

I am grateful for the many letters that I received on that occasion. I am also very grateful for all the letters I have received since I announced my retirement. I read the letters, and read them over again. All I can hope is that I will be able to live up to all that has been said of me.

I am not one of those fortunate persons who are born great; I was fortunate to have greatness thrust upon me. Anybody who is placed in such a position should strive to do his best and as soon as he can, without placing a price on his efforts. That is the key to success.

It was my experience to be the Premier of the State over a period in which many eminent men administered local government. I refer to the recently retired Lord Mayor of Perth (Sir Thomas Wardle) and to his successor (Mr. E. H. Lee-Steere); and also to the recently retired Mayor of Fremantle (Sir Frederick Samson). I sincerely regret not having been able to attend his farewell function. I pay tribute to these really great men who all seem to have faith in the State, a great sense of humour and a determination to do what they can while they can.

In this regard I should also mention the past Mayor of Bunbury who took over the reins of local government and set things going in that part of the State. He has since retired. I trust he will continue to play an important part in the community. To all those gentlemen I wish them well in their retirement from local government.

As we are short of time I conclude by expressing my thanks for the kind and generous words that have been uttered about me. All that I can ask is that we continue to be a friendly and happy group of people. I repeat that the future of this State is great and I believe that development will proceed rapidly—whether it be the bringing of water and gas from the north, or the development of nuclear energy for power. I believe all these developments will come.

Let us battle on and try to achieve the great things to which I have referred, and maintain the good fellowship and understanding which I have always experienced. I went to Sunday school, I went to church, and I was a Boy Scout, and I would like to say to one and all that anyone who has had similar experiences would have no regrets at all, no matter how far, in the course of time, he might fall from "grace" or how many mistakes he might make. One should have faith in one's self and others, and I am not preaching a sermon. These are very important matters, and they are material things which we have to do.

We had an election this morning and it is my great pleasure to say to the members of this House that Mr. Charles Court has been elected Leader of the Liberal Party and, presumably, he will be the Leader of the Opposition in due course. The deputy

leader elect is Mr. Des O'Neill. I am sure the House will receive full co-operation from these two men. They are certainly both men of efficiency, determination, and dedication and men who will, in the fullness of time, prove to be equal to those who went before them. I wish them well in the future.

Coming nearer home, I wish to record my deep appreciation of the co-operation, help, and personal interest of the people of the Greenough electorate. Without their support I could never have become Premier of our State—a privilege which so few people have enjoyed.

Once again, I thank members for their generous remarks and kindly references to my wife and to me.

[Applause.]

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. J. T. TONKIN (Melville—Premier)
[6.43 p.m.]: I move—

That the House at its rising adjourn until a date and hour to be fixed by the Speaker.

Question put and passed.

House adjourned at 6.44 p.m.

Legislative Council

Tuesday, the 1st August, 1972

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

BILLS (20): ASSENT

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

1. Aboriginal Affairs Planning Authority Bill.
2. State Trading Concerns Act Amendment Bill.
3. West Kambalda Railway Bill.
4. Child Welfare Act Amendment Bill (No. 2).
5. Public Trustee Act Amendment Bill.
6. Wood Distillation and Charcoal Iron and Steel Industry Act Amendment Bill.
7. Iron Ore (Goldsworthy-Nimingarra) Agreement Bill.
8. Community Welfare Bill.
9. Stamp Act Amendment Bill.
10. Hospitals Act Amendment Bill.
11. Town Planning and Development Act Amendment Bill.

12. Main Roads Act Amendment Bill.
13. Iron Ore (Rhodes Ridge) Agreement Authorization Bill.
14. Iron Ore (Mount Bruce) Agreement Bill.
15. Iron Ore (Wittenoom) Agreement Bill.
16. Iron Ore (Hamersley Range) Agreement Act Amendment Bill.
17. District Court of Western Australia Act Amendment Bill.
18. Criminal Code Amendment Bill (No. 2).
19. Motor Vehicle (Third Party Insurance) Act Amendment Bill.
20. Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Bill.

QUESTIONS (4): WITHOUT NOTICE

1. **DAYLIGHT SAVING**

Submissions to Committee: Tabling

The Hon. A. F. GRIFFITH, to the Chief Secretary:

When the Chief Secretary was presenting papers for tabling, this afternoon, I heard him say that among those papers was a report of the committee which inquired into daylight saving.

Could the Minister tell me whether the written submissions made to that committee are included among the documents he tabled, and if they are not included will the Minister lay on the Table of this House a copy of the written submissions?

The Hon. R. H. C. STUBBS replied: The submissions made to the committee are in the process of being laid on the table in another place right now. Therefore, I cannot lay them on the Table in this House.

The Hon. A. F. GRIFFITH: Would the Chief Secretary please answer my question: Would he lay a copy of the written submissions on the Table of this House?

The Hon. R. H. C. STUBBS: I repeat: the submissions made to the committee are at present being laid on the table in another place and, therefore, I fail to see how I can lay them on the Table in this House.

The Hon. A. F. GRIFFITH: I regret you may think this is becoming tiresome, Mr. President, but I am not the slightest bit concerned with what is laid on the Table of the other House. I am interested in what is being laid on the Table of this House and I ask the Chief Secretary, for the third time,

will he arrange for a copy of the written submissions to be laid on the Table of this House?

The Hon. R. H. C. STUBBS: I will endeavour to do just that.

2. **MINING ACT: DISALLOWANCE OF REGULATIONS**

Postponement of Debate

The Hon. A. F. GRIFFITH, to the Leader of the House:

I do not presume to interfere in any way with the notice paper of the Leader of the House, but in relation to Order of the Day No. 1—the disallowance of regulations—I understand that the Minister for Mines has requested the interested parties to submit to him their propositions for variation or alteration. I understand that despite continued requests by the Minister he has not received submissions which he considers to be satisfactory.

In order to avoid a vote on this motion this afternoon could I suggest to the Leader of the House that a member of his party adjourn the debate—when the Order of the Day is called—for, say, a month, during which time the Minister could perhaps make a final appeal to the interested parties. We could then consider the situation on its merits.

The Hon. W. F. WILLESEE replied:

I am slightly off beam at the moment, because I did not think this motion would come forward. Naturally, we intend to allow further time in the hope that we can find a solution to the problem.

With all due respect, I am wondering whether the matter should be taken at this stage of the proceedings. I understood that questions without notice could well be taken before Order of the Day No. 1, and I was warned that a question would be directed to me.

In answer to the question: we will certainly adjourn the debate for a period, and a month having been asked for, a month we will accede to.

3. **DOG RACING**

Order of the Day: Postponement

The Hon. A. F. GRIFFITH, to the Leader of the House:

In the same spirit of co-operation I would like some information regarding Orders of the Day Nos. 4, 5, and 6—particularly Order of the Day No. 4. The reason for my question is that if Order of the

Day No. 4 is called, the Chief Secretary would be obliged to give his third reading speech.

I have not seen anything in the Press which indicates to me that the Government has prepared—or has anywhere near prepared—the betting legislation which was foreshadowed and promised in relation to greyhound racing before we proceeded with the debate, particularly on Order of the Day No. 4. I would like to know the intention of the Government in this respect. Is it the Government's intention to go on with the third reading? If it is not, what does the Government intend to do?

The Hon. W. F. WILLESEE replied:

I would not like to suggest that the Leader of the Opposition is getting a little impatient, but it was my intention to move that Orders of the Day Nos. 4 to 6 be taken after Order of the Day No. 10. The postponed Orders of the Day would then be left at the bottom of the notice paper until such time as we introduce the legislation which is the keypoint and which would clarify what is desired by the Opposition.

The Hon. A. F. Griffith: In other words, the legislation is not ready as yet.

The Hon. W. F. WILLESEE: In other words, the legislation is ready. As the Leader of the Opposition would well know, it cannot be introduced in this House because it is a money Bill.

Had I been given a little more time, this would have been resolved much more easily than through questions. To set the record straight, Orders of the Day Nos. 4, 5, and 6 will go to the bottom of the notice paper and will remain there until such time as the consequential Bill goes through in one movement.

4. PINJARRA ALUMINA REFINERY

Press Statement by Mr. J. Marks

The Hon. N. McNEILL, to the Leader of the House:

I refer the Leader of the House to an article headed "Hope for Early Start on Alumina Refinery" which appeared in this morning's issue of *The West Australian*.

(1) Under what circumstances was Mr. J. Marks authorised to make a public statement concerning the operations of two companies which have entered into agreements with the State Government?

(2) If the Premier gave certain information to a deputation, as reported by Mr. Marks, why has the Premier declined to make a public comment?

(3) When will the Premier make a statement to Parliament on reported negotiations?

(4) Does the Government consider that because Mr. Marks has been involved in stoppages of work at the Pinjarra refinery he is authorised to make statements on the possible resumption of work?

(5) Is it correct that the Mr. J. Marks referred to is a member of the Communist Party?

The Hon. W. F. WILLESEE replied:

The honourable member was good enough to give me notice of this question. The reply is—

(1) Mr. Marks was not authorised by the Government to make a public statement.

(2) The Premier has his own reasons for declining to make comment.

(3) At the appropriate time.

(4) Any statements made by Mr. Marks are his own concern and have not in any way been authorised by the Government.

(5) The honourable member should ask Mr. Marks because the Government has no information regarding his political affiliations.

QUESTIONS (8): ON NOTICE

1. RURAL RECONSTRUCTION

Funds

The Hon. D. J. WORDSWORTH, to the Leader of the House:

(1) What funds have been paid to this State by the Federal Government, and what other funds are available for Rural Reconstruction in this State?

(2) What funds have actually been—
(a) allocated; and
(b) paid out?

(3) How many applications have been—
(a) received;
(b) successful;
(c) rejected;
(d) re-submitted more than once?

(4) What funds have the Federal Government indicated will become available, and is the State considering making funds available from its own resources for either Rural Reconstruction or for similar purposes?

- (5) Has either the Federal Government or the State Government indicated that they have a policy of depopulating marginal areas?
- (6) Is there any difference in the percentage of rejections from the Shires of Ravensthorpe, Gnowangerup, Kulin, Lake Grace, and Esperance, compared to other Shires?
- (7) Are special conditions considered when an applicant holds a Conditional Purchase block?

The Hon. W. F. WILLESEE replied:

- (1) (a) \$6.9m (including \$430,000 carried forward from Rural Relief Fund).
 - (b) \$8.1m during 1972-73 financial year, and \$2.2m 1973-74.
- (2) (a) \$10,743,342 (excluding \$14,000 Rehabilitation Loans).
 - (b) \$5,631,286.
- (3) (a) 1,363.
 - (b) 443 (excluding 8 Rehabilitation Loans).
 - (c) 839.
 - (d) 82.
- (4) (a) See (1) (b).
 - (b) For each of the past two years Emergency Carry-on Finance has been available.
- (5) The State Government is making every endeavour to maintain the population in marginal areas.
- (6) Percentage of rejections:

	%
Ravensthorpe Shire	74.3
Gnowangerup Shire	45.0
Kulin Shire	54.5
Lake Grace Shire	58.5
Esperance Shire	53.9
State Average	64.0
- (7) No.
(Figures quoted are at 30th June, 1972.)

2. LAND RESUMPTION

Perth Railway Terminal

The Hon. R. J. L. WILLIAMS, to the Minister for Railways:

- (1) When will construction begin, and be completed, on the new multi-complex office facilities at Perth Rail Terminal?
- (2) How many, and what resumptions of private properties, particularly around East and West Parades, East Perth, would be involved in the project?

The Hon. J. DOLAN replied:

- (1) Subject to the availability of finance, construction will commence approximately in August, 1973, and will be completed approximately two years later.
- (2) Nil.

3. EDUCATION

Remote Areas

The Hon. G. W. BERRY, to the Leader of the House:

Further to my question on Friday, the 2nd June, 1972, what was the outcome of discussions between officers of State and Commonwealth Departments of Education held in Canberra on the 8th and 9th June, in regard to the education of children in remote areas?

The Hon. W. F. WILLESEE replied:

The meeting discussed the needs of isolated children and their parents and investigated ways in which the Commonwealth Government might provide assistance. The matter now rests with the Commonwealth Government.

4. LAND RESUMPTION

Mt. Lawley Traffic Interchange

The Hon. R. J. L. WILLIAMS, to the Leader of the House:

- (1) When will construction start on the new traffic interchange centring around the Mt. Lawley Subway, East Parade, Guildford Road and Railway Parade?
- (2) How many resumptions of private properties will be necessary?

The Hon. W. F. WILLESEE replied:

- (1) The Perth City Council has prepared a preliminary plan for improvements to the road system in the vicinity of the Mt. Lawley Subway. These proposals are being considered by the Main Roads Department and the Stirling City Council following discussions between representatives of the authorities and the Town Planning Department.
- (2) The plans would need to be developed in considerably more detail before the extent of land resumption can be fully assessed.

5. WATER SUPPLIES

Damming of Gascoyne River

The Hon. G. W. BERRY, to the Leader of the House:

What, in order of priority, were the factors in the feasibility study by Alexander Gibb & Partners that influenced the Government in their decision not to proceed with the damming of the Gascoyne River at Rocky Pool?

The Hon. W. F. WILLESEE replied:

The factors which influenced the decision not to proceed with the construction of a dam at Rocky

Pool were the high cost of the dam for a small yield of water. The estimated cost of the dam was between \$14 million and \$19 million for an additional yield of 7,000 acre feet over a critical drought period.

6. **BINGO**
Legislation

The Hon. CLIVE GRIFFITHS, to the Chief Secretary:

- (1) Is the Minister aware of the statements attributed to the Minister for Mines and to the Chief Secretary in an article commenting upon police action in closing down bingo games which appeared on pages 1 and 9 of the South Suburban supplement of *The West Australian* on Wednesday, the 5th July, 1972?
- (2) If so, does he agree that the contents of the newspaper item are factual?
- (3) If the reply to (2) is "No" what action is contemplated to rectify the situation for the benefit of the public?

The Hon. R. H. C. STUBBS replied:

- (1) I did not comment on police action as suggested by the Honourable Member.
- (2) Answered by (1).
- (3) It is the Government's intention to re-introduce Bingo legislation in the budget session.

7. **HOSPITALS**
Abortion Records

The Hon. CLIVE GRIFFITHS, to the Leader of the House:

With reference to the article which appeared in the *Sunday Independent* newspaper on the 23rd July, 1972, indicating that "complete records of all abortions performed in public hospitals, and for what reasons, are kept by the Medical Department, and that such records are to be Tabled in Parliament, probably at its next sitting"—will the Minister advise when such records will be laid on the Table of the House?

The Hon. W. F. WILLESEE replied:

Abortion figures are contained in the Morbidity Tables of the Commissioner's Annual Report. The 1971 Report will give the total figures for both Public and Private Hospitals. Previously only figures for Public Hospitals have been given.

8. **KWINANA-BALGA POWER LINE**

Environmental Protection Report

The Hon. CLIVE GRIFFITHS, to the Leader of the House:

With reference to the resolution of this House passed on the 30th May, 1972, and in view of the item "E.P.A. backs power route" in *The West Australian* on Wednesday, the 15th July, 1972—will the Minister—

- (a) inform the House what the Environmental Protection Authority was requested to do, and by whom were the requests made;
- (b) lay on the Table of the House a copy of the report of the Authority; and
- (c) advise what action was taken by the Government in respect to the Legislative Council resolution which was forwarded to the Hon. Premier on the 1st June, 1972?

The Hon. W. F. WILLESEE replied:

- (a) The first section of this question is answered by paragraph 1 of the report by the Environmental Protection Authority which I now Table.

The requests were made by Environment 2000 and the Guildford Grammar School.

- (b) See above.
- (c) Following careful consideration of the Legislative Council resolution, which represents the opinion of that Chamber, the Government re-affirmed its previous decision.

(See Paper No. 206.)

**WESTERN AUSTRALIAN PRODUCTS
SYMBOL BILL**

In Committee

Resumed from the 2nd June. The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clause 5: Authority to use prescribed symbol—

The CHAIRMAN: Progress was reported on the clause to which The Hon. W. R. Withers had moved the following amendment:—

Delete all words in the clause and substitute the following—

- Authority to use prescribed symbol or Facsimile
- (1) Where it appears to the Minister that the production and preparation of any product or range of products is substantially carried out in the

State, the Minister may on application being made to him in writing setting out particulars of the product or range of products and particulars of its production and preparation issue to the applicant a permit authorising him to attach to the product or to some or all of the range of products or to its or their container a prescribed symbol or a modification of the prescribed symbol.

(2) The Minister may include in the permit such conditions as, in the circumstances of the case, the Minister thinks fit to impose in respect of the use of the symbol.

(3) The Minister may, by notice in writing, served on the holder of a permit so issued,

- (a) from time to time alter any of the conditions of the permit; or
- (b) cancel the permit.

The Hon. W. R. WITHERS: I will not waste the time of the House by debating this amendment. During the second reading debate, on page 1608 of *Hansard* No. 9, I mentioned that a person who affixed the symbol to any product believing that the product had a substantial Western Australian content could in fact be breaking the law and could be fined. The intention of the amendment is to ensure that a manufacturer who understands that his product has a high content of Western Australian goods will apply to the Minister. The Minister will confirm this and allow the manufacturer to affix the symbol to his product.

The Hon. W. F. WILLESEE: Are we dealing with the clause now on the notice paper?

The CHAIRMAN: The amendment to clause 5 which has been moved by Mr. Withers is a substitution for the present clause 5. It was moved at the previous sitting.

The Hon. A. F. Griffith: The matter was adjourned so that the Leader of the House could obtain further information. I asked the Leader of the House whether the offender had to prove his innocence or whether the Crown had to prove guilt.

The Hon. W. F. WILLESEE: The question referred to the onus of proof?

The Hon. A. F. Griffith: That is right.

The Hon. W. F. WILLESEE: At that stage I was not able to give an authoritative reply and I retired from the debate.

I am assured the onus of proof lies with the person who is laying the charge, which is normal procedure, I think. In this case, if a person is charged the onus of proof lies with the person who lays the charge and the defendant has a right to state his case.

I do not know what answer we could get outside that, because this is the manner in which the law is normally implemented. I see no great value in the amendment and I oppose it. I think we should pass the Bill as printed and see how things go. This, however, is a matter for the Committee to decide.

The Hon. A. F. GRIFFITH: I think I owe the Minister an apology, because it was not on this particular clause that I questioned him at all when we were last in this Chamber. My question was in relation to clause 6 which deals with offences. It is possible I have jumped into clause 6.

Clause 5 depends heavily on the situation which arises when one reads clause 6. Mr. Withers' point is well made. A person who sells any product the production and preparation of which is substantially carried out in this State is authorised by the Bill to do so.

That leaves the person who is producing and preparing the article for sale to form an opinion for himself as to whether or not the manufactured goods come within the scope of the Bill. When that is done clause 6 tells him what will happen to him if he does the wrong thing under clause 5.

Mr. Withers feels the man concerned should not be left in any doubt if he has Western Australian components in his goods. He will make application to the Minister, tell his story concerning his manufactured goods, and the Minister will give him a certificate which says, "Yes, I agree that the manufacture of your goods comes within the Act and I give you a certificate accordingly." That is all there is to it.

The amendment moved by Mr. Withers is more sensible in its approach so far as manufacturers are concerned than is clause 5 as it is at present worded.

The Hon. W. R. WITHERS: I will quote my own case to the Committee. I have a small backyard manufacturing business in the Kimberley. One of the items I manufacture is cuff links which, themselves, are made from zebra stone. The stone itself is the major part of the cuff link in so far as its appearance is concerned, but the manufactured part behind the cuff link is a metal finding which is imported; it is not manufactured in Western Australia.

When I start working on the cuff link the cost of the stone is perhaps a fraction of a cent but the cost of the metal finding is considerable. If I interpret the Western Australian content in these cuff links on the cost of the material, of the metal finding and also of the stone, it will be found I cannot use the symbol—that is if we work on the initial cost of the base material.

However, because of the amount of work I put into the cutting of the stone, I consider I should be permitted to use the

Western Australian symbol. I feel sure, however, that any competitor can stand up in a court of law and say that I am not qualified to use the symbol on this article indicating that it is a Western Australian-made product, and even though I consider it as being wholly Western Australian in fact it is not.

I feel it wrong that a person should be charged and have to go to the expense of litigation when he truly believes that his goods have a high Western Australian content, particularly when he could lose his case in a court of law.

The Hon. A. F. Griffith: Because you yourself know it is not substantially manufactured in Western Australia.

The Hon. W. R. WITHERS: That is so; because it could be proved that the base products of the goods were obtained substantially from outside of Western Australia. My amendment covers such a situation.

It would be far more satisfactory if I submitted my case to the Minister pointing out that I manufactured these cuff links in Western Australia from a stone found only in Western Australia—and when on display the stone alone can be seen—though the metal findings come from America. It could however be proved in a court of law that it was not of Western Australian manufacture with a high Western Australian content.

The Hon. W. F. WILLESEE: There is not a great deal of difference. As I understand the position, if a person produces a product which is substantially Western Australian, he is entitled to sell it with the symbol. I think this would apply in the case described by Mr. Withers where people are using artifacts in all sorts of businesses, because they would contain a greater percentage of Western Australian products than would be necessary in the production of the article. The amendment is not necessary and I oppose it.

The Hon. A. F. GRIFFITH: We are told by the Government that the use of the symbol authorised in the Bill is to improve the status of goods manufactured in Western Australia. However we are now saying to the manufacturer "If you manufacture and prepare an article for sale the preparation of which is substantially carried out in this State you can affix this symbol." So the man must be his own judge—as Mr. Withers has indicated—as to whether in his opinion the article is substantially produced and prepared in Western Australia.

When the manufacturer has done that inspectors are then appointed under the Bill to see that the person concerned is not stepping out of line. So having placed an obligation upon the manufacturer to justify the production and preparation of

his own goods within Western Australia, an inspector is appointed who can say to him "I do not think you have."

Once the inspector comes to that conclusion we go to clause 6 which says in effect that any person who contravenes this Act goes before the court. I daresay the Minister will give us an answer to clause 6 in due course, because he has not done so yet.

Before we adjourned some weeks ago the question I asked referred to the inspector coming to the conclusion that the goods said to be manufactured and prepared in Western Australia were not substantially prepared in Western Australia resulting in the manufacturer being prosecuted and having to get up and state his case.

As Mr. Withers said, the manufacturer could be put to the expense of having to conduct his own defence. We must not lose sight of the fact that the first time he does this he could be up for \$50; the second time he could be up for \$150; and on the third occasion he could be up for \$400.

In spite of this the Government objects to the man being given an opportunity to say his article is substantially manufactured in Western Australia; that he knows the basic materials are very costly and while only a small portion of the components is Western Australian the workmanship he has put into it certainly makes the word "substantial" apply. He must go to a court of law to justify his submission. This is nonsensical, particularly if we are trying to promote Western Australian goods or endeavouring to give the symbol some significance. The man concerned should be in a position to say to anybody who questions him "The Minister has looked at my application and he considers the goods to be substantially manufactured in Western Australia." That should be the end of it.

We should do away with inspectors being given permission to enter premises and ask to see the goods that are being manufactured. I cannot be bothered with this sort of thing. The Bill seeks to make a potential wrongdoer out of a man who is endeavouring, in the interests of the State, to promote Western Australian goods. I fail to understand the attitude of the Government any more today than I did previously.

The Hon. R. F. CLAUGHTON: I am sorry the ex-Minister for Mines has such a poor view of the attitude of other Ministers. As I understand the position the intention of this Government—and the Minister here will be in charge of this legislation—is to encourage the manufacture of goods in Western Australia; and to permit the use of the symbol to signify that the goods come from this State.

The Leader of the Opposition seeks to build up another bureaucracy; he wants the manufacturers to apply for permits for all the products they produce in this State—and I imagine they are dreaming up new ones each day—to enable them to use the symbol on those products. This is quite unreal.

If the manufacturer believes his product will not come within the definition of "substantially Western Australian," surely he will not use the symbol before he checks with the department. He has that protection.

Let us not make it necessary for him to write in for a permit for every article he manufactures. It would seem that Mr. Withers places a very small value on the effort he puts into converting the raw stone into a gem stone. He seems to value his work at only 1c.

The Hon. W. R. Withers: That is not my intention at all.

The Hon. R. F. CLAUGHTON: Surely the labour he puts into giving the cuff link an artistic appearance will increase the value of the article, and enable it to qualify for the use of the symbol. If the person concerned is in doubt he can approach the department which will clarify the position for him.

The Hon. W. R. Withers: You have proved the case; the difference is in interpretation.

The Hon. R. F. CLAUGHTON: I am not sure of the case the honourable member is trying to make.

If a product is made, or substantially made, within Western Australia and the manufacturer honestly believes this he could then place the symbol upon it. If it is questioned by an inspector no prosecution can be proceeded with until he receives the approval of the Minister. Will the Minister set in train actions that will discourage people from manufacturing in this State? Let us have a little common sense in regard to this matter.

The Hon. A. F. Griffith: That is a good idea.

The Hon. R. F. CLAUGHTON: Indeed it is, and it is not common sense to ask manufacturers to obtain permits to affix the symbol to all products they manufacture. I think the amendment would be quite unrealistic.

The Hon. F. R. WHITE: Mr. Cloughton has stated that surely it would not be our intention to ensure that all manufacturers would have to apply for permission to affix the symbol to all goods they produce. That is not the intention of the amendment. Mr. Cloughton is suggesting the amendment will compel every manufacturer to apply the symbol to his products. That is not the intention. I believe the amendment will bring a little order into the legislation.

As the clause stands no-one can readily appeal to an arbitrator. A person could unconsciously believe he has a Western Australian-made product and apply the symbol in the absence of an arbitrator and then subsequently find he is subject to a penalty. The amendment seeks to nominate the Minister as an arbitrator. If a person wishes to use the symbol he can then apply to the Minister who will grant the necessary permission.

Amendment put and a division taken with the following result:—

Ayes—16

Hon. C. R. Abbey	Hon. J. M. Thomson
Hon. G. W. Berry	Hon. S. T. J. Thompson
Hon. A. F. Griffith	Hon. F. R. White
Hon. Clive Griffiths	Hon. R. J. L. Williams
Hon. J. Heitman	Hon. F. D. Willmott
Hon. G. C. MacKinnon	Hon. W. R. Withers
Hon. N. McNeill	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. V. J. Ferry

(Teller)

Noes—11

Hon. R. F. Cloughton	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. T. O. Perry
Hon. S. J. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. W. F. Willesee
Hon. Lyla Elliott	Hon. R. Thompson
Hon. J. L. Hunt	

(Teller)

Amendment thus passed.

Clause, as amended, put and passed.

Clause 6: Offences—

The Hon. W. R. WITHERS: I move an amendment—

Page 3, line 5—Add after the section designation 6, the subsection designation (1).

The Hon. W. F. WILLESEE: I would have preferred Mr. Withers to speak in support of his amendment because he has not given any reason why the clause should be amended.

The Hon. A. F. Griffith: It is consequential upon the amendment to clause 5, really.

The Hon. W. F. WILLESEE: Perhaps one could say that, but nevertheless I think we should have some further explanation.

The Hon. W. R. Withers: I was just trying to save time. I explained the purpose of my amendment during the second reading.

The Hon. A. F. Griffith: He is following the good example set by Ministers at times.

The Hon. W. F. WILLESEE: Hallelujah! I think it is obvious that the Committee is in favour of the amendment. Personally, I cannot see that it will achieve any more than the clause as printed, despite the fact that the Committee has agreed to the amendment to clause 5. It is quite clear that the person concerned would know what he was doing and I cannot see any reason to change the present wording of the clause which is clear-cut and easy to read.

The Hon. W. R. WITHERS: The amendment to clause 6 is consequential on the amended clause 5 with the exception of one part of the clause. I would point out again to members that there is the insertion concerning a symbol that is similar to the prescribed symbol. Members will recall that during the second reading debate I held up this diagram which shows how other symbols could be used fraudulently. The purpose of the amendment is to prevent this.

The Hon. I. G. MEDCALF: I am a little perturbed about some of the import of this amendment and the one that is to follow, which amendment appears on the notice paper. In accordance with that amendment it will be an offence if a manufacturer uses a symbol that could be mistaken for the prescribed symbol. Mistaken by whom? It could be mistaken by anybody. What one person makes a mistake over, another person does not. An offence is committed if a symbol that is not the prescribed symbol is used. Anybody could make the mistake. It does not have to be the inspector; it could be the Minister, or anybody at all.

The Hon. W. F. Willesee: It could be an honest mistake.

The Hon. I. G. MEDCALF: Yes, that is so. Somebody could say, "I mistook it for the prescribed symbol," and therefore he is guilty because he made a mistake. I am a little disturbed over the use of the words "without the permission of the Minister" which appear in paragraph (c) of the amendment set out on the notice paper. The offence is—

uses any symbol that could be mistaken as the prescribed symbol without the permission of the Minister.

To what does "without the permission of the Minister" refer—the mistake, the use of a symbol, or the prescribed symbol? If a manufacturer uses a symbol it could be mistaken for the prescribed symbol, but if he has the permission of the Minister it could be all right.

The Hon. W. R. WITHERS: I will explain that further.

The Hon. I. G. MEDCALF: I will be pleased if the honourable member explains it again.

The Hon. W. R. WITHERS: On the first point, I was referring to any of the buying public. I consider that if any member of the buying public was fooled by a symbol that was not in fact the prescribed symbol, the person using that symbol would then be committing an offence.

However, the Minister could give permission for the enthusiastic misuse of a modified prescribed symbol. For instance, if some enthusiastic Western Australian used the head of a dog in the middle of the symbol, the Minister could indicate that that was enthusiastic misuse of the symbol. In fact this is happening at the

moment in this State. The Minister could tell the person concerned not to do it again, but he need not be prosecuted. Then again, he might consider it a good idea and allow the continued use of the modified symbol.

The Hon. I. G. MEDCALF: I gather from what the honourable member has said that the Minister may permit a mistaken use of the symbol. If that is what is intended, it seems that someone would have to apply to the Minister on the ground that a mistake had been made and the Minister would have to be authorised to give his permission to use such a symbol. This power is not included in the amended clause 5. As Mr. White suggested earlier, this might be a fruitful source of argument for the legal profession. I perhaps should sit down and allow it to pass; but I cannot. I do not like paragraph (c) and would sooner it were redrafted.

The Hon. W. R. WITHERS: I would not be happy if paragraph (c) were deleted, but I would agree to its deletion if the amendment would be otherwise delayed. In my second reading speech I pointed out that a person from another country could fraudulently use a symbol which resembled the Western Australian symbol.

The Hon. A. F. Griffith: Use it in another country?

The Hon. W. R. WITHERS: No, in Western Australia. I have had no experience in the courts, but possibly Mr. Medcalf could correct me if I am wrong. If a person used a symbol with the configuration of Western Australia like that in the symbol prescribed in the Bill, and with a roundel without the serrated edge—

The Hon. A. F. Griffith: Would he get a valid permit to use such a symbol?

The Hon. W. R. WITHERS: Not unless paragraph (c) is included.

The Hon. A. F. Griffith: Unless he has a valid and current permit he is subject to prosecution.

The Hon. W. R. WITHERS: Only if it is proved to be the symbol of Western Australia. I am trying to prevent the symbol being used fraudulently. This symbol could be used by a person importing, say, Russian goods. This would not be fraudulent because the manufacturers would have in very small print in the centre of the roundel the words, "Made in U.S.S.R." and, in very large letters the words, "Distributed in Western Australia." The public is not being misled through the printed words but it is being misled, nevertheless, because it believes the symbol used is the Western Australian symbol. That is why I desire paragraph (c) to be retained. However, if the Committee considers it should be deleted I will agree because I maintain that the remainder of the amendment is far more important.

The Hon. F. R. WHITE: I am a little concerned about paragraph (c). The purpose of the Bill is to control the use of the prescribed symbol on manufactured articles and articles which are for sale. Paragraph (c) does not deal with manufactured articles, but purely and simply with the use of a symbol. Night after night on television I see the R. & I. Bank advertisement which uses the symbol, but it does not contain a serrated edge on the roundel. If paragraph (c) were included the bank would have to obtain a permit for a manufactured article for sale in order to use that advertisement.

The Hon. W. R. Withers: Only if it were manufacturing something.

The Hon. F. R. WHITE: The bank is not manufacturing anything and it would have to tear up the advertisement which is shown on TV. I do not think that is the intent of the legislation, but as I read paragraph (c), I believe this is what would have to occur because it does not refer to manufactured articles.

The Hon. W. R. WITHERS: If a person is sincere when he uses the symbol with a slight variation, all he would have to do is apply to the Minister for permission to use it. In the case of the bank it would merely have to say that the serrated edge was forgotten when the advertisement was prepared, and I am quite sure the Minister would permit its use.

However, if someone were importing goods from a foreign country and the symbol, without the serrated edge on the roundel, were used—or any other variation were involved—with the intention of fooling the public into believing it was the Western Australian symbol, then that person would be prosecuted, because his action would involve the fraudulent use of the symbol, regardless of the wording it contained. I hope my explanation will suffice and that paragraph (c) will be retained.

The Hon. A. F. GRIFFITH: I think we ought to be warned by the comments of Mr. Medcalf. I suggest we delete paragraph (c), at least for the time being, and allow the draftsman to study it. I think it is ambiguous. I do not know that I agree with Mr. White's argument, but we could go on talking about this matter for a long time without gaining any idea of the legal significance of the words, other than that given to us by Mr. Medcalf. If paragraph (c) were deleted now, the Bill could be recommitted and if a better amendment were forthcoming it could be included at that stage.

The Hon. F. R. WHITE: The amendment states that if a person is not the holder of a permit then he shall not use any symbol, and therefore he could not possibly use a symbol which could be mistaken. The intention of the legislation

is that the use of the symbol be restricted to goods manufactured in Western Australia. In any other field except the manufacture of goods people will not be prevented from using the symbol. However, the amendment states quite clearly that if a person is not the holder of a valid license he shall not use the symbol in any manner or form for any purpose whatever.

The Hon. W. R. Withers: If he manufactures goods.

The Hon. F. R. WHITE: The amendment contains no mention of manufactured goods.

The Hon. W. R. Withers: No. It is already in the Bill.

The Hon. W. F. WILLESEE: In view of the fact that we have passed clause 5 and we are now in conflict on clause 6—and no doubt clause 7 will also present problems—I suggest that clauses 6 and 7 be postponed in order that advice might be obtained on them because we are getting into trouble. Personally I believe that clause 6 as written is perfectly good, but in view of the fact that clause 5 has been amended, clause 6 does present difficulties. I therefore move—

That further consideration of the clause be postponed.

Motion put and passed.

Clause 7: Appointment of inspectors—

The Hon. W. F. WILLESEE: In view of what has been said, I move—

That the clause be postponed.

Motion put and passed.

Clause 8: Duties of inspector—

The Hon. A. F. GRIFFITH: Since it is obvious that Mr. Cloughton will be assisting the Ministers with their Bills during this continued session—and I think this is a very laudable idea—I do not think he should try to confuse the Committee. He was quite excited when he told us that no prosecution could take place without the consent of the Minister. However, I venture to suggest that he should not become quite so excited, but should take time out to read the Bill, particularly clause 8(2) on page 4.

The Hon. R. F. Cloughton: I have read subclause (2).

The Hon. A. F. GRIFFITH: Then why did the honourable member not tell us about it, or did he desire us to believe that what he said was correct? I will read the relevant words again. Clause 8(2) reads—

(2) The provisions of subsection (1) of this section do not affect the right of any other person to prosecute for an offence against this Act.

It does not matter what the Minister says, because that will not affect the right of any other person to prosecute under

the legislation. If the honourable member were to manufacture any goods, I could take a prosecution against him if I thought he had infringed the Act. Is this not so?

The Hon. R. F. CLAUGHTON: When the Leader of the Opposition finishes speaking I will get up.

The Hon. A. F. GRIFFITH: I wanted to draw attention to this and if Mr. Claughton wishes to help the Ministers he should be better briefed.

The Hon. R. F. CLAUGHTON: I, like any other member, have a right to stand up in this Chamber—

The Hon. A. F. Griffith: And mislead us?

The Hon. R. F. CLAUGHTON: —and speak on whatever subject I like. If the Leader of the Opposition cares to interpret this action as assisting the Ministers, that is his own point of view. It is, also, for the Ministers to decide how they regard it.

The Hon. A. F. Griffith: They regard it as a nuisance.

The Hon. W. F. WILLESEE: I applaud his support.

The Hon. R. F. CLAUGHTON: The comments of the Leader of the Opposition will not prevent me from making a contribution at any time. It is important the Leader of the Opposition should also carefully consider what he says. Reference was made to an inspector bringing a prosecution and I said this could not be done without the Minister's approval. It is true that under subclause (2) any other person can bring a prosecution as well.

Before any prosecution has a chance of succeeding, surely that other person has to have sufficient proof for the court to decide in his favour that the person he is accusing is, in fact, infringing the legislation.

I suppose we must accept that there are some unscrupulous manufacturers, but I would suggest that the majority—and by this I mean 99.999 per cent.—of the persons using this symbol would not do so without taking the care to see that they were not likely to infringe the Act. Any other person whose product could not, by any stretch of the imagination, be considered as being substantially manufactured in this State, deserves to face up to prosecution. In other words, a prosecution is likely to succeed only when there is unscrupulous or fraudulent use of the symbol.

I stand by the remarks I made previously, because there is an arbitrator for a prosecution which is likely to succeed within the court.

The Hon. A. F. GRIFFITH: If the honourable member takes the trouble to look at *Hansard* when it is printed he will find we were accused of not using common sense. We were told to use some, and I said that was a good idea. I repeat it is a good idea. To my way of thinking the honourable member intended to inform the Committee that a prosecution could only be taken with the consent of the Minister. I merely point out to the Committee that this is not completely the position. The rights of any private individual are not interfered with under this legislation and, despite what the Minister says, a private person can pursue a prosecution. Of course he must have the evidence before he can obtain a conviction. Surely that is common sense.

Clause put and passed.

Clauses 9 to 14 put and passed.

Progress

Progress reported and leave given to sit again, on motion by The Hon. W. F. Willesee (Leader of the House).

INHERITANCE (FAMILY AND DEPENDANTS PROVISION) BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [6.07 p.m.]: I move—

That the Bill be now read a second time.

Before outlining the provisions in this Bill I mention for the benefit of members who follow procedures in another place that this measure is not identical with the Bill of a similar title explained to members in the Legislative Assembly on the 23rd September last. That Bill reached the second reading stage, but lapsed when Parliament was prorogued in February. At that time certain amendments, moved by the member for Floreat, had been considered by the Government. The Bill was amended to deal with the matters raised by the honourable member and was reintroduced in another place during the first part of this session as a new piece of legislation.

This measure is an example of the need for a continuous programme of law reform. In order that Statute Law continue to protect and serve the needs of the people it is necessary that it be aligned with changes in social and economic conditions.

The Testator's Family Maintenance Act, which is to be repealed and replaced by the Bill now before members, was first enacted in 1939. Since that time its provisions have been virtually unchanged. The new legislation now submitted for the consideration of members introduces new provisions to meet present-day conditions.

As with the Testator's Family Maintenance Act this new legislation does not confer any right to share in an estate. The only right conferred is to make an application to the Supreme Court for an order for provision of adequate maintenance and support of the family and dependants of deceased persons out of the assets of the deceased persons' estates.

However, both the class of persons entitled to apply and the estates against which orders may be obtained have been widened.

The decision to review this field of law was made in 1965 when the President of the Law Society of Western Australia proposed that the Testator's Family Maintenance Act be amended to widen the class of claimants from the surviving spouse or child of a testator to include the parents of the deceased, children of a deceased child of the deceased, and to extend the scope of the Act to include intestate and partially intestate estates.

Those proposals were still under examination when it was decided to appoint a Law Reform Committee. The then Minister for Justice, presently the Leader of the Opposition in this Chamber, considered the matter was a suitable one for reference to the committee which was asked to report on the desirability of amending or enlarging the provisions of the Testator's Family Maintenance Act, 1939-1962. The objective in mind was—

- (a) to extend the right of application to new categories of persons;
- (b) to permit applications for provision from estates in which there is a partial intestacy;
- (c) to define more accurately the circumstances in which a distribution of the assets of an estate may be disturbed in order to sustain an order made under the said Act;
- (d) to permit a variation increasing the provision made under an existing order.

The committee in keeping with its normal procedure prepared and distributed a working paper based on a programme of research by its legal officers into the laws applying in other jurisdictions.

It is submitted that society's earlier attitude of the right of a man to dispose of his property as he thinks fit, even beyond doubt, has changed. There is now a feeling that a deceased is under some moral obligation to make provision for the maintenance, education, and advancement in life of persons who in the normal course of human affairs had a close personal relationship with the deceased. Unless provision is made there should be means to satisfy the court that some provision can be made.

The decision to extend the right of application against intestacies or partial intestacies is a logical one. The terms of a will may be irrational or immoral, yet can apply where distributions of estates are made under a rule of law. For example, a wife who deserted her husband and children could take the whole of a small estate at the expense of children maintained by the deceased. Such a case is not uncommon and the same redress should be available to deserving claimants in an intestacy as is given to claimants under a will.

The aim of legislation of this type is to do justice to dependants. For this reason it is proposed to continue the power of the court to vary the amount of periodical payments. Time and experience have disclosed that the powers have not been used extensively. Courts generally exercise such a power with caution and only when clearly called for by a radical change of circumstances. As with legislation enacted during the previous session of Parliament to deal with the granting of rights to illegitimates to share in the estates of deceased persons, protection must be provided for personal representatives.

Illegitimates, where the relationship stems from the paternal side, shall be recognised only if paternity is admitted or established against the father in his lifetime.

This piece of legislation is commended to members as one which gives effect to the views of persons experienced in the field of law. It will overcome the obstacles which have prevented many persons from approaching the court to obtain some degree of justice where insufficient provision has been made by testators or where the arbitrary rule of distribution in intestacies has applied.

Debate adjourned, on motion by The Hon. I. G. Medcalf.

House adjourned at 6.13 p.m.

Legislative Assembly

Tuesday, the 1st August, 1972

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

BILLS (20): ASSENT

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

1. Aboriginal Affairs Planning Authority Bill.
2. State Trading Concerns Act Amendment Bill.
3. West Kambalda Railway Bill.