

# Legislative Council

Wednesday, the 23rd August, 1978

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

## QUESTIONS

Questions were taken at this stage.

### BILLS (6): THIRD READING

1. Plant Diseases Act Amendment Bill.
2. Wheat Marketing Act Amendment and Continuance Bill.

Bills read a third time, on motions by the Hon. D. J. Wordsworth (Minister for Transport), and passed.

3. Securities Industry Act Amendment Bill.

Bill read a third time, on motion by the Hon. V. J. Ferry, and transmitted to the Assembly.

4. Firearms Act Amendment Bill.
5. Land Valuers Licensing Bill.
6. Acts Amendment (Land Valuers) Bill.

Bills read a third time, on motions by the Hon. G. C. MacKinnon (Leader of the House), and passed.

### ABATTOIRS ACT AMENDMENT BILL

#### *Second Reading*

Order of the day read for the resumption of the debate from the 22nd August.

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.

### ACTS AMENDMENT (CONSTITUTION) BILL

#### *Second Reading*

Debate resumed from the 17th August.

**THE HON. R. HETHERINGTON** (East Metropolitan) [4.57 p.m.]: The Opposition opposes this Bill as it did last year, and opposes it on two grounds. The first is that the reasons given for introducing the Bill are spurious and the second is that the Bill adds one further

unnecessary procedure to the process of changing the Constitution, which is already difficult enough.

When this Bill was first introduced last year, and failed to pass in this House, it was following a series of statements by the Premier of Western Australia. He said in various places and quite recently in another place that the Bill had to be introduced because the policy of the Government stemmed from Australian Labor Party moves which culminated in the decision of the State ALP conference that future Labor Governments would not appoint State Governors. He then said—

We have interpreted this decision as part of a long-term Labor Party goal of destroying State Parliaments in the interests of centralising all government in Canberra.

I would like to say two things to that statement: Firstly, this Bill will not prevent from not being done the first thing to which the Premier objected, and, secondly, there is no evidence anywhere that it is the intention of the Australian Labor Party to try to destroy this Parliament or any part of this Parliament except, possibly, this House in due course—and even that is a very long-term goal. So, the reasons advanced for introducing the Bill are non-existent.

However, I should like firstly to refer to the statement that at an Australian Labor Party conference it was decided a future State Labor Government would not appoint State Governors. Nothing in this Bill will prevent any Government from not appointing a State Governor. The Bill itself makes provision for there to be a Lieutenant Governor or an Administrator to act in the place of a Governor. I understand also that the Standing Orders of this House make allowance for a Minister of the Crown to be appointed as Administrator, if necessary. So, it would be quite possible were this Bill to become an Act for any Government not to appoint a State Governor or a Lieutenant Governor, if the office fell vacant, and to appoint an Administrator who is a Minister of the Crown.

We have never suggested that we had an intention of doing this; but I am just showing what could be done. I wonder how the present Government thinks this amendment will stop the alleged intention of the Australian Labor Party, if it became the Government, not to appoint a State Governor. Of course it does not.

After all, a past Labor Government did not appoint a State Governor. It appointed a

Lieutenant Governor who was a former Liberal Premier, Sir William Mitchell. He carried out the duties of Governor with great distinction for many years; the State did not fall down, and the Constitution did not collapse.

The Hon. Neil McNeill: I think you made an error.

The Hon. R. HETHERINGTON: I am sorry; Sir James Mitchell. I may have made a slight error. I cannot see why the Premier, who is so upset by the possibility of something which has happened previously recurring, and I cannot see why the Government should bring down this Bill which cannot prevent that event from taking place again if the circumstances are right. From this point of view, the reason given for introducing the Bill is quite spurious.

The second consideration, of course, is in regard to all the insinuations which have been made here and in other places at various times that the Labor Party will destroy the Parliament of Western Australia, reduce the numbers, and do a number of other things. Let me say once again that the present policy of the Australian Labor Party is ultimately to replace the present two House system with a single House system, the numbers of which would be equal to the sum of the numbers of the Houses it replaces. There is no Labor Party commitment to reduce the numbers in Parliament. There is a Labor Party commitment ultimately to try to achieve a unicameral system; but the Labor Party platform recognises this is not a matter which can be achieved immediately or even perhaps for some time.

I do not believe, nor does my party believe, that the people of this State would be prepared to accept such a proposal at this stage. As strange as it may seem, we believe in democracy and, of course, we would only try to introduce a unicameral system when we thought the people of this State were ready for it and would approve of such a system. Our policy is to try to reform Parliament and reform the Constitution. In pursuance of this policy, I introduced four Bills which were in line with it at the last session of Parliament in an attempt to reform both the Parliament and this House. The House, in its wisdom, did not agree with me. It did not take very long to dispose of my arguments and to reject my Bills.

The Hon. A. A. Lewis: It is usually very easy.

The Hon. R. HETHERINGTON: I shall give the House another opportunity next year to

reconsider my arguments and I hope, in its wisdom, it may be a little more tolerant next time and may perhaps accept one or two of my Bills. Of course, the matter will then have to go to a referendum, if this Bill is passed. There is nothing in the policy of the Labor Party which suggests we shall make either House of Parliament any less democratic. In fact our policies are designed to make both Houses of Parliament more democratic. Therefore, I cannot see what the Government is on about. It is over-reacting to a non-existent situation, because in a burst of enthusiasm at one of our conferences a motion was moved suggesting that a Labor Government should not appoint a Governor. As a result the Government has introduced a Bill which, as I said before, does not prevent this happening if the circumstances are right. This Bill was introduced to justify all sorts of actions my party will allegedly take if it ever has the opportunity. However, these alleged intended actions appear nowhere in our platform or policy.

The Australian Labor Party is a parliamentary party. It always has been. When the Australian Labor Party was formed it carefully and deliberately adopted a policy of working through Parliament. It is not a revolutionary party; it is a parliamentary party.

The Hon. G. E. Masters: I have my doubts about that.

The Hon. R. HETHERINGTON: The honourable member may have his doubts about it, but I can assure him this is the case. Should this party ever cease to be a parliamentary party, I shall cease to be a member of it, because I did not join a revolutionary party which was intent on overthrowing the established order. I joined a reform party which was trying to achieve good reforms by parliamentary means. It is trying also to reform the Parliament we work in so that our legislation may be passed by democratic means in a democratic Parliament.

The Hon. O. N. B. Oliver: Unfortunately you were not around when the Liberal Party was being formed.

The Hon. R. HETHERINGTON: It depends which Liberal Party the honourable member is referring to. If he is talking about the original Liberal Party under the leadership of the Hon. Alfred Deakin, I certainly was not around at that time. If, however, the member is referring to the Liberal Party when it was re-formed by Sir Robert Menzies in 1944, I was around then. I was interested to see what happened then, but I

have not been terribly impressed by the behaviour of all Liberal Governments.

I point out to the honourable gentleman that in some States Liberal Premiers have agreed with the Labor Party in its belief in parliamentary democracy. Mr Tom Hollway was one such Premier in Victoria. Mr Steele-Hall was another such Premier in South Australia. He did not go quite as far as the Labor Party philosophy; but he agreed with a reformed Parliament. The Liberal Party in South Australia was prepared also to discuss the reform of the Legislative Council there and ultimately came to an agreement whereby a system of proportional representation was introduced for the Legislative Council in South Australia.

The Hon. O. N. B. Oliver: I thought that, had you been around, you might have been involved and you could have had an opportunity to contribute.

The Hon. R. HETHERINGTON: I cannot take any notice of the interjection, because I was around when the Liberal Party was re-formed and I took no part in it. When on occasions I am most despairing of the Labor Party—and I think all of us at some time feel a little frustrated with our own parties—even though despairing, I have nowhere else to go. I believe there is only one party in this State and in this country which will really bring about progressive reforms in a meaningful way and that is the reason I am a member of the Australian Labor Party.

The Hon. O. N. B. Oliver: I was talking about the formation of the Liberal Party. I thought you might have been interested in influencing it.

The Hon. R. HETHERINGTON: I was not interested in influencing it.

The Hon. O. N. B. Oliver: It was the beginning of a party. Why were you not interested?

The Hon. R. HETHERINGTON: I shall return to the Bill which I am sure you, Sir, would agree is a good idea. I cannot see why the Bill has been introduced and when I look at it I am rather perturbed by some of the provisions contained in it. It has been said this Bill is designed to preserve the conventions which already exist. One of the conventions that exists in this State at present is that instructions to the Governor are given by the Queen, and the Queen acts on the advice of Her Majesty's Secretary of State for Foreign and Commonwealth Affairs—I think that is the latest title for the appropriate principal Secretary of State. But in fact the Queen acts on the advice of

her Premier, which is given to the principal Secretary of State, and then to the Queen. In other words, there is a convention now that normally the Queen and the Governor, and the Queen instructing the Governor, act on the advice of the principal Secretary of State for Foreign and Commonwealth Affairs, who is acting on the advice of the Premier of this State.

This is a convention. It is quite a good convention. The reason the States were left under the Colonial Laws Validity Act of 1865 was to ensure that, after the Statute of Westminster of 1931, the Federal Government could not assume powers which would override its Constitution. As a result, we were left with a rather quaint colonial Constitution under which the Governor had to act, following instructions from somebody outside the country—Her Majesty's advisers in Great Britain. But the convention grew up that we were able to get over this by the fact that normally the Governor and Her Majesty acted on the advice given indirectly by the Government of this State.

On page 5 of this Bill we see the old colonial duties of the Governor written in, and apparently it is intended they should be binding and mandatory. It reads as follows—

51. (1) It is the duty of the Governor to act in obedience to instructions conveyed to him by the Queen with the advice of Her Privy Council or under Her Majesty's Royal Sign Manual and Signet or through one of Her Majesty's principal Secretaries of State in the United Kingdom for his guidance, in the exercise of the powers vested in him.

I want the House to know this and I want the honourable gentlemen opposite to know this: What is written in is a specific instruction to the Governor to follow the instructions of Her Majesty on the advice of a member of the British Government. If there is a British Government which is prepared to interfere with the internal policies of this State, we may live to regret this specific direction which is written into the Bill. This is a step backwards. It writes in specifically something which, by convention, has gradually died out. By convention, Her Majesty normally acts on the advice of her Government in Western Australia and this, of course, is how it should be.

The Hon. A. A. Lewis: Would that be the Labor philosophy behind it, because I am looking at Sir Colin Hannah in Queensland and Mr Whitlam's intervention.

The Hon. R. HETHERINGTON: There are other conventions of which the honourable

member might take note at some time, but I do not intend to go into them right now.

The Hon. A. A. Lewis: It might be difficult for you.

The Hon. R. HETHERINGTON: It would not be difficult at all; but I will continue with what I was saying.

The Hon. A. A. Lewis: You will not answer the question.

The Hon. R. HETHERINGTON: I cannot see the point of writing into the Act this proposed subsection to hammer home a power which already exists and which has always been provided in the Act. It has always been one of the principles of our Constitution. This clause intends to insert in the Constitution in specific form a provision which has always been there, but which has been softened by convention. Therefore, I find it is a peculiar and undesirable clause; even though it may seem to be merely putting into the Constitution a provision which is already there, it is in fact establishing that provision more firmly than it has existed in the past.

I am rather intrigued when I look at page 6 of the Bill and see section 73 of the Act is to be amended to refer to Bills that expressly or impliedly provide for the abolition of or alteration in the office of Governor; or for the abolition of the Legislative Council or of the Legislative Assembly.

I am just wondering what the word "impliedly" signifies. It seems to me that we will give the lawyers a field day when we try to decide whether a specific Bill passed by this Parliament impliedly did certain things. Although it is not set out expressly in the Bill that it does certain things, it could be argued in future that the Bill impliedly did those things. This indicates the projection into the future of paranoid fears held by the Government.

I am amused by the fears that have been expressed of what the Labor Party might do to the Constitution, at a time when the Labor Party does not have a majority in the lower House or in this House. In fact, it is not likely to have a majority in this House for some time, and in the past it has never had a majority in this House. Yet, apparently one resolution passed at a State conference is enough to set the Premier in fear that the Labor Party is about to take over the State, and destroy the Constitution and the Parliament. That is a lot of nonsense.

It gives me some consolation to think the Premier is so afraid of us in the Labor Party that he has to build all these things into the Constitution, because apparently he feels he is not as firmly entrenched as he was and that we may take over at the next election and win a majority in each House. If we follow the Premier's logic we may be in a position to do some irreparable harm to the Constitution, but I have shown we cannot do that because there is nothing in our policies or our platform to suggest we will.

To me the Bill seems to be quite unnecessary. It is over-reaction to a situation that does not exist; it is over-reaction to something that is a figment in the Premier's mind; and it is something that belongs to one of his fantasies. He has over-reacted, and the Government has brought down the Bill; so we have to look at it.

One feature of the Bill is that it will make it harder for us to alter the Constitution. At present it is not easy for the Labor Party, when in Government, to alter the Constitution; it never has been easy for us. However, it is quite easy for a Liberal Government to alter the Constitution; that is, unless the Government Whip happens to be sick or some Government member happens by accident to be lost in the corridors of this place! Normally the Government has merely to use its majority and the Constitution is altered.

When the Constitution has been altered, I have been very interested to note the scrutiny which members opposite have given to the proposed changes, and how carefully and closely this House of Review examined them. In fact, the majority merely rolls across the Chamber, and the Government has no trouble at all in effecting the changes.

If the Labor Party wins Government in the lower House—as it has done in the past and will do so again—it will find entrenched here a conservative majority which will make it very difficult for that Government to alter the Constitution. For the time being I do not see any great fears of the Labor Party being able to railroad through Parliament undesirable changes to our Constitution. That seems to be most unlikely, unless some members do what they have told me they will do; that is, they will act as independent members, taking each piece of legislation on its merits.

I have had the pleasure of seeing that happen once; and I hope I will live to see the same thing happening again. Certainly that has not happened in respect of anything to do with the Constitution.

Now the Government has the happy thought in saying that it has introduced the Bill, it has passed the Bill to amend the Constitution, and it has persuaded the Legislative Council to do that. One of the aspects we are entrenching in the Constitution is that in this House at present half the members are returned by slightly under 30 per cent of the population. So, it is theoretically possible for a party to be able to control this House with 15 per cent of the vote. I know that would not happen in practice, but it could happen theoretically.

In fact, the position in the Legislative Assembly is not much better. In that House about one-third of the population return 28 members, and about two-thirds of the population return 27 members; so, theoretically it would need a 16 2/3 per cent vote to be able to gain control.

It seems there is a real need for change in this State. I would be very happy if the Government and members opposite took the business of the Constitution seriously by setting up a committee, a constitutional convention, convention, or some other body to examine the Constitution, to call evidence to determine what changes are needed, and to alter the Constitution accordingly.

As the position stands in this House, if we win 50 per cent of the vote in a sufficient number of electorates, we can control it. In fact, we need to obtain 60 per cent of the overall vote to have a chance of doing that, because of the way in which the electorates are arranged.

We have the situation in which, if both Houses have agreed to a constitutional change, we would have to conduct a referendum. This means we have one more hurdle to cross. We know from past history of referendums conducted in Australia that very rarely is a referendum carried. On the occasions that a referendum is carried, it is only carried when all the major parties have agreed.

I think that is likely to be the situation for a long time. It seems to me that the Government, instead of altering the Constitution, should agree that when a Government puts forward an amendment to the Constitution, has it passed in another place, has the measure discussed in this House and rejected, and then three months later has it passed again in another place, it should then be able to put the Bill directly before the people. By adopting that procedure we would be adopting something akin to democracy. We would then enable the House of Review to fulfil its functions as laid down by Alfred Deakin when it

said it should apply scrutiny and veto limited in time. We would then know that any change to the Constitution would have to go to the people and the people would have to make up their minds. In that event there would be 2½ instead of three hurdles for us to get over. That would be a highly desirable procedure, and I would be interested to hear what other members have to say about it. I will not prejudge what they will say.

I notice there is no intention on the part of the Government to put the Bill now before us to a referendum. The Government believes that only future Governments will have to conduct referendums to change the Constitution; but not this Government. It is passing manner-and-form legislation which will bind future Governments so that they can change the Constitution only in the way now being laid down in the Bill. It binds future Governments to a certain course of action which the present Government is not taking.

I find this interesting, but not surprising. It does not surprise me that the Government would behave in this way; it is the way I am coming to expect this Government to behave, and that is to have a one-way process where it can change the Constitution without a referendum, but it does not want anybody else to be given the same opportunity to do so.

I hope that members in this House and in another place who form the Government of this State at the present time have examined the Constitution Act very carefully. It would be terrible if next week they suddenly found there was a flaw in our Constitution, and wanted to change it. In that event they would be hoist with their own petard. They would ask the Opposition to listen to sweet reasonableness, and to agree to alter the Constitution. It is very dangerous for the present Government to fiddle around with our Constitution, because it does not know when it might need to change the Constitution.

Perhaps in this instance we are fortunate, and perhaps we should support the Bill so as to protect us from future conservative Governments. One of the arguments I find rather amusing, were it not so bitterly fallacious, is that it is only the Labor Party we need to fear. This Government thinks that the Labor Party is a radical party which will destroy our Constitution. It thinks that the conservative parties and the Liberal-National Country Party coalitions are the parties supporting the *status quo*. It seems to think that those parties will not bring the country to any harm! We have seen what wild radicals on the left

did in the Soviet Union, and what the wild radicals on the right did in supporting Hitler in Germany.

We should bear in mind there are people on the radical right as well as on the radical left, who are just as likely to bring about situations which destroy our institutions.

The Hon. O. N. B. Oliver: You are proposing a constitutional convention?

The Hon. R. HETHERINGTON: I have proposed the setting up of one. I said I thought it would be a good idea, and I invited the Government to establish one. We realise that people on both sides of the political fence, if pushed far enough, will do things to destroy the Constitution. Sometimes we find people that think they are defending their institutions by making them too rigid, when in fact they are destroying them.

Sometimes this is done by people, who are well meaning, in defending their institutions. I do not accuse this Government of not being well meaning; I believe the Premier genuinely believes that it is only the Liberal Party which can bring the right rule to this country, and that a good democratic State must organise and make sure that the Labor Party is not able to obtain a majority.

The Hon. G. E. Masters: We do not need to organise anything. You did that yourselves.

The Hon. R. HETHERINGTON: The Premier is mistaken. I do not think he is necessarily doing the State a service by introducing this Bill. However, I fear the day when we are in government and I am a Minister of a Labor Government in this State—

The Hon. W. R. Withers: You presume too much.

The Hon. R. HETHERINGTON: We all can gaze into our crystal balls now and again. Perhaps my crystal ball is cloudy, but that is how I see the position. As I look across the Chamber I will invite members at least to agree to our proposals so that we can put these matters before the people. I will be interested to hear what they have to say, and to see whether they will let us go to the umpire, or whether they will decide that they are the entrenched umpire—and that seems to be the intention of the measure before us.

I have been arguing about this matter ever since I have been in this Chamber, and I have been accused of trying to destroy the institution, which I deny. I have been trying to improve the

institution and some people find it presumptuous of me, after being here so short a time, to try to improve the institution or do what I think will improve the institution. I am at times scolded and lectured by the Leader of the House about my lack of understanding and lack of experience. I do not think his scoldings are always well founded—

The Hon. A. A. Lewis: He only calmly points out the facts to you.

The Hon. R. HETHERINGTON: —because one does not need to sit in this House for long to know how Constitutions work. I think our Constitution does need reforming. I said so in my maiden speech. I do not expect to say so in my last speech in this House, because I expect to be able to look back and say we have achieved something, we have reformed the Parliament, and we have a better and more democratic parliamentary system in Western Australia. I hope we will get this State institutionally into the twentieth century before we hit the twenty-first century. We still have time and I hope I will be here long enough to see that happen.

I think it would have been more becoming of the Government had it decided to hold an inquiry or a constitutional convention, or appointed a Joint House committee to inquire into the Constitution to try to obtain some kind of consensus about the Constitution before it was formally entrenched in this way.

The Hon. O. N. B. Oliver interjected.

The Hon. R. HETHERINGTON: I did not quite catch the full purport of the interjection that was made behind me, but it seems to me there is nothing undemocratic about inquiries or about Governments getting advice or asking people to give evidence and the benefit of their experience before it makes decisions. There is nothing undemocratic about anything I have proposed this afternoon.

The Hon. O. N. B. Oliver interjected.

The Hon. R. HETHERINGTON: I know something at least about the theory of democracy and the practice of democracy, because I have had a look at some of the theory of democracy. I point out to the honourable gentleman who keeps interjecting that democracy is more than adult franchise and a vote for everybody. I have pointed that out previously and I point it out again. I have previously pointed out that Stalin's Russia and Hitler's Germany had adult franchise but that did not make those countries democratic. I was glad to note the Leader of the House agreed

with me at that particular time and seemed to think what I had said was sensible enough. He does not always think what I say is sensible but perhaps as he listens to me longer he will be persuaded.

On behalf of the Opposition, I oppose this Bill for all the reasons I have given. I think it has been brought in on wrong premises. It is a Don Juan Bill; it is fighting windmills.

The Hon. W. R. Withers: Don't you mean Don Quixote? Don Juan tilted with something else.

The Hon. R. HETHERINGTON: It is a Don Quixote Bill which fights at non-existent windmills, with the Premier playing Don Quixote and the Leader of the House, I presume, playing Sancho Panza.

The Bill does not do what it sets out to do. It seems to me to be undesirable to write into the Bill specific instructions about the way the Governor and Her Majesty will use their powers. Its use of the word "implied" confuses the Bill and makes it difficult at times to know what it is aiming at. It sets up a further barrier. If in the Committee stage members opposite accept my amendment, we may yet be able to save this Bill and turn it into something decent.

Debate adjourned, on motion by the Hon. G. E. Masters.

#### SUITORS' FUND ACT AMENDMENT BILL (No. 2)

##### *Second Reading*

Debate resumed from the 15th August.

**THE HON. D. W. COOLEY** (North-East Metropolitan) [5.35 p.m.]: I rely on the Minister's second reading speech which states that the Bill enables the District Court to be listed as the court of appeal in section 10 of the Act. In doing so the Bill will provide a respondent with the right to seek indemnity for his costs from the Supreme Court. It is a minor but necessary amendment and the Opposition supports it.

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.

#### DEATH DUTY ASSESSMENT ACT AMENDMENT BILL

##### *Second Reading*

Debate resumed from the 22nd August.

**THE HON. R. F. CLAUGHTON** (North Metropolitan) [5.38 p.m.]: I must confess I have been caught somewhat on the hop because I was expecting my leader to address himself to the Bill with some support from me. I hope while I am on my feet he will be found and come to rescue me from this situation. He is having a meeting with our leader in another place at the moment.

The Opposition opposes this Bill on very sound grounds; namely, it is our belief that this is not the time for the Government to be shedding itself of sources of revenue. We have heard a good deal about the difficult economic problems facing the State as a result of the Federal Budget and the changes that have been made.

On glancing at a policy document of the Liberal Party called "Policy and Performance" which was published several years ago, I noted it made reference to the party's promise to remove pay-roll tax and stated that would not be possible until such time as there was a change of Government in the Federal sphere and a return to responsible economic management, or words to that effect. That change has taken place. Mr Whitlam has gone and Mr Fraser is in office, but we do not yet see any change in pay-roll tax. It is still with us for the simple reason that the State has great need of the revenue gained from that source.

I understand the difficulties in which the Government finds itself in abolishing that particularly iniquitous tax—as so many employers term it—and providing incentives to employers to take on more staff and ease the unemployment situation; but I would have thought the Government would feel the same situation applied in respect of death duties—the more so in that by retaining death duties the Government would have some room to manoeuvre in respect of pay-roll tax.

The Labor Party believes the only responsible stance it can adopt is to oppose the changes that are to be made. Most of the ordinary people are already exempt from the difficulties inherent in the levying of death duties.

The Hon. H. W. Gayfer: What do you mean by "ordinary people"?

The Hon. R. F. CLAUGHTON: The person who comes into the class of the average wage-earner.

The Hon. V. J. Ferry: Why do you not just say "people"?

The Hon. R. F. CLAUGHTON: They are ordinary people in the terms which Mr Ferry and Mr Gayfer would use—those who are on average or below-average incomes. Those people are not affected by the imposition of death duty; they have already been relieved of that burden, and that was done with the support of the Australian Labor Party. In fact, in the period of the Tonkin Government the level at which the duty was imposed was raised again so that a greater number of people would be relieved of it.

The Hon. H. W. Gayfer: We are only increasing that level. That is all we are doing.

The Hon. R. F. CLAUGHTON: No it is not. In this Bill the level is being removed.

The Hon. H. W. Gayfer: Well, it is increasing the level.

The Hon. R. F. CLAUGHTON: I do not see how we can continue to support a Government which uses words in that fashion, suggesting that to abolish something is to raise a level. If it were applied generally, it would mean disaster. So I hope this Government does not last very much longer.

The position is that the tax in the Death Duty Assessment Act Amendment Bill is to be removed in two stages, the last stage timed to occur shortly before the normal time of the next State election—obviously with electioneering benefits in mind.

If this legislation is not proceeded with, then the Government will retain the financial benefits it is so greatly in need of and the ordinary people—the low income earners—will not be affected because they are already exempted; and the people affected by this legislation are those best able to pay the tax that is imposed.

I oppose the Bill.

Debate adjourned, on motion by the Hon. W. M. Piesse.

#### COMMISSIONER FOR DECLARATIONS

##### *Documents Requiring Witnessing: Ministerial Statement*

THE HON. G. C. MacKINNON (South-West—Leader of the House) [5.46 p.m.]: Mr President, I seek permission of the House to

answer the query raised by the Hon. Roy Cloughton.

Leave granted.

The Hon. G. C. MacKINNON: Mr Cloughton said there was some confusion regarding just what a Commissioner for Declarations should do, and asked me if I could obtain some information and pass it to all members. I would like to draw members' attention to an Act which the Clerk of the Parliaments has handed to me. It is the Declarations and Attestations Act, and the copy I have was approved for reprint on the 27th March, 1973. The Act is titled, "An Act to amend the law relating to the Taking of Declarations and the Attestation of Documents". It is a very small measure, comprising only two pages. I suggest all members obtain a copy of it, because it sets out in clear and simple terms precisely what must be done with regard to the witnessing of documents.

#### ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. G. C. MacKINNON (South-West—Leader of the House) [5.47 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 5th September.

Question put and passed.

*House adjourned at 5.48 p.m.*

#### QUESTIONS ON NOTICE

##### RAILWAYS

##### *Perth-Fremantle*

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

- (1) Will the Minister give an assurance on behalf of the Government that the Perth-Fremantle railway passenger service is to continue operating at current levels?
- (2) If not, will he advise what is intended?

The Hon. D. J. WORDSWORTH replied:

- (1) and (2) The Government has no present intentions of discontinuing rail passenger services between Perth and Fremantle.



## COMMISSIONER FOR DECLARATIONS

### *Documents Requiring Witnessing*

230. The Hon. R. F. CLAUGHTON, to the Attorney General:

Would the Minister advise the documents or the class of documents that require witnessing by a Commissioner for Declarations?

The Hon. G. C. MacKinnon (for the Hon. I. G. MEDCALF) replied:

Whenever any Statute expressly requires the making or executing of a statutory declaration or other instrument, then among those authorised by law to witness such declaration or instrument is a Commissioner for Declarations. The honourable member will find more detailed information on this subject in a handbook entitled "Notes for the Guidance of Commissioners for Declarations on their Powers, Duties and Responsibilities", which I will be happy to make available to him.

## EGG MARKETING BOARD

### *Chairman and General Managers*

231. The Hon. D. W. COOLEY, to the Minister for Transport representing the Minister for Agriculture:

Further to my questions No. 201 of the 15th August, and No. 223 of the 17th August, 1978, and in view of the obviously high turnover of General Managers of the Western Australian Egg Board, and the possibility of unjust dismissal, would the Minister consider conferring appeal rights to senior staff of the Board comparable to those enjoyed by most salaried officers employed in the State Public Service?

The Hon. D. J. WORDSWORTH replied:

I am advised by the Public Service Board that as a result of an amendment to the Public Service Arbitration Act, 1966 which was proclaimed on August 11, 1978 to have effect from September 1, 1978 senior officers on the Western Australian Egg Marketing Board who are "Government Officers" under

schedule A of Section 11 A of the Industrial Arbitration Act, 1912 will be granted a right of appeal against a decision of the board to dismiss the officer.

Under the Public Service Arbitration Act the Public Service Appeal Board has jurisdiction to hear such appeals as well as similar appeals involving most public servants.

## CYCLEWAYS

### *Report and Government Funds*

232. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Minister for Police and Traffic:

Further to my question No. 276 of the 10th August, 1978, concerning cycleways, and the Minister's reply that the Minister for Local Government has appointed an Advisory Committee to examine the whole question of bicycle use in the metropolitan area—

(a) will the Committee include a representative from any of the organisations representing cyclists, e.g. the Amateur Cycling Union or the League of W.A. Wheelmen; and

(b) if not, why not?

The Hon. G. C. MacKINNON replied:

(a) Yes.

(b) Answered by (a).

## TRAFFIC

### *Noise in Gwelup*

233. The Hon. R. F. CLAUGHTON, to the Leader of the House representing the Minister for Police and Traffic:

(1) Has the Minister received complaints about the noise level of traffic in North Beach Road from the resident of 600 North Beach Road, Gwelup?

- (2) Would the Minister advise the number of occasions on which officers of the Traffic Patrol visited the area with noise metering equipment, and the length of time for which readings were taken on each occasion?

The Hon. G. C. MacKINNON replied:

- (1) Yes.  
 (2) Once in August for about a half-hour duration.

### ABORIGINES

#### *Courts of Petty Sessions: Cases*

234. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Minister for Police and Traffic:

Is it a practice that complaints issued out of the Courts of Petty Sessions against Aborigines contain the fact that they are Aboriginal?

The Hon. G. C. MacKINNON replied:

No.

### SEWERAGE

#### *Sewage Treatment Plant: Wanneroo*

235. The Hon. R. F. CLAUGHTON, to the Attorney General representing the Minister for Water Supplies:

- (1) Is the Minister still receiving complaints of unpleasant odours emanating from Beenyup Treatment Plant, Wanneroo?  
 (2) (a) Have investigations been made as to the cause of the odour;  
 (b) if so, what is the cause; and  
 (c) what action is being taken to overcome this problem?  
 (3) Is septic tank sullage being dumped at the Beenyup treatment plant?

The Hon. G. C. MacKinnon (for the Hon. I. G. MEDCALF) replied:

- (1) There were two recent complaints.

- (2) (a) to (c) Yes. Essential parts of the treatment plant are still under construction and odours were emanating from several sections not yet completed. Construction is being completed as rapidly as possible.

- (3) No.

### POLICE LOCK-UPS AND PRISONS

#### *Inmates: Numbers*

236. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Minister for Police and Traffic:

What particulars are obtained from persons who are—

- (a) placed in police custody; or  
 (b) imprisoned?

The Hon. G. C. MacKINNON replied:

- (a) Particulars obtained from persons in police custody are as outlined in the following forms—

(i) Prisoners Property Book

Surname

Christian Names

Address

Occupation

Date of Birth

Place of Birth

Religion

Marital Status

Whether they can read or write

(ii) Fingerprint form (in addition)

Arrival in Australia—date and ship

Height

Weight

Complexion

Hair

Eyes

Descriptive marks—tattoos, physical deformities, etc.

- (b) Persons received at Department of Corrections institutions undergo reception procedures which entail the immediate completion of a reception history sheet and shortly thereafter the completion of an admission checklist. The former collects personal details and information relating to the condition of the prisoner, the latter being concerned solely with the welfare of the prisoner and his dependants. Copies of these forms will be forwarded to the member.

## PRISONS

### *Inmates: Documentation*

237. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Minister for Police and Traffic:

What documentation is required to record the fact that a person sentenced to imprisonment has in fact been imprisoned?

The Hon. G. C. MacKINNON replied:

As far as the Department of Corrections is concerned, each police lockup and Department of Corrections institution forwards details of conviction and imprisonment to central prison records, where a register is maintained of each new admission and a file is created for each individual in which details of conviction, term of imprisonment, and location is maintained.

## POLICE LOCK-UPS AND PRISONS: INMATES

### *Deaths: Records*

238. The Hon. LYLA ELLIOTT, to the Attorney General:

- (1) Is a coronial inquest held in respect to all prisoners who die whilst in police custody or in prison?
- (2) Does the Coroner keep any separate statistical record touching on persons who have died whilst in police custody or in prison?

- (3) If so, what record is kept?

The Hon. G. C. MacKINNON (for the Hon. I. G. MEDCALF) replied:

- (1) Yes.
- (2) No.
- (3) Not applicable.

Section 51 of the Prisons Act states—

The gaoler shall give notice to the Director of the death of every prisoner who may die within a prison, and an inquest shall be held by a Justice of the Peace on the body of every such prisoner.

In no case shall any officer of the prison or any prisoner confined in the prison be a juror on such inquest.

The provisions of this section shall not apply to the case of a prisoner upon whom judgment of death is executed.

It is the practice of the City Coroner to hold an inquest in respect of all prisoners who die whilst in police custody or in prison.

## RAILWAYS

### *Parcels Depot*

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

- (1) Did Skippers Transport Pty. Ltd. offer portion of its depot at 8-22 Money Street, Perth, for utilisation by Westrail prior to its recent decision to restrict acceptance and delivery of parcels from Roe Street?
- (2) If so, would the Minister give details of the offer, and the reason why Westrail declined to accept?

The Hon. D. J. WORDSWORTH replied:

- (1) and (2) No. It drew attention to the services it could offer the public from its Money Street premises in its role as carriers, in the event that the Roe Street parcels depot closed.

Westrail welcomed the suggestion as the service the company could offer would provide an alternative for customers should the depot close.

The company's services are now being used to advantage by a number of clients, to deliver to Kewdale.

## RAILWAYS

*Parcels Depot*

240. The Hon. F. E. MCKENZIE, to the Minister for Transport:

- (1) Is the Minister aware that because Westrail has recently restricted acceptance and delivery of parcels at its Roe Street Depot, consumers in country areas, serviced by Westrail, are now being forced to carry additional freight charges because businesses in the Central Business District of Perth and surrounding areas, are being required to meet charges raised by carriers conveying the parcels, formerly eligible for acceptance and delivery at Roe Street, Perth, to and from the Kewdale Freight Terminal?
- (2) Is he aware that a large number of businesses in and around the Central Business District of Perth have protested to Westrail over its decision to restrict the service?
- (3) In view of the additional freight burden which has been placed on country people, and the dissatisfaction of the Perth business community and other affected people, will the Minister do all in his power to ensure a depot without restrictions on acceptance of the number and weight of parcels is re-opened as quickly as possible?
- (4) If not, why not?

The Hon. D. J. WORDSWORTH replied:

- (1) As the Roe Street parcel depot still accepts parcels up to 20 kg (44 pounds) and will accept up to 6 parcels at a time there is very little genuine parcel traffic affected and hence little economic consequence to country consumers.

For those items which cannot be packed in 20 kg lots and which are required to be received at Kewdale, in most cases, such items can be consigned as "goods" rather than parcels at a cost advantage. Most of these retailers have to deliver goods freight to Kewdale anyway and have had to do so since goods receipts ceased in Perth some 12 years ago with the opening of Kewdale.

While previously when WAGR ran an extensive passenger rail service freight consigned as "parcels" was carried in a van attached to the passenger train, since the transfer of passengers to road generally parcels and goods travel on the same train. The only advantage is that parcels are given priority in receipt and delivery.

- (2) There have been some complaints but mostly by those retailers or consignees who have not been fully aware of the difference between parcels and goods. One of the complainants was consigning vehicle transmissions as parcels.
- (3) As explained above, there could be a saving in total transport costs to the country as people become more aware of the advantages of the change over.
- (4) Answered by (3).

## RURAL RESEARCH AND EXTENSION

*Commonwealth Council*

241. The Hon. R. F. CLAUGHTON, to the Minister for Transport representing the Minister for Agriculture:

Further to my question No. 227 of the 22nd August, 1978, regarding the establishment of a Commonwealth Council for Rural Research, will the Minister advise whether he has been further approached on this subject by the Commonwealth Government since the meeting of the 7th August, 1978.

The Hon. D. J. WORDSWORTH replied:  
No.

## QUESTIONS WITHOUT NOTICE

## RAILWAYS

*Perth-Fremantle*

1. The Hon. F. E. MCKENZIE, to the Minister for Transport:

Referring to the Minister's answer to question 229 today, I would like to ask the Minister whether he will give an assurance that the Perth-Fremantle railway passenger service will not be discontinued during the term of the present Government?

The Hon. D. J. WORDSWORTH replied:

If nothing else, probably the question is out of order. There is no way that I, or anybody else, could make a statement like that. I have answered the question up until today's date, and that is as much as I can do.

#### COMMISSIONER FOR DECLARATIONS

##### *Documents Requiring Witnessing*

2. The Hon. R. F. CLAUGHTON, to the Leader of the House:

Further to my question relating to the class of documents that require witnessing by a Commissioner for Declarations, I have a problem in advising constituents about whether or not it is necessary for them to apply to be a Commissioner for Declarations for the witnessing of documents. There appears to be no way that I can obtain a clear statement of the occasions on which such a person's signature is necessary.

This is the information I was after, and the reply given by the Leader of the House has not clarified the situation at all. Is the Leader of the House prepared to pursue the matter further, because it will be of interest to members generally?

The Hon. G. C. MacKINNON replied:

I will speak to the honourable member later. If I can determine the answer to his question, I will circulate the information generally.

#### WATER SUPPLIES

##### *Rate Rebates: Pensioners*

3. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Water Supplies:

(1) Is it a fact that the Pensioners' Rates Rebates and Deferments Act, 1966-1977, is being interpreted by the Metropolitan Water Board in such a way as to deprive pensioners of the 25 per cent rebate on water rates if they pay their account before applying for the rebate?

(2) If so, will he—

(a) give wide publicity to this in order to warn pensioners of the position; and

(b) amend the Act to allow them to claim the rebate after payment of the account?

The Hon. G. C. MacKINNON replied:

(1) and (2) No. All registered pensioners are sent special rate notices advising they may either defer rates altogether or pay their rates and receive a 25 per cent rebate. The notice also includes a form for declaration of entitlement under the current Pensioners' Rates Rebates and Deferments Act, 1966-1977.

All registered pensioners are therefore quite clear on their position.

The Act does not provide for adjustments in cases where, after rates have been paid, the ratepayer subsequently becomes eligible for concession.