Legislative Council

Wednesday, 23 September 1981

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

EDUCATION: FUNDING

Petition

THE HON. P. H. WELLS (North Metropolitan) [4.33 p.m.]: I wish to present from citizens of Western Australia a petition concerning the funding of Government schools. I move—

That the petition be received and read.

Question put and passed.

THE HON. P. H. WELLS (North Metropolitan) [4.34 p.m.]: The petition contains 75 signatures and bears the Clerk's certificate that it is in conformity with the Standing Orders of the Legislative Council. It reads as follows—

> TO: The Honourable the President and Honourable Members of the Legislative Council of the Parliament of Western Australia in the Parliament assembled.
> The petition of the undersigned citizens of Western Australia respectfully showeth that:
> The Government of Western Australia should provide sufficient funds for the Government schools as is required to maintain the highest standards of education to all children on an equal basis.
> Your petitioners therefore humbly pray that you will give this matter your earnest consideration.
> And your petitioners, as in duty bound, will ever pray.

I move—

That the petition be ordered to lie upon the Table of the House.

Question put and passed.

The petition was tabled (see paper No. 388).

QUESTIONS

Questions were taken at this stage.

DOMESTIC VIOLENCE AND WOMEN'S REFUGE CENTRES

Motion

THE HON. LYLA ELLIOTT (North-East Metropolitan) [4.45 p.m.]: I move—

That, in the opinion of this House, domestic violence is a problem of immense proportions in the community. We therefore request the Government to—

1. enact legislation to enable the appropriate laws to be changed to give greater protection to victims of domestic violence;
2. urge the Federal Government to amend the Family Law Act so as to attach a power of arrest by Police for breach of an injunction either against threatened violence or against approaching the applicant or the place where the applicant resides;
3. establish in the current financial year a Crisis Care Unit whose function would include the provision of intervention and counselling services related to domestic violence;
4. increase the funding of women's refuges in this State to ensure:
   (a) the ability to accommodate all cases requiring emergency accommodation;
   (b) adequate staffing of refuges;
   (c) appropriate wages for refuge workers;
   (d) recognition of individual needs of each refuge.

Members will be aware that in recent times women's refuges have been in the news fairly frequently. This has been due mainly to the fear of the women running them that, with the new funding arrangements, there is a danger that their already difficult financial position may become worse and force them to close.

The purpose of this motion today is hopefully not only to convince the Government that that would be a tragedy for the women of this State, but also that something must be done to provide greater protection for victims of domestic violence, which is the main reason for the establishment of women's refuges. I intended originally to move a motion on refuges, but the more material I collected the more I realised that the major problem was domestic violence.

In recent times there has been increasing concern about crimes of violence in the community, particularly against women. However from the statistics and from studies carried out it appears that domestic violence—or violence within the family—far outweighs that committed outside the home. The acts committed by one family member against others can be so brutal and severe as to cause death, and yet it has not

been until comparatively recent times that the community has taken any serious interest in the problem.

The reason for this seems to be found in the historical belief that children and wives were considered under law to be the possessions of the head of the household. According to Bertrand Russell in *History of Western Philosophy*, it was said of children—

> The justice of a master or a father is a different thing from that of a citizen, for a son or slave is property, and there can be no injustice to one's own property.

Today it is still lawful for children to be subjected to beating or assault by their parents. Section 257 of the Criminal Code states—

> It is lawful for a parent or a person in the place of a parent or for a schoolmaster or master to use by way of correction towards a child, pupil or apprentice under his care such force as is reasonable under the circumstances.

Review of this law is long overdue.

Dr Jocelynne Scutt of the Australian Institute of Criminology reports that "correction" has been held to be "reasonable under the circumstances" in the case of "hard slaps on the face, clenched fist blows to the back, slaps about the shoulders, pushes and shoves that were estimated by a medical practitioner to make a boy uncomfortable up to a week".

With the law and society accepting the right of a parent to inflict physical punishment on a child, and thereby legitimising violence against human beings at a very early age, surely this teaches children to look upon violence as an acceptable way of solving problems or disputes.

Wife abuse, too, has had social and legal sanction throughout history. The latin word *familia* in Roman Empire days had a connotation of slaves belonging to an individual. Married women were defined as necessary and inseparable possessions of their husbands.

Down through the centuries the husband's authority to chastise his wife was written into the laws of the church and the State and later incorporated into English common law. I quote *Blackstone's Commentaries* (1763) on the husband's right to chastisement—

> For as he is to answer for her misbehaviours, the law thought it reasonable to entrust him with power of restraining her by domestic chastisement.

Nineteenth century American law also provided that a husband may hit his wife as long as he "use a switch . . . no bigger than his thumb".

Although the law has been changed in respect of physical chastisement of a wife, married women face three problems in respect of the laws against assault today. Firstly, in this State there is no law against rape where a woman is still living with her husband. Secondly, although severe physical abuse may take place, police are reluctant to prosecute except in extreme circumstances, and indeed often are even reluctant to attend the dispute.

Thirdly there is discrimination in attitudes, both community and official, between family violence and violence outside the home. The attitude still persists in many families that interspousal violence is a normal way to behave and, as I have already mentioned, the Criminal Code actually legalises violence against children.

Evidence exists also that interspousal violence is not confined to one identifiable socioeconomic group in society. It was once thought that it was only—or predominantly—found in low socioeconomic families. However, the Royal Commission on Human Relationships pointed out in volume No. 4 that—

> . . . our own and other Australian research suggests that marital violence occurs in all sections of society and amongst all age groups. Thus we found that most of the women (66 per cent) interviewed in (our) phone-in on wife battering were married to skilled or white collar workers and lived in middle income suburban areas in their own homes.

In a study carried out by the Australian Institute of Criminology of women subjected to abuse, it was shown that those committing it were evenly distributed over the following groups—

> Professional/managerial;
> self employed;
> clerical/craftsmen;
> factory workers/shop assistants/miners/ labourers; and
> pensioners and unemployed students.

In a discussion paper on violence between spouses prepared last year by three social workers called Hall, Northcott, and Thompson who were working on a project on family violence sponsored by the department of social work at WAIT and the Christian Welfare Centre, three Australian studies done in 1975, 1976 and 1980 are quoted and they present an aggregate of the average percentage for class and domestic violence in 423

cases. They found the figures revealed the following—

Group	Percentage of Total Cases
Professional, managerial	17.3
Small business, clerical skilled trades	42.3
Unskilled	34.3
Didn't know	6.2

One of these studies—Gibbeson 1976—involved 111 women and was carried out for the Royal Commission on Human Relationships. Some 56 per cent of the women concerned said they felt embarassed or ashamed about the violence and expresed feelings of failure as wives and mothers.

Another—O'Donnell and Saville 1980—showed 50 per cent had told neither family nor friends of attacks made on them. Most said they were too ashamed to talk about it.

The same discussion paper by Hall, Northcott, and Thompson quotes a police spokesman as saying that domestic crises account for up to 50 per cent of all calls to police communications on Friday and Saturday nights. Although statistics are not kept by the police on this and I was unable to confirm this figure with the acting Police Commissioner (Mr Wilson) it seems to be generally accepted in other literature I have read that a great deal of police time is taken up with "domestics".

Dr Elaine Hilberman in the *American Journal of Psychiatry* of November 1980 gives figures on the situation in the United States. Of all murders in that country between 20 per cent and 50 per cent occur within the family. Police are called to intervene in domestic disputes more often than in all other criminal incidents combined, and 20 per cent of all police fatalities occur during such intervention.

In one study—Kansas City, Mo. police study—40 per cent of the city's homicides were between spouses. In more than 85 per cent of these homicides police had been called in at least once before the fatal episode and in half of the cases they had been called in 5 times during the 2 years before the murder.

Unfortunately such specific statistics are not kept in Australia, but all the evidence points to the fact that domestic violence is a serious problem in this country. For example, the Royal Commission on Human Relationships—final report, volume No. 4 of 1977—found as follows—

> As a result of our investigations we believe that family violence is an issue of major concern calling for action by the government and the community.

One of the conclusions in the Hall, Northcott, and Thompson discussion paper on violence between spouses in Perth was as follows—

> The incidence and severity of violence between spouses in Perth Western Australia is far greater than is generally recognised.

They endorsed the conclusion reached by the Royal Commission on Human Relationships.

The 12-member task force set up by the Wran Government earlier this year in an excellent report containing 186 comprehensive recommendations found that—

> Domestic violence is a deep seated national problem and that governments at all levels, the community and individuals will need to pull their weight if the extent of domestic violence is to be reduced and eventually eliminated.

The Hon. P. H. Wells: That is because of all that gambling in New South Wales.

The Hon. LYLA ELLIOTT: The final point to emphasise that domestic violence is a serious problem is that women's refuges are usually filled to capacity and cannot cope with the demand for shelter for women and children fleeing from a violent husband and father.

Paragraphs (1) and (2) of the motion call for legislative action on the part of the State and Federal Governments to provide greater protection to victims of domestic violence.

I have neither the legal expertise nor the research resources to tell the Government the manner in which the laws should be rewritten in this State to achieve the objective contained in paragraph (1) of my motion. However, I refer firstly to the fact that the main reason that the police are reluctant to act in "domestics" is their apparent inability to achieve a successful prosecution or to prevent the problem from recurring in the absence of any backup crisis unit.

Secondly, I draw attention to the comprehensive list of recommendations brought down by the NSW task force which, in 186 recommendations, suggested amending legislation and a framework for tackling the problem in NSW under a multitude of headings. Under the section dealing with legal issues alone we see headings such as—

> Police powers of entry
> Prosecutions for domestic assault
> Injunctions against domestic violence
> Legal aid
> *De facto* relationships
> Constitutional aspects
> Domestic violence and homicide

Delays in legal process
Supervised access centres
Professional legal education
Chamber magistrates
Stipendiary magistrates

Let us consider what action is open to the wife. If the police refuse to act under criminal law and charge the husband with assault, two options are available to the wife under civil law. She can sue him for damages for the assault. This is not a satisfactory process for the abused wife; not only is it lengthy—it can take months before the case comes to court and in the meantime the husband can threaten or beat his wife into dropping the charges—but also it can be costly. If the action fails the victim may have to pay all the costs, including those of the offender.

Other action open to the victim is to seek an injunction through the Family Court. She can get—

(a) a non-molestation order;
(b) an exclusive occupation order, enabling one spouse to occupy the family home to the exclusion of the other; or
(c) a restraining order, under which certain general restrictions can be enforced.

The problem with an injunction is, in the words of a battered wife named Michelle I quoted in the Chamber earlier this year—

> Restraining orders from the Family Law Court aren't worth the paper they are printed on.
>
> Once you get one it has to be served on the man before it's valid. There is no power of arrest attached to them so that if he breaks the order you can only try and have him charged with contempt of Court. Meanwhile he's still on the loose and able to belt you up.

This is a common complaint of women who have obtained injunctions from the Family Court. When there is further violence against the women the police are powerless to enforce the conditions of the injunction. She has to go through the legal process of contacting her solicitor and going back to the Family Court again to have it enforced.

Special legislation enacted in Britain in 1976 called the Domestic Violence and Matrimonial Proceedings Act allows the judge to attach a power of arrest to an injunction if he is satisfied that the offending party has caused actual bodily harm to the applicant or a child and the judge considers he is likely to do so again.

This enables the police to step in before the assault takes place and arrest a person they suspect of being in breach of the injunction. That person is then brought before a judge within a period of 24 hours and not released within that period except on the direction of the judge. As this seems to be a sensible preventive measure I believe the police in this State should have similar powers. I have therefore included paragraph (2) of the motion. I have said before on many occasions in this Chamber that money spent on preventive measures in respect of social problems is not only humane but also the best investment in the long term. The establishment of a family crisis or crisis care unit to provide intervention and counselling services in respect of domestic violence is urgently needed in this State.

I have already referred to the fact that a large part of police duties is spent on answering calls to do with domestic violence, yet the police are reluctant to get involved in these disputes.

According to Hall, Northcott, and Thompson in their discussion paper, there appears to be an enormous lack of co-ordination and uncertainty among welfare agencies in Perth as to who is able to work with violence in a family context. In response to a questionnaire asking to whom agencies referred cases involving family violence, 28 agencies were listed in total.

At the moment it is mainly the police who respond to calls related to domestic violence. However, it would appear that inadequate training in "domestics" and constraints on time result in unsatisfactory resolution of crisis situations, which develop into long-term problem cases. Domestic crisis units established elsewhere have been shown to be very successful.

An abused wife has needs which require urgent specialist attention. Not only does she need immediate protection for herself and her children, but also she may need shelter, medical treatment, legal assistance, counselling, and other resources to give her an alternative to living with a violent partner. However, with professional intervention and counselling the husband too may be helped to change his violent ways and thus save the marriage.

The crisis care unit in South Australia is very successful in providing crisis intervention in domestic disputes. In addition to handling such areas as sexual assault, child abuse, threatened suicides, and grief following bereavement, it also provides urgent assistance in cases of domestic violence.

The unit received 35 000 to 36 000 telephone calls last year and did in-home counselling in 2 200 cases. Of these, members of the unit were called out to 346 cases of domestic violence involving 811 individuals. From 60 per cent to 70

per cent of their calls come from the police and the remainder from individuals direct.

If there appears to be a risk of violence they take a police patrol with them. They provide a 24-hour service and can be at a woman's home within minutes, depending on distance, of course. I understand that similar intervention by crisis welfare workers in Canada resulted in a marked effect on the recidivism rate in domestic violence there.

So, the establishment of a 24-hour family crisis service would not only relieve the Police Force of a lot of work that should more appropriately be handled by personnel with special training in this area, but also the early intervention could save women and children from injury and even death. When we are talking about injuries, these can be fairly horrific, including punching, kicking, strangling, burning, use of weapons, rape, other forms of sexual abuse, and mental torment.

I was given a tape recording recently of an interview with a woman in this State who had been married to a farmer, and I would like to quote part of the interview. It is important for members to be acquainted with a real case, because we are not just talking about statistics but are in fact talking about real people. In this case I will be talking about a real person who lived in a country area of Western Australia. I listened to the entire taped interview and then obtained a copy of the transcript. As it is fairly long I will not read out all of it, but will read selected parts to give members an idea of some of the treatment to which this particular woman was subjected. The interviewer asked her about the type of violence involved, and the woman answered as follows—

> He used his fist, he mainly punched me around the head and shoulder blades. At the back of the head because they wouldn't show, and the shoulder blade. He used the heel of his feet, and crushed them into the tops of my feet, and bruised all of my feet so that I had trouble walking. And while I was pregnant with one of the children he kicked me badly onto the tail bone which bruised it, and in Winter time on several occasions he would throw me out of bed and strip me of all my warm clothing and made me sit in the kitchen, and in the area I was living in it was very cold, it was bitterly, and I'd have to sit there for hours shivering.

Later in the interview she spoke about mental cruelty, and I quote as follows—

> In the beginning he used mental cruelty, which is very hard to prove, you can't prove this. As the Dr. told me, it wouldn't matter what you did, it's something that you cannot prove in court.
>
> And another time he told me he'd taken poison and he actually crawled on the ground and was dry reaching, and I really thought he had and I was broken you know, and it was all play acting.
>
> And then with my fourth, when I had my fourth baby, I had an emotional breakdown; this was the time when he tore the clothes off me in front of the working man and the children, and the working man grabbed the smallest children and took to the shed because he was too old, he couldn't do anything much, and I was thrown on the ground and hit and punched and kicked and everything else.
>
> And I remember I was laying there and I could see that he was going insane, and at that stage I don't think he knew what he was doing, and I was trying to push him off because he was using his fists into my chest, and I heard—I don't know whether it was me—call it God, whoever you like, but I heard a voice say "Be still, Ann be still" and I lay still, and the fury in my husband slowed down, subsided, and then he got off me, and he grabbed me by my arms, and he dragged me out of the kitchen and up the paddock, and he was going to throw me into a crack in the hill, and I begged him because I could see barbed wire coming, and I knew in his mood he was just going to pull me clean over that barbed wire fence and it would have ripped me to pieces, and I literally begged on my hands and knees for him to let go, and I don't remember anything else until I found myself packing my case, and took the baby with me and went to my parents' place.
>
> I was told later that from that bashing to the time I reached my mother's place was 4 days that I don't remember, they're completely gone. I stayed with my parents for 3 weeks I think, it was all very foggy. I wasn't with the world, not really, I was in a twilight zone I think.

The Hon. P. H. Wells: Did she say why she stayed so long?

The Hon. LYLA ELLIOTT: She left her husband, but he followed her and harrassed her and demanded she come home with their children. She weakened and went back. Later on I will give reasons to explain how this sort of thing happens. I shall continue quoting as follows—

A. I went back to him, which was the biggest mistake of my life really.
Q. Would you have gone back to him for example if there had been somewhere like the Women's Refuge, or Women's Community Centre, and the present Federal Government's allowance. If you'd had some sort of financial help?
A. I would never have gone back.
Q. So that you virtually had no choice at all?
A. No choice. I was getting $17 a week, wait a sec, $32 a week from Welfare, and $17 of that had to go on rent which left me . . .

The voice trailed off there.

The Hon. I. G. Pratt: How long ago was this?

The Hon. LYLA ELLIOTT: I was given the tape about two months ago and the interview took place quite recently. She went back and the beatings started again. She went on to speak about a particular day when she was preparing the dinner, and I shall quote as follows—

> By 5 o'clock that Saturday afternoon I started getting tea on and I was cutting up potatoes and he found a rotten potato out of the box, and he came in and rubbed it all over me. Now a rotten potato is putrid, and I went and washed it all off, and I just walked out of the house and I walked 10 miles that night.

The next day there was an argument about a wallet which precipitated further violence. I quote again—

> And he went in there and he screamed at me and Roy and he was slapping him. He had him on the bed and he was slapping into him. And I went into him and I grabbed him by the shoulders and said, "Leave him alone, what are you doing to him?" He was screaming that he'd taken his wallet, and I said, "nobody's taken your wallet, its still in your bag". And with that he turned around and he, with a clutched fist, he hit me straight in the nose and smashed my nose, and he must have hit me 2 or 3 times, 'cos I hit the wall and my eye and nose and mouth was all bleeding. The children were all screaming, there was blood on the wall and on the carpet . . .

That is all I intend to read. Ultimately a charge was laid against the husband for aggravated assault, and he was put on a bond for six months. His wife left him following that violence and eventually a divorce took place. It was important to quote that case to the Chamber because I think it gives a better understanding of the sort of physical and mental torment that some women are put through.

Wife abuse often is accompanied by physical or sexual abuse of children. Whether children themselves are abused or are witnesses to parental violence against each other, they are deeply affected by the violent environment in which they live.

Studies show a high incidence of somatic, psychological and behavioural dysfunction in children in violent homes. According to Dr Hilberman in the *American Journal of Psychiatry* of November 1980—

> Psychosomatic illnesses were especially prominent in the children we studied and included headaches, abdominal complaints, asthma, peptic ulcer, rheumatoid arthritis, stuttering and enuresis. Depression, suicidal behavour and overt psychosis were seen in a few of these children and adolescents.

In addition to the terrible mental, physical and emotional toll that domestic violence takes of children, unless it is broken the cycle of violence is perpetuated in the children. Violent homes are a training ground for further violence. Boys from these homes who have been subjected to or witness physical abuse often become wife or child beaters.

That was implied in the interjection of the Hon. Peter Wells. People who have never experienced the horrors of domestic violence often pose the question, "Why do they stay?", and sometimes they tend to blame the women.

Women are often trapped in a violent situation by a number of factors. In some cases the woman may have grown up in a violent home and may think this is the norm in all families. Battered women often do not believe they can escape from the batterer's domination, and this feeling of powerlessness prevents effective action.

In some cases there is an emotional element in that when the violence has subsided the husband may adopt a repentent attitute, weep, promise never to do it again, and seek a reconciliation. This apparently has a fairly powerful effect on the woman who even feels sorry for him. This deterrent to leaving him may be reinforced by her economic dependence.

Perhaps of greatest importance is absence of economic resources. Most women are financially dependent on their husbands and many do not have the employment skills necessary for independence. There is no need for me to emphasise the enormous financial and other problems of a woman trying to raise even one

child on a pension. We all know the problems of supporting mothers.

There is also the fear that by leaving a violent husband a woman will be inviting further, perhaps homicidal attacks on her by him. There is plenty of evidence of husbands tracking their wives down and belting them up for leaving them and taking the children.

So, to summarise: Battered wives are often immobilised by fear, economic problems and fear of loneliness. Often they will attempt suicide as they see no other way out of the hellish situation in which they find themselves.

I turn now to women's refuges. It was not until the early 1970's that it was realised wife abuse was a widespread social problem extending into all areas of the community. In 1971 Erin Pizzey of the Chiswick Women's Aid Centre in London wrote *Scream Quietly or the Neighbours Will Hear* which helped to stimulate interest in the question. Following this, feminists and other women's groups took the initiative and battled to set up refuges in Australia.

Until then there were few places where women in a crisis situation could take their children. Usually they had to be separated, with the children going into a children's home and the mother into a hostel for single women. Some religious and charitable organisations provided limited accommodation for women and children but these were few and far between. Governments did practically nothing in this area until the Whitlam Government, which gave the first substantial Government support.

Today in Western Australia, according to the Minister's reply to the Hon. Bob Hetherington, we have 14 refuges. Last year the refuges in this State gave shelter to 1 460 women and 2 116 children. They are always full and frequently are forced to turn woman and children away because of that.

Point of Order

The Hon. R. J. L. WILLIAMS: In order to regularise the position—I have no wish to interrupt the member—I ask whether the member is complying with Standing Order No. 73 in addressing the House? I would ask for a ruling on that matter.

The PRESIDENT: In answer to the query raised by the Hon. John Williams, the member is complying with Standing Order No. 73.

Debate (on motion) Resumed.

The Hon. LYLA ELLIOTT: Until recently the major funding of refuges came from the Federal Government under the community health programme. Seventy-five per cent was provided by the Commonwealth and 25 per cent was supposed to be met by State Governments. The WA Government and the Queensland Government were the only two State Governments which did not meet this and provided only a mean 12½ per cent, forcing the women who run the refuges to raise the other 12½ per cent.

Because the State Government refused to meet its full share of the running costs the refuge workers were forced to use voluntary labour, donate their wages back, and raise other funds to keep these essential services operating.

The Government must concede refuges are essential because its own departments refer cases requiring emergency shelter to them.

Last month the shadow Minister for Health in another place (Mr Barry Hodge), asked the Minister for Health where he recommended women and children in need of refuge and accommodation should go if they were unable to be accommodated in the present women's refuges. The Minister for Health replied, "The Department for Community Welfare". The Department for Community Welfare refers women to women's refuges.

The Minister for Health recently withdrew the funding of one refuge because the women running it said they would not take referrals from the Department for Community Welfare as a protest against the Government's policy on funding.

With the handing over by the Commonwealth to the States of the funding of the refuges, more problems have been created for the women running them.

Firstly, unlike the New South Wales and Victorian situations where acceptable guidelines for funding were arrived at after negotiations between Government departments and refuge groups, in this State, when the groups' representatives met with the department, they were handed a set of non-negotiable guidelines which had no regard for the variation in the refuges and the different services offered by them.

Secondly, the Government has not announced any intention to increase the existing totally inadequate funding. Instead it has laid down guidelines which will mean a redistribution of funds from some refuges to others and any new refuge will be at the expense of existing ones, some of which may be forced to close. The funding formula for wages means that the workers will be grossly underpaid, receiving less than the minimum weekly wage.

Let us look at the kind of problems with which refuge workers have to cope. Firstly there are emotional and psychological problems of women who have developed a passive, helpless attitude and loss of self-worth and self-confidence. This needs careful, sensitive handling. Refuge workers must be supportive and at the same time try to rebuild the women's independence and confidence.

There may be behavioural problems with the children, particularly boys who may be developing the violent, aggressive characteristics of their fathers.

There is the need to obtain legal, medical, financial, housing and other resources for the destitute woman and her children. There is also the possibility of violence from husbands directed at refuge workers as well as their clients.

I would like to pay a tribute to the wonderful, caring, selfless work done by the women who established and work at the refuges. There is no longer any question about how desperately these establishments are needed. They are performing a vital service on behalf of the Government and it should recognise this.

I therefore call on the Government to ensure that in the forthcoming Budget the value of these refuges will be recognised and funding increased in the terms of the motion I have moved.

Debate adjourned, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife).

MISUSE OF DRUGS BILL

Report

Report of Committee adopted.

FAMILY COURT AMENDMENT BILL

Second Reading

Debate resumed from 17 September.

THE HON. J. M. BERINSON (North-East Metropolitan) [5.28 p.m.]: The continuing massive work load of the Family Court is bad news indeed for anyone who is as concerned as I am with the importance to the community of stable family life. The current level of instability, unfortunately, is something which legislators are in no position to affect. It is therefore left to Parliament to at least provide facilities which will enable the results of breakdowns to be handled as effectively and reasonably as possible. The role of the Family Court in this respect is crucial.

This Bill, within its narrow scope, is designed to arrest that process. As the Attorney General has indicated, the registrar of the court was previously authorised to handle certain judicial functions, mainly of an administrative nature, in order to lessen the load on the judges and to free their time for contested cases.

Such is the pressure on the court that this means of assistance also has reached its effective limits and we find that the registrar himself cannot handle all available applications if he is adequately to perform his other required duties. This Bill therefore extends the earlier provision by permitting the appointment of a deputy registrar to perform duties similar to those previously allocated to the registrar. This will mean at least several half-days a week of the judges' time will be made additionally available for the more particular work on which they ought to be engaged. It is a small measure but, to the extent that it helps, it ought to have the support of this House.

It is some time—several months at least—since I looked at the statistics of the Family Court, and it is really awesome to see the way in which the work of that court—whether in respect of applications for dissolution, or applications for other relief, or work involved in counselling, which invariably are numbered in the thousands each year and indeed are close to the thousand each month—has increased. The fact that the court has been able to maintain a relatively short waiting list is to its credit. I believe that we ought to express appreciation of the ability of the court to meet its obligations as well as it has, given the absence of additional judicial appointments and the very heavy pressure of work imposed on the present holders of the respective offices.

I do not want to succumb too far to the temptation to go beyond the narrow limits of this Bill, but I think the very least that ought to be said is that the position so far as the waiting lists of this court are concerned make appear all the more unfortunate the extended waiting times which we have found in recent months have developed in other courts—the Supreme Court, Courts of Petty Sessions, Local Courts, and so on. I accept well enough the assurances of the Attorney General that he and the Government are concerned about those delays, but what is required is rather more than expressions of concern. We need some positive action, and even if this could be implemented only in peripheral areas due to economic stringencies, still these avenues of relief ought to be explored as expeditiously as possible. Some expression from the Attorney General as to what are the prospects of those other courts would be welcome.

Among the more simple of the measures that might be taken in order to relieve the pressures on the Supreme Court for example, is the proposal to

extend the present limitation of $3 000 on the jurisdiction of the local courts to at least, say, $5 000. That would certainly require the appointment of one or more additional magistrates; but that is a relatively economic measure compared with the need to appoint additional Supreme Court judges and the extra services required to go with them. Not only would an economy arise in terms of State expenditure, but, also an expansion of jurisdiction of the Local Courts has a great deal to offer in terms of reducing the risk in costs which litigants now face.

The position today is that the scale of costs in the Supreme Court is such that a litigant looking for relief on a matter as low as $5 000 would as often as not be advised not to pursue the claim because the risk in costs would very easily amount to the order of $10 000 and the cost benefit is simply not there, given the normal risks of litigation.

At the same time I think it is appropriate to remind the Government of the Premier's undertaking in his last election platform that a simpler means would be introduced of handling all claims that involve less than $1 000. It is now some 18 or 20 months since the undertaking was given. It was presumably based on something substantial by way of prior investigation of the possibilities, and it is really disappointing over this period, especially with accumulating evidence of problems of court backlogs, that nothing effective has emerged.

I say no more on that because as I have already conceded these are matters that go beyond the Bill which, in its own terms, covers a very limited area. In respect of that area, as I have indicated, the aim of the Bill is certainly an acceptable one and it has the support of the Opposition.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.37 p.m.]: I am glad to hear that the Opposition suports the Bill. If the honourable member had confined his remarks to the Bill that is all he need have said. He did digress, despite his desire not to do so—

The Hon. J. M. Berinson: The temptation was overwhelming.

The Hon. I. G. MEDCALF: —and it did of course have nothing whatsoever to do with this Bill. In view of the honourable member having done so, I think it is only appropriate I should tell him a few things that have happened during his absence overseas. There have been quite a few changes since he last looked at this position. Firstly, I would like to refer to the Family Court because he touched briefly on this. The situation in Western Australia is infinitely better than that existing in any other State of Australia.

The Hon. J. M. Berinson: I acknowledge that.

The Hon. I. G. MEDCALF: In Western Australia due to the fact that the Government took advantage of the jurisdiction that was made available to it under the Family Court Act to have a State Family Court, we have not now, and never have had the problems which have occurred in relation to jurisdictions in the other States which decided they would not have a State Family Court. From time to time, the situation here has been assisted by the Government and it has added to the number of judges. Originally there were three judges of the Family Court. There has never been a shortage of judges of the State Family Court although the honourable member in his remarks implied that might have been the case.

The Hon. J. M. Berinson: I did not mean to imply that.

The Hon. I. G. MEDCALF: That was the implication.

The Hon. J. M. Berinson: If you drew that inference it was a matter of misunderstanding my intention.

The Hon. I. G. MEDCALF: There were originally three judges at the Family Court and we appointed another one. The Government took on itself the responsibility of appointing another judge before the Commonwealth Government was prepared to accept that liability. The Government then appointed a further judge in order to accommodate the people who wanted to have their family disputes settled as soon as possible. There are now five judges and we have given the registrar the powers of a stipendiary magistrate. The Government is now extending that power to the deputy registrars so each of them can attend to ancillary jurisdiction as and when necessary. This of course is all in order to facilitate the functions of a court which is designed basically to carry out Commonwealth law. It is the Commonwealth that is responsible for the Family Law Act; the State has merely added some jurisdiction to it in relation to adoption, affiliation, and various matters that come under the State Family Court Act. We are endeavouring to facilitate the business of that court.

The reason the Family Court is so much better off than other State courts—and here the honourable member made a contrast—is the superior finance which the Commonwealth possesses. The Commonwealth is able to provide finance and that is the reason for the Government being able to appoint a deputy registrar as a

stipendiary magistrate. As a result of this appointment, other appointments will need to be made and there will be increases in salaries to be met. The State Government will have to provide finance for the more basic requirements in relation to its courts and this adds to the excessive constraints placed on the State's finances. This is the difficulty that the Government has and it has to use the funds available to its best advantage.

If I may, I would like to mention another point which the honourable member mentioned and which has nothing to do with the Bill.

The Hon. J. M. Berinson: You are going to engage in irrelevancies!

The Hon. I. G. MEDCALF: He generalised with a very wide canvas about all the courts. One cannot do that. One has to look at the courts *seriatim*. We look at the Supreme Court and do not say that by increasing the jurisdiction of the Local Court to $5 000 we would relieve the load of the Supreme Court because all we would be doing is relieving the District Court. But the principle is the same. By changing the jurisdiction one can undoubtedly make changes, and that matter is receiving consideration. I have already indicated that. This matter is presently receiving consideration and discussions are being held with the Law Society, the Chairman of the District Court and the Chief Justice to see what adjustments can be made; but that is to be done with the least possible inconvenience. Undoubtedly by shunting work into the lower echelon the work of the higher courts will be reduced.

In respect of the Supreme Court and the District Court we are endeavouring to make adjustments. We are doing the best we can in a very difficult situation. In regard to the Local Court, the delay has been very greatly reduced in the last few weeks.

To the best of my recollection I made my last statement on this matter while the honourable member was overseas. The exact delay period in the various courts was set out, and there has been a substantial reduction in the backlog, particularly in regard to the Court of Petty Sessions in Beaufort Street. From memory the delay there has been reduced from 16 weeks to 12 weeks. In the main this is due to the fact that the appointment of three additional magistrates has brought the bench for that court up to full strength.

I made other comments, and as the details are all set out, there is little point in going over them again. I commend to the honourable member a study of that subject—I think he will find it most rewarding.

We must consider each court separately. For instance, the delay in the Local Court at Rockingham is quite different from the delay in the Local Court at Armadale. This is largely due to local factors and such problems as temporary appointments and magisterial changes. The situation is being monitored carefully and consistently. The honourable member will be surprised to know that a new system of monitoring has been introduced in the Supreme Court. Obviously he was unaware of this. The Supreme Court now furnishes monthly returns—something it did not do before.

The Hon. J. M. Berinson: Is that reducing the backlog?

The Hon. I. G. MEDCALF: We hope that it will do so. This information will keep us informed of the exact state of the lists from month to month, the result of the callover, the anticipated dates of hearings of listed cases, the date of first listing of each case, and so on. We need this basic information to enable us to assess the situation, because it changes from time to time.

The Hon. J. M. Berinson: I understand that will assist the state of your knowledge, but I do not altogether understand how it will reduce the backlog.

The Hon. I. G. MEDCALF: It will reduce the backlog by improving the state of our knowledge. When we know the exact situation, we will be in a better position to take appropriate action. Some wild assertions have been made about delays, and the honourable member has contributed a little to the confusion himself. For example, he made a sweeping statement this afternoon when he said there is delay in all the courts. However, this is completely irrelevant to the matter under discussion and, as I say, I commend the honourable member to a study—

The Hon. J. M. Berinson: You have already commended it several times, and I take that point. But what other point have you to make about the Premier's undertaking?

The PRESIDENT: Order!

The Hon. I. G. MEDCALF: I have stressed this point because of the honourable member's considerable ignorance of the subject. I want to make certain that he gets the message.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney General), and transmitted to the Assembly.

PLANT DISEASES AMENDMENT AND REPEAL BILL

Second Reading

Debate resumed from 16 September.

THE HON. J. M. BROWN (South-East) [5.51 p.m.]: Probably most members of the House will not be enthused about this Bill; I do not think it will create a great deal of debate. This is unfortunate because what we are doing here is of great significance to the well-being of our State.

The original legislation in regard to plant diseases was introduced before the turn of the century. In 1898 the Parliament passed the Insect Pests Act, and then in 1914 the Plant Diseases Act replaced that legislation.

The Bill before us proposes to repeal the Plant Diseases (Registration Fees) Act. I do not think any member would quarrel with the proposition that it will not be necessary to pay registration fees for orchards. These fees have not been imposed for many years. The Bill proposes also to repeal section 8 of the Plant Diseases Act, which sets out the regulations governing the growing of fruit trees and vines. It is necessary to delete that section as the provision in respect of registration fees will no longer apply.

When one looks at the legislation very carefully, one discovers that the only attempt being made to clean up the skeleton in the cupboard—that is, the problem of fruit fly—is to increase the penalties. We acknowledge that it is desirable to increase penalties, but our real concern is about the action the Government is taking to control plant diseases. I think that matter is of concern to every member of the House.

It is apparent that less and less money is being spent on control of these diseases, and one wonders who will bear the cost if the control of disease is left to individual orchardists and the community.

We are all well aware of the situation that arose in regard to backyard orchards, and we wonder at the result when it is no longer necessary to register orchards. I understand that the cost of administering the registration scheme was greater than the revenue gained from the registration fees. However, we must do something to try to control these diseases. Every orchardist would be pleased if there were no backyard orchards. This fact was acknowledged in another place, and we must be concerned about the overall position in the State.

The main impact of the Bill is that it will increase the penalties for offences relating to the control of diseases in line with the Commonwealth penalties.

I would like to refer to a particular case that was drawn to my attention. A passenger on an aircraft from India brought in about 4½ kilograms of nuts and dates without declaring them. Subsequently this man was summonsed to appear in court.

He appeared in the Local Court, and he pleaded guilty to the offence. The Crown Prosecutor did not attend the court that day to give the details of the case, and the magistrate informed the defendant that the case would be heard in a fortnight's time, but that it was not necessary for him to attend on that occasion.

The defendant did not attend the court when the case was heard, and we cannot blame him for that because many people do not enjoy court appearances. He then received a letter from the Crown Law Department telling him that he had been fined $1 000 for bringing food into the country without declaring it.

The first point is that it is very important to control diseases that could become established in this State as a result of people bringing food from interstate or overseas. However, I do not think the magistrate was aware of the likely consequence to the defendant.

When the magistrate heard the case, the Crown Prosecutor pointed out the seriousness of it. The maximum fine for this offence is $2 000. When I inquired about the matter on behalf of the defendant I was told he had been fined 10 per cent of the maximum fine on two charges, and 15 per cent of the maximum fine on the other charge. The magistrate thought it was a rather lenient penalty.

I acknowledge the fact that the Crown Law officers were simply doing their job, and they did it well. I was informed that under the Commonwealth legislation, the penalty for such an offence could have been $10 000.

This highlights what we are talking about today—the seriousness of the diseases that could penetrate our country, and their cost to the State. If the problem is not understood at the highest

level, what opportunity is there for the community to understand its responsibilities?

The amending legislation is not of great consequence, except that it draws attention to the need for more severe penalties in an effort to control the problem of plant diseases.

Sitting suspended from 6.01 to 7.30 p.m.

The Hon. J. M. BROWN: Prior to the tea suspension I referred to the fact that I did not believe the public were fully aware of the implications of infringements of the Plant Diseases Act, particularly on a Commonwealth basis. Severe penalties have been applied at the Commonwealth level, and this whole area is of great importance to the agricultural industry. However, I do not believe this Bill will receive the sort of in-depth discussion it ought to receive.

A report appeared in *The West Australian* of 21 September 1981, under the heading "WA fights on in the bug war". That excellent article was written by Michael Zekulich and reads, in part, as follows—

> WA's agricultural industry loses many millions of dollars a year because of insect and mite pests.
>
> The sheep blowfly, for example, causes losses estimated at $75 million a year in Australia—$15 million in WA.

The report refers to the fact that the Director of Agriculture (Mr Fitzpatrick) said that the department had published a comprehensive report on the "bug war" in the latest issue of the *Journal of Agriculture*. Unfortunately, I was not able to obtain a copy of that journal. However, as far as the industry is concerned, it is one of the most informative journals available. People involved in agriculture would do well to study that journal whether they be involved in wheat growing or the production of fruit. The report continues—

> It is the first time that this has been done as a single reference publication.
>
> The extensive range of subjects covered include the attack on fruit fly, controlling grasshoppers, managing pests in apple orchards, controlling cotton pests with egg parasites, tackling the lucerne flea and red-legged earth mite and integrating insect control for Ord soya bean production.

That is a wide range of subjects. Anyone who has been involved in agriculture would understand the cost of such pests to the community.

I am well aware of the problems which have existed in regard to the red-legged earth mite, and millions of dollars have been spent in an endeavour to control it. That pest has not been evident in agricultural regions in recent years and it appears it is under control.

The report continues—

> In the foreword of the report, Mr Fitzpatrick said that it cost more than $6 million a year to control insect and mite pests with chemicals.

That is not an insignificant sum of money and it is the producer, not the community, who is saddled with it. In order that the Department of Agriculture may fulfil its research activities, the facilities available to it must be expanded.

I should like to refer now to biological control and the necessity for continued funding, particularly on a State basis, of research in this area. The potential of biological control of insects is of far greater significance than most people realise. The fruit growers in Carnarvon have carried out tests in an endeavour to control fruit fly there. I believe the research carried out in that area has been very successful and, therefore, we should look beyond the use of herbicides and endeavour to improve the biological control of pests. It is clear it will be necessary to allocate additional funds for research in this area.

Mr Fitzpatrick suggested that pesticides would continue to be essential for Western Australian agriculture. However, he went on to say—

> Biological control goes back to before the turn of the century. Then from 1901 to 1910, George Compere, a French Canadian, was contracted to the WA Government and the Californian State Government to travel the world to collect parasites and predators, mainly of horticultural pests.

I believe we have only touched on the fringe of biological control, despite the fact that research has been carried out in this area for some time.

This leads me to the subject of plant diseases. Members are all aware of the disastrous experience of local authorities with fruit-fly baiting schemes. Many local authorities thought the Department of Agriculture was passing the buck when they were given the responsibility to control fruit fly. Indeed, a number of local authorities experienced problems collecting fees from ratepayers and occupiers under the schemes. In certain areas a degree of success was achieved. This occurred when people recognised the problem, as they did particularly in country areas; but the schemes really did not get off the ground. However, nothing in this legislation will replace them.

The main purpose of the amendments is to increase the penalties from $20 to $400 in some

cases, and up to $2 000 in others. The legislation also increases the powers of departmental inspectors. The powers given to inspectors in this Bill remind me of similar unlimited powers which were awarded to officers involved in soil conservation in legislation we debated previously. On that occasion, those powers were never used. The powers given to inspectors in this Bill appear to be unlimited and it is unlikely they will be used. Everyone expects the inspectors to do their jobs, but unlimited powers of this nature should not be given to them. The number of charges laid under the Act is diminishing each year, as is the amount of funds allocated to this matter. Last year this Government spent approximately $50 000 on the control of plant diseases and the number of prosecutions was approximately 100. That does not seem to indicate a great deal is being done about a severe Statewide problem which will have drastic consequences for Western Australia if we do not take an active part in controlling it.

A member in another place referred to skeleton weed control in this State. Perhaps in his reply the Minister could indicate whether it is intended levies be applied within the industry in an endeavour to control plant diseases. Under the legislation covering skeleton weed, every primary producer is charged approximately $30 regardless of the quantity of material he delivers. That money has been used very successfully for the control of skeleton weed.

The department, the farmers, and the industry generally have done an excellent job and this is the sort of co-operation we should see in the control of plant diseases. The problem is not isolated to the hills, although many fruit growers there have managed to control fruit fly, at great cost to themselves; and that sort of expenditure is passed on ultimately to the public.

Perhaps the Minister could consider a scheme, similar to that which operates in the control of skeleton weed, being applied in this area. Given the co-operation of the industry, effective control could be achieved.

The amending legislation is not of great significance and, in fact, the Act ought to be rewritten. It was proclaimed in 1914 and has been amended many times since then. As a result, it is a very confusing piece of legislation and should be completely rewritten. I hope that, when the Government considers tidying up any skeletons in its cupboard, it turns its attention to this piece of legislation. Members are expected to be able to understand legislation of this nature and the public also are expected to be able to comprehend it and work within it. However, it is almost impossible to follow the provisions in the Act and the Government should seriously consider rewriting it.

I earnestly urge the Government, when introducing Bills such as this, to ensure that the community receives the consideration which it deserves. We on this side of the House have no problem supporting the amending legislation.

THE HON. V. J. FERRY (South-West) [7.46 p.m.]: I support the last few remarks of the Hon. J. M. Brown when he referred to the necessity for the Plant Diseases Act to be reprinted. This Act has been amended on a number of occasions—certainly it has been amended frequently over the years—and I agree with the member when he says that it is not an easy task to try to follow its provisions, especially when one considers the amendments.

We now have a further amendment, and quite frankly I think it almost defies anyone to follow the Act logically and sensibly from start to finish. I urge the Government to give urgent consideration to the reprinting of the Act, following the expected passage of the amending Bill through this Parliament.

I agree with the provisions in the Bill to eliminate the necessity for orchard registration fees. It is quite obvious that the registration of orchards is not necessary and the fees associated with it are not sufficient to cover the cost of their collection. They are not necessary and therefore that amendment meets with my approval.

The Bill provides for a survey of orchard properties and, in particular, those in a given designated area. I understand a register will be kept to record the names of the fruit growers within a given district and, hopefully, this will be more correct than has been the case in the past.

It is obvious that if a survey of an area is taken and the names of the fruit growers and properties in it are ascertained, they should be correct. However, I wish to draw the attention of those responsible for the maintenance of this register to the fact that properties change hands from time to time and that vigilance is required to ensure that the changes of ownership are noted.

I am not a great believer in placing advertisements in local papers but it may be worth while considering the placing of suitable advertisements in the local Press of country districts, from time to time, to acquaint growers of the provisions of the Act and their requirements under it. That may be one way of ensuring that the records are kept up to date.

It is necessary to have correct lists for many reasons, but one of the real needs is to have a list

of growers who may be eligible to vote on any particular issue in certain areas. A poll may be required in a certain designated area where a scheme is to be implemented, continued, or discontinued. Therefore the growers in the district should be correctly recorded. Of course, we have the time-honoured problem of who should have a vote and how many votes should be weighted, especially in the situation of commercial growers operating in a certain area. We do have domestic growers who may have one or even a few trees for their personal use, and as growers of fruit trees they may be in a declared area and therefore eligible and, in fact, required to vote.

On one side of the argument, commercial growers should have a greater weighted vote than backyard orchardists. However, there are all sorts of arguments for and against this, and an acceptable solution has not been found.

From my understanding and research of the legislation, the best method devised is one vote for each property owner, but then we come up against the situation of joint ownership or several owner partnerships, etc. That may be overcome by having one designated representative from that partnership who has the right to vote. I do not think this pleases the commercial growers very much, especially when we consider a person with a 15-hectare orchard and compare him with a backyard orchardist with just a few trees, and they have equal voting rights.

From time to time it is necessary to assist an industry, particularly the agricultural industry, by way of allocated compensation. A situation may occur where several people are associated with a particular property—the property may comprise a firm—and it is difficult to allocate compensation on any basis other than on each property, irrespective of the number of people involved. This matter is one which exercises the minds of fruit growers and producers, especially the commercial growers.

One of the provisions in the Bill is difficult to follow. Mr Brown referred to this difficulty and mentioned that the numbering of the sections in the parent Act appears to be duplicated. I realise there are some transitional provisions in the Bill which, at first glance, do not seem to flow, but when we reflect upon the matter, we realise they are necessary. However, the drafting needs to be tidied up because, although I am no great expert in following the drafting of Bills, I guarantee that people in the big, wide world will have more difficulty than I in following the provisions in the legislation. The drafting of the Bill requires some attention.

The Bill provides for the operation of certain schemes; for example, a baiting scheme which may be required in a designated area. I have referred to the transitional provisions in the Bill. A number of areas have schemes in operation at the present time, but there may be some areas where the growers have voted against a scheme being implemented or discontinued. It seems to me that all schemes should commence the minimum statutory period of operation from the date of introduction. If a poll should vote a scheme out, the scheme should be discontinued for the minimum period commencing from the date of the poll. I hope the Bill before us does not change that sort of situation. I do not believe it does, but from the somewhat jumbled printing of the Bill it would seem that all schemes in operation at the present time, at whatever stage they may be, will continue under the transitional clauses.

From my reading of the Bill it appears that the new provisions will apply only to schemes of the future. I believe that to be a fair summary of the situation, but if I am incorrect I hope I will be told so.

I wish to refer to the problem of cover spraying fruit, and in order to illustrate what I am referring to I will quote part of the regulations which were gazetted on 4 July 1980 under the Plant Diseases Act 1914-1979. I believe this should be recorded because a number of commercial growers have approached me in order to have this situation clarified. I quote the regulations, in part, as follows—

> (2) A person required by—
>
> (a) section 11 of the Act to take or cause to be taken the steps, and to adopt the measures; or
>
> (b) section 12 of the Act to take or cause to be taken the steps, and to adopt or cause to be adopted the measures;
>
> referred to in subregulation (1) shall, subject to this regulation—
>
> (c) apply to every fruit tree, and to every fruit vine, having fruit thereon in the orchard concerned treatment in accordance with either Schedule I, Schedule II or Schedule III; and
>
> (d) pick all fruit infected with the disease from each fruit tree, and gather all fallen fruit from the ground, in the orchard concerned—

(i) in the case of apricots, feijoas, figs, guavas, loquats, nectarines, peaches, pears, persimmons, plums and quinces, at least once in every 24 hours; and

(ii) in the case of fruits other than apples and fruits referred to in subparagraph (i) of this paragraph, at least once in every 3 days;

and destroy by boiling, burning or some other method approved by an inspector all fruit so picked or gathered.

The regulations continue as follows—

(4) A person referred to in subregulation (2) may, instead of gathering fallen fruit and destroying it in accordance with paragraph (d) of subregulation (2), cover spray fallen fruit, other than fallen citrus fruit, with an 0.08 per cent active ingredient water mixture of fenthion so that that fallen fruit is completely wetted.

I have quoted the relevant parts. In 1980 the Minister for Agriculture gave an undertaking that commercial growers could use cover sprays as a means of fruit-fly prevention. Now, cover sprays on the fruit are a little different, especially when cover spraying fruit which has fallen on the ground. Times have changed in the fruit industry and it is not only economically impossible for commercial fruit growers physically to pick up the fallen fruit every 24 hours, but with the lack of available manpower it is just not physically possible, in this day and age.

Therefore, it is appropriate that fallen fruit should be allowed to be cover sprayed to destroy the fly. That seems to be fair enough, and is covered adequately by the regulation which I just quoted. I hope that situation continues because it is a common-sense approach to the problem. I cannot see any need to revert to the situation where orchardists must physically pick up the fruit and destroy the fly by boiling, or other manual means.

Last year, the Minister gave an undertaking to certain commercial fruit growers that they could, in fact, use cover sprays on their trees to prevent fruit-fly infestation, rather than employing the normal baiting system. I do not believe that is laid down either in the legislation before us, or in the parent Act or the regulations. Therefore, I hope that in areas subject to fruit-fly baiting schemes, provision is made whereby commercial fruit growers can be granted a "licence" to cover spray their fruit trees. There is some degree of apprehension amongst some commercial growers that they may be caught up in an unnecessary and uneconomic provision requiring them physically to attend to fallen fruit and destroy it by some manual means.

I stress this point quite strongly. Any scheme which is to come into operation in this State should allow commercial growers, upon their application, to carry out fruit-fly eradication procedures by means other than the old-time, physical methods.

I refer members now to an interesting provision of the parent Act. Section 35 of the Act states as follows—

The minimum penalty for any offence against this Act shall be one-twentieth of the maximum, and no court or magistrate shall have any power to reduce such minimum.

That provision has been in the Act since 1914, a period of some 67 years. I checked the relevant volume of *Hansard*, and at page 890 of *Hansard* for 25 August 1914, the following appears—

Clause 31—Minimum penalty:

Hon. J. MITCHELL: There is provision here that the minimum penalty shall be one-tenth of the maximum penalty. Surely it should be left to the magistrate to say what the penalty should be.

The MINISTER FOR LANDS: The insertion of this provision is necessary owing to the fact that in prosecutions which have been instituted against different persons for breaches of this Act, the penalties have been of such a nominal character that they have not acted as a deterrent. It is felt that if we are to ensure this Act being faithfully observed, fruitgrowers will have to co-operate with the department and then we ought to have some penalty which will act as a deterrent against those who will not assist.

Clause put and passed.

It seems that the minimum provision was put into the legislation some 67 years ago and has remained in the Act until tonight. I raise this point because there seems to be a current trend in legislation not to spell out minimum penalties.

The minimum penalty provided for was one-twentieth of the maximum. The Bill before us tonight provides for several increases in penalties. Section 11 of the Act is to be amended by increasing the penalty from $50 to $1 000; section 12 is to be amended by increasing the penalty from $100 to $1 000; section 14 is to be amended by increasing the penalty from $200 to $2 000.

As an example, one-twentieth of $2 000 is $100, which in itself is not an exorbitant sum and would not be a tremendous deterrent. However,

the thinking behind the original legislation—and, I gather it has been the thinking of the fruit growing industry ever since 1914—was that the courts should be given a direction to hand out a reasonably substantial penalty to offenders and in fact were not permitted to hand out a penalty less than one-twentieth of the maximum provided for in the Act. That was done for the deliberate reason to try to instil in people who offended against the provisions of the Plant Diseases Act the seriousness of their offence.

That may be fair enough. However, I do know that sometimes when charges are laid against people, extenuating circumstances are evident, and the imposition of a minimum penalty of $100 could be an unfair penalty in such cases. I believe this section of the parent Act needs to be reconsidered by the Government to establish whether it is consistent with present thinking. Perhaps, in association with the industry, the Government could amend this section of the Act to bring the Act into line with modern legislation. A fine of $50 may not in itself be much of a deterrent; however, in some cases, it could be that a fine of $10 might fairly be applied and might be just as much of a deterrent.

I do not wish to make a lot of that aspect of the legislation; however, it is worthy of comment, particularly as it seems to depart from the general trend in dealing with minimum penalties, or penalties in general.

I refer now to some of the remarks made by the Hon. J. M. Brown. I heartily concurred with most of what he had to say, therefore I do not intend to canvass the area he discussed. Notwithstanding that, I wish to refer to the fact that the fruit industry in this State continues to be an important industry. The industry—particularly the apple growing segment—is going through troubled times. The industry must contend with seasonal conditions, pests, and disease and is dependent not only on the home market but also on overseas markets.

It is becoming increasingly difficult for producers satisfactorily to sell their product overseas, particularly in Europe. Therefore, when we are faced with this virile competition, it is important we keep our product free from disease so that we can look the world in the eye and say, "We have a disease free product which we can sell anywhere if you are prepared to buy it". If there is any suggestion or suspicion that our product may be carrying disease of any kind, we will have little or no hope of selling that product to an overseas market.

Therefore, this legislation is important. It is sometimes said that agricultural legislation generally engenders a great deal of debate in Parliament. I believe it is very necessary that such deliberations take place, particularly in this Chamber, so that members may air their points of view on matters which affect many people, not only as individuals but also in a way which assists the State of Western Australia.

Debate adjourned, on motion by the Hon. Margaret McAleer.

VETERINARY PREPARATIONS AND ANIMAL FEEDING STUFFS AMENDMENT BILL

Second Reading

Debate resumed from 16 September.

THE HON. R. T. LEESON (South-East) [8.11 p.m.]: In supporting this Bill, I wish to make a couple of observations. Firstly, the material used in pet food no longer will need to be registered under this Act; the Minister gave reasons for this in his second reading speech. I noted what the Minister for Agriculture said in another place. Perhaps it is somewhat ironic that this Bill should be before the House at present, considering the problems experienced with meat exports in the Eastern States. The danger, of course, is that in the very near future, there will be an increase in the amount of meats such as horse meat and kangaroo meat appearing on the pet food market for the simple reason that it has nowhere else to go.

Following what the Minister said, I was amazed to note in his second reading speech that this clause in the Bill represents a cost to Western Australia of some $4 million a year, which represents something like 10c a can of pet food. Having gone shopping the other day for the first time in a long time, I was surprised to find what my dog was costing me each week in pet food. I would certainly like to see a reduction of 10c a can in the price of pet food. I am surprised the amount is so great and I query whether the figure is correct.

The Hon. D. J. Wordsworth: The Minister in another place corrected that statement.

The Hon. H. W. Gayfer: From where did you get that figure?

The Hon. R. T. LEESON: From the Minister's second reading speech in another place. I put that to the Minister; probably he can correct it when he replies, because I believe it needs correcting. It certainly takes the wind out of my sails in regard

to my argument about the proposition before the House.

With those few remarks, I support the Bill.

THE HON. H. W. GAYFER (Central) [8.15 p.m.]: I am a little perturbed by this Bill. I fail to see why Western Australia should do away wih its high standards in the feeding of animals for the purposes of bringing in a greater degree of uniformity of legislation. It means we are merely lowering our standards. Just because the Eastern States people do not consider it is necessary to have standards for their animal feedstuffs we should not be amending our legislation to meet their low standards. I almost preached a sermon on a previous occasion on a similar subject. There is too much hoodwinking going on and too much dosing up of products taking place for us to be lowering our standards. That is my main objection to the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [8.17 p.m.]: I think the Hon. Mick Gayfer will find that the Hon. Ron Leeson was referring to speech notes prepared for the Minister for Agriculture in another place where the Minister said the provisions were costing the industry $4 million or the equivalent of 10c a can as things stand. When I made my second reading introductory speech I did not incorporate those remarks, and in the meantime Mr Old has made a statement which I shall read, as follows—

> In my speech on Thursday, 13 August, in which I moved that the Veterinary Preparations and Animal Feeding Stuffs Amendment Bill be read a second time, I inadvertently made an incorrect statement to the House. In the speech I stated that the special labelling requirements at present cost the Western Australian consumer an additional $4 million per annum or 10c per can. The correct position is that if the current legislation was administered fully the community and the pet food industry would be subject to an additional cost of approximately $4 million per year. The amendment has been introduced to remove an anomalous situation where a requirement of the Act is not being fully administered. The saving referred to through the amendment is a potential saving and not a real saving.

Perhaps that explains more fully the reason for introducing this Bill.

As has been explained by the Hon. Mick Gayfer, the enforcement of registration of pet foods does not take place in the Eastern States. We are one of the few States that contains such requirements in our Act. I have the idea that in 1976, when our earlier legislation was introduced, it was intended there be uniform legislation throughout the country, but this did not eventuate. It was rather an ambitious piece of legislation to be presented at that time. The one Bill endeavoured to cover veterinary products and animal feedstuffs. The two areas are worlds apart and the only similarity is that they both enter the mouths of animals.

The situation is ridiculous if we start to consider feed for fish, which presumably covers food for goldfish. While the Act will continue to cover feedstuffs for horses and larger animals, this amendment will make it no longer necessary to cover feedstuffs for household pets. Had we had the same sort of legislation to cover food for human consumption we might never have had kangaroo meat in our food for export.

The Hon. H. W. Gayfer: It would cover greyhounds, too, I guess.

The Hon. D. J. WORDSWORTH: Yes. It is nevertheless important that feedstuffs for animals, particularly dogs and cats, should still be produced hygienically, because in many cases it is stored in the fridge with our own food. We have to safeguard against cross-infection.

Our object is to remove the necessity for food for household pets to be incorporated in the requirements of the Act. It is a very far-ranging Act designed to cover the manufacture and sale of veterinary products. It contains very stringent conditions for the sale of those things. I thank members for their support.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Tom Knight) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 5 amended—

The Hon. H. W. GAYFER: I am not very satisfied with the Minister's explanation. The Minister would realise that I can refer only to what is in *Hansard* and that I am not allowed to refer to speeches made in another place. This clause amends the principal Act by deleting the passage "for consumption by any animal or offered for sale for that purpose; and includes" and substitutes the following—

> for consumption, or offered for sale for consumption, by any animal other than—

(a) a dog or cat;
(b) a fish kept as a domestic pet and not for the purpose of human consumption; or
(c) a bird kept as a domestic pet and not for the purpose of human consumption or the laying of eggs for human consumption;

It includes basic food, processed food, manufactured stock foods, additives, supplements, nutrients, by-products, and any substance classified as an animal foodstuff for the purposes of this Act.

By lowering our standards in this way we open the gates for products to be dosed up. This will mean poor quality products will end up on our shelves. Products such as Pal and other food for our pets could be of a lower quality. We should safeguard against any chance of the quality of our products being dragged down.

As a producer of feedstuffs I have control over everything I produce and which leaves my property. Any food that is taken from my property to a factory and finishes up in a shop to be bought by the public will be of a standard that is acceptable and required by our laws. Just because the Eastern States do not have that sort of control over their products is no reason for us to lower our standards. This Bill could allow their products to come into this State when they could not do so in the past because our standards would not allow it.

This is a dangerous move. We have factories which have tooled their plants to produce products in accordance with our Act, and because the Eastern States do not have similar legislation we could end up with their low quality products. I see this move as being fraught with problems. I believe we are glossing over this matter too lightly. The Minister has said that the Advisory Committee on Veterinary Preparations and Animal Feeding Stuffs established under the Act and including all interested parties has recommended that the registration of pet foods in Western Australia be discontinued until such time as a high degree of uniformity is applicable throughout Australia. He said a high degree of "uniformity", not "production". I think this is a very foolish step for us to be taking. It is a retrograde step. This Bill should not have been introduced.

The Hon. D. J. WORDSWORTH: I was endeavouring to say that this Bill covers veterinary preparations and veterinary animal feedstuffs. In other words, we can give our animals a veterinary preparation by a drench, needle, or mixed in with animal feed. I said that in 1976 a Bill was introduced with the object of covering the various feedstuffs. At the time we were mixing hormones and antibiotics with animal feeds to stimulate growth and it was considered that this could have an effect on humans if they ate food contaminated by hormones. This problem was much debated at the time.

Members involved with agriculture such as Mr Lewis, Mr Tom McNeil, and Mr Neil McNeill probably know the names of the chemicals which are mixed with animal feeding stuffs so that the animals fed can grow faster. I have an idea that some of these chemicals are female hormones, one in particular being testrol. Certainly concern was expressed as to whether the chemicals would affect nursing mothers if they ate the meat of animals fed this prepared feeding stuff.

The Hon. Neil McNeill: Penicillin was one.

The Hon. D. J. WORDSWORTH: That is correct. I have given the reasons for my belief that the legislation initially covered various feeding stuffs. Therefore in this Bill we have the reference to consumption.

Mr Gayfer read out the operative part of the clause, and I will read it again. It states—

for consumption, or offered for sale for consumption, by any animal other than—
(a) a dog or cat;
(b) a fish kept as a domestic pet and not for the purpose of human consumption; or
(c) a bird kept as a domestic pet and not for the purpose of human consumption or the laying of eggs for human consumption;

In other words, the intent of the legislation will be removed from animals not intended for human consumption. Perhaps people in Hong Kong eat dogs—I do not know—but fortunately we do not.

The Hon. J. M. Brown: We have dog eat dog.

The Hon. D. J. WORDSWORTH: Unfortunately in Parliament we have dog eat dog. It has been pointed out that if we have the high stringencies outlined, the cost of pet food would increase by 10c a can. Such high stringencies are not adopted in other States, and obviously that is because animals intended for human consumption are not fed the chemicals to which reference has been made. Various State departments have not found it necessary to enforce these high stringencies.

The Hon. H. W. Gayfer: I have the information at hand. You have not gone far enough in your explanation.

The Hon. D. J. WORDSWORTH: I apologise to the honourable member, but I have nothing more to say.

The Hon. H. W. GAYFER: The Minister stopped reading the clause before he reached the words "and includes". If he had referred to section 5 of the Act he would have found that after the words "and includes" reference is made to basic feed, processed food, manufactured stock foods, additives, supplements, nutrients, and by-products of and any substance classified as an animal feeding stuff for the purposes of the Act. The Minister said the legislation deals only with additives; I say it deals with the product to which the additive is added.

The Government will be sorry in this House and, indeed, in this State, because it is attempting to lower standards to which we have conformed over many years without any great difficulty. The whole matter is being left wide open, which will allow inadequate products to come forward.

The Hon. D. J. WORDSWORTH: I will say again, even though I should not because this matter has been covered in another place, that the provisions have not been enforced; therefore we are not lowering standards.

The Hon. R. T. LEESON: It is interesting that the Minister has made a remark which he believes he perhaps should not have made. I have a copy of a second reading speech relating to this legislation. It is not headed "Legislative Council" or "Legislative Assembly", which perhaps it should be. However, it refers to a certain amount of money, and that amount concerns me.

The Minister gave me an explanation when I initially raised the question of what the amount represents. I wonder why he did not correct the second reading speech delivered to the Legislative Council. As I see the situation, this point relates to the main reason for the introduction of this Bill.

The Hon. H. W. Gayfer: You based your speech on that.

The Hon. R. T. LEESON: That is true to a point. I based my speech on an angle of this matter. It surprises me that the provision was introduced because we were told that if it is enforced it will cost the State $4 million; consumers will be required to pay an extra 10c for each can of pet food. I wonder why the matter was not corrected in the second reading speech in this Chamber.

The Hon. A. A. LEWIS: I will attempt to help the Minister, although I do not know whether I will be able to. I believe Mr Gayfer does not understand that the standards are not being applied at the moment. If they are applied, the cost of pet food will increase by 10c per can. I cannot get the Minister off the hook in regard to that which he may have said during his second reading speech, and the point raised by Mr Leeson in regard to a copy of the second reading speech which he has in his possession.

It appears that the magnificent standards to which Mr Gayfer appeared to be referring are available throughout Australia but are not enforced as they were originally intended to be enforced. If they were, the cost of each can of pet food would increase by 10c.

I imagine that in other parts of Australia amendments are being made to legislation so that the standards which we have heard Mr Gayfer say are magnificent are maintained throughout Australia. Legally the producers of these products would be in trouble if the provision were not passed.

I will not argue the main point raised by Mr Gayfer. The Minister in this place read out the answer of the Minister in another place, which has the effect of showing that Mr Gayfer had the situation the wrong way around. The savings will be approximately $4 million a year.

Clause put and passed.

Clause 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and passed.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [8.37 p.m.]: I move—

> That the House at its rising adjourn until Tuesday, 29 September.

Question put and passed.

House adjourned at 8.38 p.m.

QUESTIONS ON NOTICE

RAILWAYS: COAL

Transport

532. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Has Westrail ceased cartage of coal from Collie to Capel?

(2) If so, on what date did it cease?

(3) Why was it taken away from Westrail?

(4) During the last financial year, what was the total tonnage of coal transported by rail to Capel?

(5) What amounts of that tonnage were used by each of the mineral sands companies concerned?

The Hon. D. J. WORDSWORTH replied:

(1) Yes, temporarily.

(2) 4 August 1981.

(3) Rail movements have been suspended owing to the covered stockpile at the rail loading point being condemned and the coal in open storage having too high a moisture content for the company's requirement. Road haulage applies to enable the company to maintain coal supplies.

(4) 33 418 tonnes.

(5) All used by the one company.

EDUCATION: PRIMARY SCHOOL

Useless Loop

533. The Hon. P. H. LOCKYER, to the Minister representing the Minister for Education:

(1) Is the Minister aware that the Useless Loop School is in a deteriorating condition?

(2) Is it the intention of the Education Department to continue to spend money on repairs rather than replacement?

(3) Is a new school building envisaged in the near future for Useless Loop?

(4) Has money been allocated for air-conditioning of the Useless Loop School?

(5) If so, when will this air-conditioning be installed?

The Hon. D. J. WORDSWORTH replied:

(1) An upgrading programme for this school was completed in May 1981.

(2) and (3) Building of a new school is subject to negotiations between the Government and Shark Bay Salt Pty. Ltd. about provision of a new draft agreement.

(4) No.

(5) Not applicable.

HEALTH: NURSING HOME

St. George's

534. The Hon. P. G. PENDAL, to the Minister representing the Minister for Health:

(1) Is the Minister aware of the six complaints made against St. George's Nursing Home in Mt. Lawley?

(2) Is the Minister aware that each of the six complaints was investigated by the Principal Director of Nursing of his department, and that each was found to be groundless?

(3) Is the Minister aware that, despite this finding, the home has suffered in that its waiting list has all but disappeared?

(4) Does the Minister believe the course of natural justice was followed by the phone-in organisers who encouraged complaints to be made publicly before such complaints could be investigated?

(5) What steps, if any, can be taken against the organisers to ascertain whether they were genuinely interested in discovering facts or whether they were more interested in denigrating homes like St. George's?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) The complaints were not all of the nature in which proof is possible, one way or the other, and certainly there was no specific confirmation of any of the complaints.

(3) The Minister for Health was not aware of this but he is not surprised and has a great deal of sympathy for Anglican Homes (Inc.), the administrators of St. George's Nursing Home.

(4) The organisers did not, in fact, make public the names of the nursing homes. The names of the nursing homes were first referred to in answer to a question in Parliament.

(5) There is no action which can be taken. It is not believed the organisers of the survey were motivated by any wish to denigrate particular nursing homes. They organised a fairly amateurish exercise by engaging in an advertising campaign to encourage people to phone in complaints about treatment of the aged. What was found surprising is how few complaints there were about mistreatment, abuse, neglect, food, etc. There are 124 private hospitals/nursing homes containing 5 500 patients. Friends and relatives would agree that people living in these institutions can be difficult from time to time, and long-stay patients get very bored and irritable with long confinement. Surprisingly too, the tremendous publicity has not resulted in any increase or any significant number of further complaints from or about patients in our nursing homes.

TRANSPORT: MINERAL SANDS

Capel

535. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Has the transport of mineral sands by Westrail from Western Titanium Ltd., Capel, ceased?

(2) If so, on what date did it cease?

(3) Why was this traffic taken away from Westrail?

(4) What was the total tonnage of mineral sands hauled by Westrail from Western Titanium at Capel during the last financial year?

The Hon. D. J. WORDSWORTH replied:

(1) No.

(2) and (3) Not applicable.

(4) As there is more than one company involved in the mineral sands industry the information is confidential.

536. *This question was postponed.*

RAILWAYS: COAL

Transport

537. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Is the Minister aware that large quantities of coal are being transported by road from Collie to a brickworks at Armadale?

(2) Will the Minister advise why this bulk traffic is not being transported by rail?

(3) Will the Minister further advise whether Westrail is endeavouring to have it transported by rail?

(4) If not, why not?

(5) If it is, what efforts are being made?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) to (5) Discussions between Westrail and the company on this question extended over a considerable period. However, at this stage, the cost of providing terminal rail facilities at Armadale cannot be justified for the tonnage of coal involved. The matter has been examined jointly by the Commissioner of Transport and the Commissioner of Railways and it was agreed that rail transport was impractical and that road was the logical mode.

TOTALISATOR AGENCY BOARD

Racing Clubs

538. The Hon. N. E. BAXTER, to the Minister representing the Chief Secretary:

What was the total amount invested for the year ended 30 June 1981, both on-course and off-course, on all totalisators, on thoroughbred racing—

(a) held in the metropolitan area of Western Australia;

(b) held in other States of Australia; and

(c) held in country areas of Western Australia?

The Hon. G. E. MASTERS replied:

Amounts invested with the Totalisator Agency Board off-course for the year ended 31 July 1981 were—

(a) on galloping races conducted by the Western Australian Turf Club in the metropolitan area, $44 794 455;

(b) on galloping races conducted by racing clubs in other States of Australia, $94 732 528;
(c) on galloping races conducted by country racing clubs in Western Australia, $27 980 240.

Statistics relative to investments on on-course totalisators are not maintained by the Totalisator Agency Board but may be obtained from the Commissioner for State Taxation to whom clubs are required to submit returns subsequent to each race meeting.

QUESTIONS WITHOUT NOTICE

TRADE UNION

Railway Officers Union

168. The Hon. P. G. PENDAL, to the Minister representing the Minister for Transport:

(1) Is the Minister aware that the Railway Officers Union has arranged to deduct a levy totalling $10 from its members over the next five pay periods?
(2) If so, by whose authority is the $10 levy being taken from the members' pay via Westrail?

The Hon. D. J. WORDSWORTH replied:

(1) I understand that the Minister for Transport has been advised by Westrail that this is so.

(2) Westrail has been informed by the Railway Officers Union that a temporary increase in subscriptions will apply.

Union subscriptions are deducted through Westrail payrolls, subject to payment of a commission, and variations in deductions are arranged on authorisation in writing from the union.

TRADE UNION

Railway Officers Union

169. The Hon. P. G. PENDAL, to the Minister representing the Minister for Transport:

My question is supplementary to my previous question. If the Minister is suggesting that the deductions are taking place on the authorisation only of the union concerned, and not the union members, could he ask the Minister for Transport to confirm this and have the matter taken up as one of urgency?

The Hon. D. J. WORDSWORTH replied:

I shall take this matter up with the Minister for Transport. I understand it is usual for many Government departments to collect subscriptions from members of unions but as the member has pointed out, this is a rather extraordinary levy.