to ascertain the number of children incurring multiple suspensions it would be necessary to conduct the very laborious and time consuming task of analysis of individual records held in the regional offices.

TOWN PLANNING: MRPA
South-east Corridor

656. The Hon. I. G. PRATT, to the Chief Secretary representing the Minister for Local Government, Urban Development and Town Planning:

(1) Has the final report of the MRPA south east corridor stage "B" study been completed?
(2) If the answer to (1) is "Yes", when will the report be tabled in this House?
(3) If the answer to (1) is "No"—
(a) what specific areas of importance are delaying completion; and
(b) when is completion anticipated?

The Hon. R. G. PIKE replied:

(1) An analysis of public submissions on the south-east corridor stage "B" report (July 1980) has yet to be considered by the MRPA.

(2) It is not the practice to table in the House the authority's analysis of public submissions. However, major amendments to the metropolitan region scheme usually follow and these are tabled in both Houses of the Parliament.

(3) (a) Road structure, staging of sewerage and drainage programmes and protection of the escarpment;
(b) an analysis of public submissions will shortly be considered by the Metropolitan Region Planning Authority.

TOWN PLANNING: MRPA
Valuations

657. The Hon. I. G. PRATT, to the Chief Secretary representing the Minister for Local Government, Urban Development and Town Planning:

(1) When land is resumed for the purposes of the MRPA, is it usual practice to obtain more than one valuation?
(2) If the answer to (1) is "Yes"—
(a) how many valuations are usually obtained;
(b) how many were obtained in relation to part lot 14 and portion of lot 100 and 101 Streich Avenue, Armadale; and
(c) is it usual practice to accept the lowest of these valuations?
(3) Does the MRPA, as usual practice, supply the names of a panel of valuers to people whose land is to be resumed and to pay for a valuation carried out by the chosen valuer?
(4) If "Yes" to (3), what importance is placed on such valuation by the authority?

The Hon. R. G. PIKE replied:

(1) Only if there is some reason that this is necessary during the course of negotiation.

(2) (a) It depends on the particular circumstances;
(b) as the question of compensation for acquisition is likely to be the subject of litigation, the Minister is not prepared to prejudice those proceedings by responding at this time;
(c) no; all information and evidence is given full consideration in arriving at a just compensation.

(3) Not as a usual practice but it is sometimes done if the claimants have no knowledge or experience in these matters.

(4) It is given full consideration, together with all other evidence, in arriving at a just compensation.

QUESTION WITHOUT NOTICE

ELECTORAL: NORTH PROVINCE
By-election: The Hon. Tom Stephens

171. The Hon. V. J. FERRY, to the Chief Secretary:

Would the Chief Secretary please explain the circumstances regarding the statement by the Hon. Tom Stephens

that he had been told it appeared he had not voted in the recent by-election held in North Province?

The Hon. R. G. PIKE replied:

Yes. I immediately asked the Chief Electoral Officer for a report on this news item. He advised as follows—

(1) Inquiry of the returning officer discloses that the roll used at Karratha for the North Province by-election shows that Mr Stephens' name was ruled through to indicate that he voted.

(2) The returning officer missed this entry when preparing the list of persons who appeared to have failed to vote.

(3) The Electoral Department sent notices (Form 40) to all persons listed by the returning officer.

(4) The electoral roll had been endorsed "stet" alongside the entry of Mr Stephens' name. This could have caused confusion as the return is prepared in Port Hedland from material furnished by the presiding officer.

(5) The Electoral Department did what was required of it by law. It must act on the returning officer's return, even though some defect may later be found in the return.

(6) The notice sent to Mr Stephens is headed "Notice to persons who appear to have failed to vote". It seeks an explanation and in the event of an error this is corrected. Seldom do people use such occasional human errors to attack the institution of Government.

(7) Mr Stephens was previously enrolled for the Kimberley electorate under the name Thomas Gregory Stephens. He later claimed enrolment for the Pilbara electorate under the name Tom Stephens.

Mr Stephens telephoned the Chief Electoral Officer after the issue of the writ for the by-election to advise that he was still shown on the Kimberley roll. Arrangements were made for this entry to be deleted. The Electoral Department was not aware that Mr Stephens had changed his name. If he had used the one name when applying for enrolment in Pilbara the computer would have deleted the Kimberley entry automatically.