

Legislative Council

Thursday, the 6th October, 1977

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE BOARD (VALIDATION) BILL

Debate: Personal Explanation

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [2.43 p.m.]: Mr President, I seek leave of the House to make a personal explanation.

The PRESIDENT: Is leave granted to the Attorney-General to make a personal explanation? As there is no dissentient voice, leave is granted.

The Hon. I. G. MEDCALF: Last night's *Daily News* contained a report indicating that certain Jandakot landowners were angry at what they described as a brush-off at Parliament House. They had apparently visited Parliament House on Tuesday night to hear the passage of a Bill dealing with water supply.

The report goes on to say that the Bill was supposed to go through that night but they were told I was attending a meeting and was not in the House. Then follows the report of a statement, attributed by the newspaper to Mr Dennis de Young, that the group felt it was thwarted and was given something of a brush-off.

I should like to make it clear that if the report is correct that Mr de Young said what is attributed to him, neither he nor any member of his party need feel that they were given the brush-off.

All members of Parliament know that one can never say with certainty that a particular Bill on the notice paper will be debated at a particular time or even on a particular day, unless a specific undertaking or arrangement is given or made.

The order of the notice paper is frequently changed not only to suit Ministers who may not be ready to proceed, but also to suit private members, including members of the Opposition, who may wish to speak on Bills or move amendments.

Nobody contacted me prior to the House sitting to inquire whether this Bill would be proceeding on Tuesday night, or to inform me of their intention to visit Parliament House.

Had they done so I would have informed them—as I had already informed the Leader of the House—that I had a long-standing engagement to chair a meeting outside the House, and I did not know at what time the meeting would end. This would make the time of my return to the House uncertain. In addition, I probably would not have proceeded with the Bill that evening because I was awaiting departmental advice dealing with certain aspects of it.

I have been informed that the proposal of the group to visit Parliament House was reported in the *Daily News* the previous night. I did not see the report until after the event complained of.

I trust, therefore, that if the landowners said, as the *Daily News* headline asserts, that they were brushed off, it will be appreciated that this statement is incorrect. If they did not say this, but nevertheless felt that they had been given the brush-off, I hope I have made it clear that there was no ground for such complaint.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [2.46 p.m.]: Mr President, I seek leave of the House to make an explanation further to that of the Attorney-General.

The PRESIDENT: Is leave of the House granted? As there is no dissentient voice, leave is granted.

The Hon. G. C. MacKINNON: At the request of the Leader of the Opposition I met the people concerned, and I think it is fair to say that Mr Dans and I were equally surprised to see the number of people there, neither of us having had any notification.

I explained to the people that we had no idea when the Bill would be debated, and I explained the reason that it would not be debated on that night. In order to facilitate their hearing the debate, I made arrangements then and there that the debate would proceed as early as possible today. Those arrangements can be verified by Mr Dans.

I further wish to state that this afternoon the procedure in regard to this Bill will be that at the appropriate time the Attorney-General will listen to debate—I notice so far there appears to be no interest in the matter—at the end of which the Attorney-General will arrange for the debate to be adjourned in order that he may seek information to reply to the debate and he will provide the information on Wednesday next, not on Tuesday. I will bring on that debate at an

appropriate time. I suggest that it might be after the tea suspension on Wednesday, because no-one on this side of the House would wish to bring on the debate when the people concerned are not available. I think we demonstrated that yesterday in respect of the arrangements we made concerning the Criminal Code Amendment Bill.

I made those arrangements in conjunction with the Leader of the Opposition, and I understood they were readily accepted by the people concerned, who came to this place so unexpectedly.

PAY-ROLL TAX ASSESSMENT ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [2.50 p.m.]: I move—

That the Bill be now read a second time. This Bill contains measures designed to provide further pay-roll tax concessions which were foreshadowed by the Treasurer when introducing the Budget.

It makes three significant changes in the pay-roll tax legislation which are—

- to increase the level of the basic deduction, which will result in exempting more small businesses from pay-roll tax;

- to change the range of the tapered deduction, which will reduce the tax payable by those businesses which receive this form of deduction;

- to increase the minimum deduction applicable to all businesses.

In addition, the provision included in the legislation last year to prevent the proposed changes in the law from imposing increased taxes on any business during the transitional period will be continued, to ensure that the same provision will apply to these proposed changes.

The proposed reduction in tax levels will mean that, under a full year's operation of the proposals contained in this Bill, all businesses will either pay less pay-roll tax or be exempt from this form of tax.

Currently all taxpayers with a pay-roll of \$48 000 or less pay no tax. This level of basic deduction was enacted only last year and increased the previous level by approximately 15 per cent.

The current proposal is to now raise the existing level from \$48 000 to \$60 000, representing an increase of 25 per cent. The effect of this provision will be to relieve a further 980 small businesses from the imposition of pay-roll tax.

The existing tapered scale results in a decrease in the present deduction of \$48 000 by \$2 for every \$3 by which annual pay-rolls exceed that sum.

This means that currently taxpayers receive a diminishing deduction until the annual pay-roll reaches \$84 000. For pay-rolls of \$84 000 and above, there is a flat deduction of \$24 000.

The same system will be employed to taper out the new and higher deduction, which means that pay-rolls between \$60 000 and \$109 500 will be in the taper range.

Thus, because there is a higher base, pay-roll taxpayers within the existing taper range and who remain in the new range, will receive a higher deduction and, therefore, pay less tax. For example, a taxpayer with an annual pay-roll of \$90 000 under existing legislation pays on taxable wages of \$66 000.

Under the proposals in this Bill, on the same annual pay-roll, when the changes operate for a full year, the taxpayer will pay on only \$50 000. This will reduce the amount of annual tax payable by \$800.

The current minimum deduction of \$24 000 will be increased to \$27 000 under the proposals contained in this Bill. This is an increase of 12½ per cent.

The increases in the basic level of exemption, together with the minimum deduction and the extension of the taper range, will provide relief to all businesses and for a large number of small businesses it will mean total exemption from this form of taxation.

Thus, under the proposed arrangements in this Bill, all taxpayers with annual pay-rolls above \$109 500 per annum will receive a flat deduction of \$27 000.

A special provision inserted in the amendments made to the legislation last year has been continued in this Bill. This will ensure that no taxpayer is required to pay more pay-roll tax than he would have been liable to pay had the law not been amended by the proposals now before the House.

Such a situation could arise in certain cases, generally in respect of businesses which operate seasonally. It will occur only in a transitional

year; that is, the current financial year, where different limits and concessions apply in each portion of the 12 months' period.

The Bill contains a saving clause to enable the commissioner to raise an assessment of tax in the event of cases coming before him for past periods.

A number of the other provisions in the Bill deal with changes in the amounts which regulate the submission of returns and prescribe the deductions to be made from taxable wages. These reflect the decisions to provide further relief from pay-roll tax.

In order to calculate the annual deductions applicable to the various situations in which pay-roll tax is levied, a formula has been employed. It has been designed along the same lines as that adopted for the previous year.

For the transitional year, this legislation has been structured to divide 1977-78 into two parts, with one adjustment at the end of the financial year.

The first part covers the period from the 1st July, 1977, to the 30th November, 1977, and the second part from the 1st December, 1977, to the 30th June, 1978. The reason for this division is that different limits and concessions apply in each period.

An annual adjustment of tax payable is necessary under the existing law and will continue to be necessary in future. This arises from the tapered nature of the deductions which, when taken in conjunction with the fluctuations in monthly pay-rolls, makes it impossible to determine the precise amount of deduction entitlement until the end of the year.

Similar provisions containing the formulae calculations are contained in the Bill for the purpose of amending the grouping provisions, as groups are to receive the same concessions as other taxpayers.

Provision is made to apply the amendments to the pay-roll tax legislation on and from the 1st December, 1977.

The cost to revenue of the proposals contained in this Bill is estimated to be \$1 million in the current financial year, during which they will only apply for part of that year, and \$2 million in a full year of operation.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

VETERINARY SURGEONS ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [2.57 p.m.]: I move—

That the Bill be now read a second time. The Veterinary Surgeons Act of 1960 regulates the practice of veterinary surgery in Western Australia in common with similar legislation in the other States of the Commonwealth. It does so with the basic intention of ensuring that the art and science of veterinary medicine and surgery meet an acceptable standard; both for the welfare of the animals requiring veterinary attention and in the interests of the owners of the animals.

This Bill seeks in general to update the existing Act and bring it into harmony with similar legislation in the other Australian States.

The proposals include a more precise definition of veterinary surgery and also new definitions in relation to what constitutes a veterinary clinic and a veterinary hospital. These definitions are similar to those adopted by veterinary boards in other States.

A major change provides for the registration of persons whose qualifications, obtained either in Australia or overseas, are considered to meet the requirements to practise their profession in Western Australia.

It is also intended that a person by reason of his prolonged absence from the practice of veterinary surgery will be required to pass an examination conducted by the board before being able to engage in practice.

Provision is made for a person to be provisionally registered, and this proviso will particularly apply to veterinary graduates who appear to be legally qualified enabling them to practise until their qualifications are formally verified at the next board meeting. Veterinary graduates who may be involved in post graduate work at the Murdoch University Veterinary School will also be registered with the board.

The Bill deletes reference to persons who may be in the categories of veterinary practitioners and permit holders. No persons in either category have been registered under the Act during the past 10 years, and it is considered there is no need to provide for such persons in the future

since an adequate number of veterinarians to satisfy the needs of the community is now available following the establishment of the Murdoch University Veterinary School.

The board will be enabled to act against a person who has been found guilty of unprofessional conduct either by reprimanding him, ordering his suspension from registration, or removing his name from the register of veterinary surgeons. A person whose name is removed from the register may appeal to the board against that decision.

The registration of veterinary clinics and veterinary hospitals is included to ensure that in the public interest the facilities provided are of an acceptable standard; and that the treatment and care given to sick animals on the premises are subject to control by a veterinary surgeon.

A number of new proposals in the Bill refer to veterinary practice and provide for penalties in respect of unqualified persons practising veterinary medicine and surgery. It is important to stress, however, that these provisions do not prohibit the performance by a person, whether or not for reward, who undertakes first aid for the purpose of saving the life of an animal or relieving pain suffered by an animal; or using humane methods of carrying out the operation of dehorning cattle, tailing or mulesing lambs, and castrating any animal not over the age of 12 months.

The Bill permits lay persons to continue to treat animals in remote areas for reward whilst ensuring in this respect that limitations are able to be placed on the persons concerned where sophisticated medical or surgical techniques are involved.

Recognition is also given to the position of veterinary nurses and a person is able to be approved by the board to carry out the duties of a veterinary nurse if that person is of good character and is able to show that he or she has completed an approved course of study.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. H. C. Stubbs.

METROPOLITAN MARKET ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters, read a first time.

Second Reading

THE HON. G. E. MASTERS (West) [3.02 p.m.]: I move—

That the Bill be now read a second time. This Bill seeks to provide statutory authority for the Metropolitan Market Trust to grant leases of land, held by the trust, for the purpose of providing such facilities as are considered necessary or desirable for the convenience of persons using the market.

To service the needs of the market tenants, buyers, sellers, growers, carriers and the general public attending on market business, ancillary service facilities such as restaurants, tearooms, banking, post office, stationery and newsagents, are provided in the markets.

The market trust has been leasing these facilities to tenants since its inception. The need for these services within the area vested in the trust is beyond doubt and has become an accepted fact of life by persons associated with the markets.

The amendments contained in this Bill are designed to confirm the trust's power to lease land for these purposes and provide retrospectivity to existing leases.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. T. Leeson.

EDUCATION ACT AMENDMENT BILL

Third Reading

THE HON. G. C. MacKINNON: (South-West—Leader of the House) [3.03 p.m.]: I move—

That the Bill be now read a third time. Before you put the question, Mr President, I wish to speak to the third reading to answer some of the queries raised by Mr Cloughton. Do I speak straightaway, or follow Mr Cloughton?

THE PRESIDENT: The Minister can close the debate after Mr Cloughton has spoken.

THE HON. R. F. CLAUGHTON (North Metropolitan) [3.05 p.m.]: It seems that the procedures are getting rusty through the lack of use!

The Hon. G. C. MacKinnon: We tend to forget.

The Hon. R. F. CLAUGHTON: Probably the Minister could have spoken after he moved the third reading, and then replied after I had spoken.

In the Committee stage of the Bill I raised some matters on which I sought clarification from the Minister. With reference to the new definition

of "care centre" I raised a query in respect of compliance with the child care regulations under the Community Welfare Act, and the requirement for a permit to be obtained in both cases.

Mr Wordsworth replied to that query, and I quote the words he used—

The distinction drawn between the two centres in terms of the age of the children and the type of programmes they undertake, foreshadow future amendments which will place the care centres outside the Education Department. A care centre will cater for children more than one year below school age, and will provide for their care, guidance, and education.

When the Minister made that reference I questioned the presence in the Bill of the definition, but this is not one of the questions I am putting to the Leader of the House.

Reference was then made by Mr Lewis to the four-year-olds or according to him the pre-pre-primary children in pre-primary centres. Mr Lewis said—

Many parents are worried that their pre-pre-primary children will be thrown out of pre-primary centres.

Two different concepts are being discussed. I am asking for some clarification, so that when people outside read the debates they will not become confused about the position.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.07 p.m.]: Because Mr Wordsworth who handled the Bill is away, Mr Cloughton did make available to me the questions he wanted to ask. I have some notes which have been prepared for me to enable me to answer the questions with some degree of authority, so that the record will be accurate to those who read the debates. The notes are as follows—

- (1) The terms "care-centre" and "pre-school centre" are included in the amendments to replace the single term "pre-school centre" at present in the Pre-School (Education and Child Care) Act.
- (2) As the amendment is intended to continue the early education services conducted under the authority of the Pre-School Board it would be quite illogical not to make provision in the Bill for the continuation of the diverse functions (such as playgroups, special Aboriginal services, isolated children, mobile kindergartens, special education) and the attendance of different age groups of children at centres.

- (3) The distinction that is now made between "care-centres" and "pre-school centres" in terms of the age group of children attending each type of centre and of the function or purpose of each type of centre acknowledges the fact that young children below the pre-primary year, and the programmes they are involved in at present with the Pre-School Board, will continue and be protected by the legislation as an interim measure until the long term plans for them are recommended by the Advisory Committee on Early Childhood Services.

That was referred to previously. To continue—

- (4) There is no reason why anyone should find these aspects confusing. Opponents to the Bill would do well not to focus on the word "care" within the term "care-centre" but on the definition of the term.
- (5) The definition quite clearly provides for more than just caring for these children. The words "guidance" and "education" are included for the very reason that the type of programme for these children at centres, now and in the future, includes an educational component.
- (6) Consequently such centres cannot be confused with "day care centres" referred to in the Child Welfare Act and conducted under the authority of the Department for Community Welfare. The definition of a "day care centre" does not include any reference to an educational component.

I trust that explanation satisfies the queries raised by Mr Cloughton.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

CRIMINAL CODE AMENDMENT BILL (No. 2)

Third Reading

THE HON. GRACE VAUGHAN (South-East Metropolitan) [3.10 p.m.]: I move—

That the Bill be now read a third time.

THE HON. W. M. PIESSE (Lower Central) [3.11 p.m.]: I apologise for not being here during the second reading debate of the Bill, but I do have some queries I would like to present to members, because they have not been answered as yet.

I do know, of course, that it is dangerous if we have laws which are not enforced. On the other hand, if this Bill becomes law, I wonder what will be the situation of a wife. The Bill will allow acts of homosexual or sexual gratification between consenting adults in a private place, and this private place could be a room in a person's home. What is the situation of a woman whose husband is receiving sexual gratification in his or her home with some other consenting adult? Would this be construed to be adultery? Where would the woman stand in law? The Bill contains nothing about this aspect.

Another query I wish to raise concerns children in a home in which one or other of the parents is receiving homosexual gratification in that home. What is the law in regard to this situation?

Point of Order

THE HON. G. C. MacKINNON: I rise reluctantly on a point of order to ask your opinion. I understood that the third reading debate was to enable a member to again raise queries which had already been raised in the second reading or Committee debate, but which had not been answered to the satisfaction of that member. It seems to me to be quite a wrongful use of a third reading debate to open up what really amounts to a new debate, and I would like your guidance on this because I can see the situation getting quite out of hand if debates are allowed to continue in this manner.

THE PRESIDENT: There is no point of order.

Debate Resumed

THE HON. W. M. PIESSE: Those were the two important points I wished to raise because I was unable to obtain any information as I was not present during the previous debate. I do not wish to delay the House.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [3.14 p.m.]: I thank the honourable member for her remarks, and I can assure her that the Bill does provide for the contingencies to which she referred. The "consenting adults" reference means that both adults must consent. Several sections of the Criminal Code—section 328 was one I quoted last night—deal with the interpretation of assault.

As for children, of course, the law prohibits any sort of carnal knowledge. I think it is clause 2 which deals with section 6 of the Criminal Code, and it concerns this matter. It allows for carnal knowledge to be interpreted as either per anus or per vagina.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

PHARMACY ACT AMENDMENT BILL

Second Reading

THE HON G. C. MacKINNON (South-West—Leader of the House) [3.16 p.m.] I move—

That the Bill be now read a second time. Section 21 of the Pharmacy Act specifies the conditions which must be met before a person can be registered as a pharmaceutical chemist in Western Australia.

Apart from requiring that the applicant hold recognised qualifications, it prescribes that such person must be 21 years of age.

Currently there are students at the Western Australian Institute of Technology who are likely to complete their final qualifying examination while they are still 20 years of age.

Since the reduction in the age of majority from 21 to 18 years there has been no good reason why qualified persons should not be registered if they are over 18 years of age. This Bill, therefore, proposes to permit qualified students who are over 18 years of age to be registered.

The second amendment contained in this Bill provides for a new section to be included in the principal Act.

There are 10 pharmacies lawfully operated by friendly societies in Western Australia of which eight are owned by the Perth United Friendly Societies Chemists or the Fremantle Friendly Societies Pharmacy.

For some time these two societies have worked in very close co-operation and they now desire to amalgamate as one friendly society.

This would permit a central management structure to control all eight shops resulting in more economical and smoother working arrangements.

Amalgamation of the two societies is provided for under the Friendly Societies Act, but as the Pharmacy Act now stands, this would disqualify the amalgamated body from carrying on any of the eight shops.

This is because the Pharmacy Act specifies that only those societies now authorised to operate pharmacies may continue. There are further prohibitions against opening additional shops or changing the location of existing shops.

The effect of the change proposed by this Bill relates solely to the amalgamation of management. It will not remove the other restrictions which

have been mentioned and on this basis neither the Pharmaceutical Council nor the Pharmacy Guild object to the proposal.

At this time only the Perth and Fremantle Friendly Society Pharmacy groups are involved. If at some future time another society expressed a wish to amalgamate, it could do so, but this would be a matter for the society concerned to decide.

I commend the Bill to the House.

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

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [3.18 p.m.]: I move—

That the Bill be now read a second time. The object of this Bill is to alleviate the present acute situation in regard to some law graduates not being able to secure articles.

The Legal Practitioners Act requires that those persons who complete a degree in law and wish to be admitted to practise as a barrister and solicitor must obtain and serve a period of articles with a legal practitioner as prescribed by the Barristers' Board.

The period of articles at present prescribed by that board is 12 months for a graduate in law of the University of Western Australia or equivalent. Out of those who desired articles commencing in January, 1977, I am informed that there are presently seven graduates still unplaced.

I am further informed that out of the anticipated 1977 graduates there are, at this stage, an additional 17 unable to obtain articles.

Whilst the Government is not in any way responsible for the situation which has developed it is anxious to do what it can to alleviate the position.

This year an additional two graduates were taken on by the Crown Law Department by special arrangement with the Treasurer. I now propose two amendments to the Legal Practitioners Act to further alleviate the situation.

Firstly, the Barristers' Board is to be empowered to approve portion of the period of articles being served by an articulated clerk with a practitioner other than the one to whom he is articulated. It may thus be possible to have students serve part of their articles with practitioners who are otherwise debarred from taking an articulated clerk provided the Barristers' Board's approval is first obtained in each case.

The Board has taken the view that its powers are limited at the present time so that it can approve only articles being served with a self-employed practitioner of a certain standing. I am informed that the board normally would not wish to enlarge such a power.

However, in the present situation it is prepared to consider individual cases on their merits so long as it is satisfied that there will be no falling off in standards. The board is empowered to impose conditions and would not permit such an arrangement unless it felt that the training of the articulated clerk would be adequate.

The second amendment would enable the Director of Legal Aid to take up to four articulated clerks. To enable the director to do so provision must be first made in the Legal Practitioners Act, but I emphasise that whether or not the director does in fact take any articulated clerks will be a decision for the commission to make in due course.

It is anticipated that the present situation is of a temporary nature only and will cease by the year 1979 when it is hoped that additional arrangements for legal education are in operation.

For this reason the Bill has been restricted in its operation by imposing a time limit, beyond which it has no force or validity. The date of the limit of operation of the Bill is the 31st December, 1979.

I commend the Bill to members.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.22 p.m.]: I move—

That the Bill be now read a second time. Legislation enacted in 1966 made provision for the appointment of a public service arbitrator and introduced a new system for providing industrial coverage of public servants and similar salaried staff employed in State agencies.

Complementary legislation was passed also in the Industrial Arbitration Act which provided that the Industrial Commission may declare that certain staff employed in any Government Department, State trading concern, State instrumentality, or State agency named in an order of the commission to be "Government Officers" and thereby come within the jurisdiction of the Public Service Arbitrator.

The commission handed down its original order on the 17th March, 1967. Amendments to the order have been made on the 2nd July, 1971, and the 10th October, 1975. During hearings in respect of the 1975 amendment, the commission indicated that it felt it was unable to include certain bodies in the order, due to two difficulties associated with the Industrial Arbitration Act and the Statutes which established the bodies.

In the first instance section 11A did not permit the commission to place on the order bodies such as the Lamb Marketing Board as the Statute which set up the board provided that it was not a corporate agency of the Crown in right of the State.

Secondly, bodies such as the Board of Secondary Education, the Western Australian Coastal Shipping Commission, and the Community Recreation Council could not be included on the order as the Statutes involved included the wording that the employer had power to make appointments and determine terms and conditions of service for staff "subject to any award or agreement made or in force under the Industrial Arbitration Act 1912".

The commission considered that this wording precluded it from determining that staff of such bodies came within the jurisdiction of the Public Service Arbitrator and therefore could not be covered by an award or agreement made under the Public Service Arbitration Act, 1966.

In the interests of uniformity and consistency in setting salaries and conditions of service for officers who occupy positions in such bodies which are comparable in status to positions in the Public Service, it is desirable that such bodies should come within the jurisdiction of the Public Service Arbitration Act. At present these officers are not covered by registered industrial documents and this is an unsatisfactory situation.

This Bill, together with complementary legislation to follow, is designed to correct the situation by—

- (1) giving the Industrial Commission the power to include on the order any public statutory body established by this Parliament; and
- (2) adding an overriding provision which deems reference to the Industrial Arbitration Act to also refer to the Public Service Arbitration Act.

In respect to the amendment to section 98A of the Act, the Crown Solicitor is of the opinion that the Attorney-General is unable, under this section,

to intervene by an application to the Industrial Commission to suspend or cancel in whole or in part the terms of an order, award, or industrial agreement, where a union has contravened the award or for other logical reasons.

That is because the Attorney-General, as the section stands, is not deemed to be a person "who has sufficient interest" as the section does not seem to embrace the "public interest" type of argument.

It is significant that in many sections of the Industrial Arbitration Act, the Minister or the Attorney-General is expressly appointed to be the guardian of the public interest; as in sections 68, 94A, 108C, 108D, and 108I.

Section 62 of the Commonwealth Conciliation and Arbitration Act, which corresponds to section 98A of the Industrial Arbitration Act was amended in 1947 to specify the right of the Minister to apply on the part of the Commonwealth. The decisions of wage-fixing tribunals these days have such an effect upon economic trends that it is vital the State has the opportunity to appear before a tribunal as required to represent the public interest.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

PUBLIC SERVICE ARBITRATION ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.27 p.m.]: I move—

That the Bill be now read a second time. The provisions contained in this Bill are complementary to the Industrial Arbitration Act Amendment Bill, 1977, and are concerned with remedying problems associated with section 11A of the Industrial Arbitration Act.

As outlined in the speech relating to the Industrial Arbitration Act Amendment Bill, 1977, it is proposed to give the Industrial Commission the power to include in its order respecting "Government Officers" any public statutory body established by this Parliament.

This Bill simply completes the exercise by permitting the Public Service Arbitrator to deal with staff employed in any such bodies which may be added to the order.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

WESTERN AUSTRALIAN NATIONAL FOOTBALL LEAGUE BILL

Second Reading

THE HON. TOM McNEIL (Upper West)
[3.29 p.m.]: I move—

That the Bill be now read a second time. The purpose of the Bill is to establish the rights of the individual Australian rules footballer and to remove those restrictions currently placed on his freedom to play football with the club of his choice.

The application of the legislation will in no way interfere with property, rights, or administrative functions of the Western Australian National Football League as it is now constituted.

What it will do is to remove the unreasonable restraints now imposed upon an individual player, initially through residential circumstances, and to establish for him the right to play with the club of his choice and negotiate his own contracts.

The game of football in this State is controlled absolutely by the Western Australian National Football League. There are eight WANFL teams in the metropolitan area, and the area is divided into eight residential districts from which players are drawn.

Other than the metropolitan area, the whole of the State below the 26th parallel is divided into eight country zones. Each zone is allocated to a particular WANFL club, and any person residing in that zone may transfer only to that club if he wishes to play league football.

In a case where a person has actually played football with a country club within two years he, too, can move only to the league club to which that country club is zoned.

Once established with a metropolitan league club, he is bound to that club. The club can play him or not as it chooses, can sell him to another club or trade him for other players, and can refuse to grant a clearance to a player who wishes to transfer to another club or to go interstate. Without a clearance a player is unable to play football.

At present the only recourse open to a player refused a clearance is for him to take civil action through the courts, or stand out of football for at least a year—as, for example, did Syd Jackson, Alec Epis, and Wayne Richardson, to name only a few.

The Western Australian National Football League has even attempted to remove the right of a player to go through legal channels. A few

weeks ago the league moved to alter its constitution so that any player who went outside the league to secure a clearance would be banned from playing football within this State for seven years. Five of the eight league directors supported this added restriction.

Under the present system of zoning, metropolitan league clubs can dictate to country clubs whether, when, or where a clearance will be granted. A metropolitan league club can play a man for six games without a clearance from a country club, after which time a country club must grant a clearance in return for which it receives \$300.

Having obtained the services of a player for this ridiculously small fee, the metropolitan league club has complete control over the player's future. As the player has no option but to play for that league club to which he is zoned, his bargaining power for his services is greatly reduced.

Alterations to the constitution under which the Western Australian National Football League now operates have been kept to a minimum.

The proposals contain five alterations to rules governing the country zoning system and the residential status of a player. They will have the effect of returning control of a player to a country club and freeing the player to join the league club of his choice.

The only other change relates to interstate clearances. It reduces the existing requirements, which are considered too restrictive.

The proposals contained in the Bill seek to establish the individual rights of players of what is regarded as our national sport. These rights have already been established and recognised for athletes in the majority of other sports played in Australia.

Mr President, I believe I should qualify my statement concerning the five proposed alterations to the rules and regulations. The first rule I seek to amend is WANFL rule 71 which states as follows—

These districts are respectively allocated to the clubs as shown in the said schedule, . . .

The part I wish to delete reads as follows—
and the country districts allocated as shown therein are for the purpose of these rules part of the respective club's district.

The second rule I wish to alter is rule 78, which states as follows—

A person residentially bound shall not be eligible in the absence of a clearance to play for any other club until he shall have

resided outside the district of the club to which he is bound for a period of 24 months. He shall then be eligible for a permit to play with any club in whose district he is residing and has resided for 30 days and upon the grant of such permit he will become residentially bound to that club.

I seek to change the wording of line 5 so that it reads, "period of 30 days".

The Hon. H. W. Gayfer: It sounds like the country boys are going on strike.

The Hon. TOM McNEIL: The third rule I seek to amend is rule 83, which states as follows—

If any person shall have played with the district club for the district in which he has been residing and he then removes to a place outside all the districts defined under these rules, including the Eastern States, such person shall be eligible to play only with the club with which he has already played, and shall not be eligible to play with any other district club until such time as he has obtained a clearance from his former club and permit from the permit committee. The refusal of a clearance by his former club shall be final.

I seek to delete the final sentence which relates to the refusal of a clearance by his former club being final.

The fourth rule I wish to amend is rule 84, which states—

If any person not residing in any of the districts defined under these rules shall have played with a district club as provided in rule 79 and then whilst still residing outside of the said districts shall desire to transfer from the district club with which he has been playing and to play with another district club, he may apply for and be granted a permit to do so by the permit committee subject to a clearance being granted to such person by his former club.

The refusal of a clearance by his former club shall be final.

Once again, I seek the deletion of the final sentence, which relates to the refusal of a clearance being final.

Rule 89 relates to interstate clearances, and states as follows—

An interstate clearance shall not be granted unless the person applying for the same satisfies the committee—

- (1) that the application is approved by every club which is a member of the league;

- (2) that the application is approved by the club with which the applicant is registered and that he

- (a) is aged 23 years or more and has played 127 premierships matches.

I seek to delete subclause (1) entirely, and to change paragraph (a) to read as follows—

- (a) is aged 21 years or more.

The WANFL constitution then goes on to describe the second schedule, which relates to the eight district zones into which the country is divided.

In order to clarify what I am seeking to do, for the benefit of people who are not used to reading Bills of this nature, I should like to qualify my remarks. The Bill seeks to do two things: Firstly, it seeks to give control over a country player back to his country league club; secondly, and most importantly, it seeks to uphold what we consider to be a God-given right—namely, the freedom of a player to negotiate his own contract. I think all members would agree that is why we are here in this Parliament. When we see things which are wrong with our Constitution, or our State, we take steps to try to rectify those matters.

I have heard it said outside this House that this legislation is an attempt to take over the WANFL. It is far from that; I consider the WANFL to be the most appropriate body to handle the clearance applications, permits, and so on which go to make up the administration of the game of Australian rules football.

However, there is an important human rights issue involved. I do not believe any group of men sitting down in Perth can possibly know the merits or demerits of a case involving a boy from a country team who wishes to pack his bags and go to Melbourne, or who may wish to play for some other club than the club to which, under present rules, he must be cleared. He may never have played for, say, Claremont or Subiaco Football Club, and he may not wish to do so. However, the fact that he has never played for that club does not matter; he is bound to that club until such time as it grants him a clearance. If he decides to take a stand on the matter, he could stand out of football for up to three years. He could take the matter to the courts, but the WANFL has sought to take even that right from him.

The second schedule would remove all claims which the Western Australian National Football League has with regard to country zoning. This will mean we will evolve a Bill which I hope

members will think very carefully about before deciding on its demerits. It will involve us in trying to carry out a very simple task; that is, to give a man the right to decide his own future and not to take away the natural controls which are necessary for the game. I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

**METROPOLITAN WATER SUPPLY,
SEWERAGE, AND DRAINAGE BOARD
(VALIDATION) BILL**

Second Reading

Debate resumed from the 21st September.

THE HON. R. HETHERINGTON (East Metropolitan) [3.40 p.m.]: When I moved the adjournment of this debate I was going to support the Bill very reluctantly because it seems to me that retrospective legislation is a bad thing and is something which must be scrutinised very carefully. But after reading the remarks of the Minister in charge of the Bill in another place and listening to the Attorney-General, I felt that there was some justification for them putting forward the Bill, because it seemed that there had been an Act on the Statute books for a long time and that since about 1904 things have been done which were not in accordance with the Act; and this situation needed to be rectified.

Since I have looked at the Bill rather more closely and looked at the parent Act and amendments to the Act, I am rather surprised to find that some of the very sections of the Act which have not been complied with—namely, sections 19, 20, 21, 22, 23A, 23B, and 23C—were amended last year by a Bill passed and assented to on the 21st October. Therefore, it seemed that the deficiencies of the Act were quite familiar to the Government when it took some action to repair those deficiencies piecemeal, as it seems to be the habit of the Government to do with legislation these days.

Either the Government did not know what it was doing, there was incompetence in the drafting, there was some sort of bungling, or something went wrong. Now the Government is asking us to validate action taken under amendments introduced just last year.

I think this raises a very important point. It is high time that the Government took this Act wholesale, had a look at it, and re-wrote it. If it realised last year that there was something wrong with it and suddenly it finds that what

it did last year does not serve its purposes—and I shall come back to its purposes later because these purposes cause me some dismay—it should reform, rephrase, or repeal the whole Act and produce a new Act for us so that it might bring the Act up to date, because it is obviously not up to date.

I am now even more reluctant to support the Bill, although I indicate that I shall support the Bill as it stands. But I shall oppose quite vehemently the amendments proposed to be inserted by the Attorney-General because I think they are a disgrace, they should not be introduced at this stage, and the Government should take quite different action. The Government should produce either a new amendment or a new Bill before it proceeds with the whole question of the Jandakot water scheme.

Before I deal in detail with some of the amendments proposed by the Government to deal specifically with Jandakot, I wish to make some mention of the problem of underground water because it is a problem which concerns me a great deal. In an earlier speech in this House I pointed to the fact that in the United States at present, because of failure to look far enough ahead, there were rivers which were fire hazards. I remember that at that time the Leader of the House said, by interjection, that some of the things I had said were nonsense. What I was trying to do then was to point to what had happened in the past and what could happen in the future, not in exactly the same way but in a similar way. What I want to say now is that we must take very carefully into account what might happen in the future. If we take short-term measures to provide water, what will be the long-term effects?

Sitting suspended from 3.46 to 4.03 p.m.

The Hon. R. HETHERINGTON: I was suggesting that in solving one problem we could create another which was worse. Perth is a city of particular dryness where we have heavy rains early in the winter, and with our sandy soil it is very difficult to retain that water. We use a tremendous quantity of water to keep our city gardens as they are.

The first thing which impressed me when I arrived in Perth in the middle of summer some 10 years ago was the greenness and beauty of the gardens. I thought it was a very beautiful city. I was attracted to it then, and I have become even more attracted to it now that I am living here permanently. I want to keep our city beautiful, but we have to consider what we may have to do if we do not start to plan very carefully to utilise what water supplies we are able to

get, and determine whether we should try to somehow restrict the growth of the city and build up our population elsewhere in the State.

If we are to rely heavily on the Jandakot mound and the Gnangara mound, and double the use from those underground supplies, we will cause the water table to drop and perhaps cause great deserts to form where they do not exist at the present time. We will also perhaps stop the flow of water from the mounds to the rivers and the sea which quietly and gently flushes out pollutants. We will, perhaps, destroy not only our environment, and I mean here not only the natural environment—the wetlands and the naturally reticulated areas—but perhaps also our unnatural environment, as I have heard reference to our suburbs, our gardens, our lawns, and all the things that make Perth such a beautiful city and such a desirable place in which to live. Without the greenery, the gardens, and shrubbery this would be a fairly hot place and perhaps not quite so attractive. We do not want Perth to become a desolate city; we want to retain its beauties. To do that, we have to solve our water problem, and use less water and conserve it; we might also have to restrict our population.

I am very concerned that we might embark on a project, or a series of projects, to use underground water which will destroy much of the natural ecology of the areas from where we are taking the water. That is well illustrated by what is happening at Jandakot where the water table will be tapped at a level which supplies the lakes. That could mean the lakes in the area will become empty swamps, and it could mean that the wetlands will become dry lands. It could mean that the fauna and flora now supported by that water table will be destroyed. It could mean that some of the things which make Jandakot so attractive would cease to be.

This is very worrying and we have to look at this aspect, and also the aspect of what it is doing to the people who live there who are market gardeners and who rely on a high water table for the things they do to produce their livelihood. Here, of course, they are being denied their livelihood which they started. If the water table drops their properties will produce no longer.

I was interested to note that the Minister in another place said that if he had a bore—he did not say that he was a bore—he would regard it as belonging to everybody. I agree, but we have to do two things. We have to think of the rights of the individuals, and their need to get a living or adequate compensation. As far

as I can see the Act or the amendments will not provide adequate compensation for the landowners in the district. Also, we have to think not only of the rights of the whole population of Perth against the rights of the landowners, but we have to think of the rights of the next generation, as well as the rights of this generation.

If we are to broaden it out, as the Minister suggested, we should put the whole problem of using underground water into a State-wide, Perth-wide, or city-wide context. I am not convinced that the Government is doing this. I did suggest earlier I felt this Government, which claimed to be a good manager, did not plan ahead enough. It might be claimed that some past Labor Governments have not done that either, but at least since 1959 the Labor Government has been in office for three years only so we have to look at what this Government is doing, because the development of this State is the responsibility largely of the present Government.

The Liberal-National Country Party coalition, rather than the Labor Government—which hardly had time to deal with any questions and some of its attempts of course were defeated in this very House—is to blame.

The Hon. I. G. Medcalf: Did you say that Jandakot should be put into a State-wide context?

The Hon. R. HETHERINGTON: I said we should think of it State-wide, and then I amended it to city-wide.

The Hon. I. G. Medcalf: Put Jandakot into the city, not a State-wide context?

The Hon. R. HETHERINGTON: I think we should do both. If we are to look at the Jandakot problem we have to look as far as we can at the State-wide context. I do not know how far that would take us because I am not quite sure whether we can get other supplies of water. However, we should be looking for alternative sources, so from this point of view I think we should in fact put the whole thing—knowing the problem we have with water—into a State-wide context. As the Minister is probably aware, the problems are very grave. The problem of water supplies will face this State in the future, and water is already an Australia-wide problem.

Western Australia is part of a very desolate continent, and in many ways it is more desolate than the rest of Australia with the possible exception of South Australia where the problem has been partially overcome by tapping the River

Murray. If the Minister has ever drunk Adelaide water he will know that it has some drawbacks, but at least it keeps people alive.

The Hon. I. G. Medcalf: It even affects the quality of their beer!

The Hon. R. HETHERINGTON: I will not comment on that because I must admit I have become rather fond of the local product since I have lived in this State.

The Hon. O. N. B. Oliver: The Adelaide water is not very good for washing, either.

The Hon. R. HETHERINGTON: As a matter of fact, when I first arrived in Perth I was impressed by the quality of the water. It is very good water. It is clear water, and is supposed to be hard. It is certainly harder than the water in Victoria, but it is pure and palatable, and it is highly desirable water. We waste it, but we must stop doing that. Certainly, we need to get more water equal to it if we can, but we must not do that at the expense of the future of this State if that can be avoided.

We have to look at this problem in a city-wide and State-wide context, and, of course, in doing that we have to be careful that we do not solve the problems of metropolitan Perth by tapping water supplies further north which may be used in the future for vast developments of population; and that may well happen.

The Hon. I. G. Medcalf: We do have a problem, being a city State, don't we?

The Hon. R. HETHERINGTON: Yes; I know we have a very grave problem. I am not denying the problems; I am very much aware of them. We are a scattered population in a vast and desolate State where the rainfall is high in the winter but very low during the summer. Our problems are peculiar, and are not easy to solve. Certainly, I shall not expect any quick legislation from any Government, from any Government department, or from the advisers to any Government department.

We do support the planning which has already started, but perhaps there should be more urgent planning for the future development of this State, and for the servicing of the population in this State with water supplies. We must make this one of our more urgent priorities, or we may face the situation in which Perth becomes a quite different kind of city without lawns or exotic plants, and growing only native trees and shrubs. Of course, that may produce a beauty of its own.

Many people in the Perth metropolitan area are trying to solve their own particular problems by turning to native plants rather than

exotic plants imported from places outside Australia. I mention this merely because it is important; it is something we have to consider. I do not know whether the Government has considered it adequately, and certainly I would like to hear from the Attorney-General, when he replies, what the Government intends to do and what sort of plan it has to solve this very difficult problem. I will listen intently and with great sympathy to whatever he says, because I do not expect miracles.

Having said that, I now want to turn to the area of Jandakot itself. It seems to me the Bill has been brought into being because landowners in Jandakot and the Cockburn Town Council feel the water board is moving in improperly, that it is not following correct procedures, that it is riding roughshod over landowners, and that there is no guarantee of adequate compensation.

The Bill before us—with which I am not very happy but which the Opposition is prepared just to support—validates such things as have been done up to date, but it is quite obvious from the amendments the Attorney-General intends to introduce that in the opinion of the Crown Law Department the Bill does not go far enough.

What worries me is that if the Bill is amended in the way that has been indicated by the Attorney-General, not only will it be a piece of retrospective legislation validating what has been done up to date but it will also be a measure validating things which are in the process of being done or are about to be done. The amendment the Attorney-General proposes to move includes a provision that—

- (c) proceedings in respect of a challenge to the undertaking and execution of such works or proposed works by reason of the failure to so comply shall not be instituted or maintained in any court.

That amendment will take away from property owners around Jandakot their normal right as British subjects, or Australian citizens, to proceed to protect their interests by litigation.

The Hon. I. G. Medcalf: I am glad you amended that.

The Hon. R. HETHERINGTON: Sometimes we go back into the past, and I realised as I was saying it that I needed to amend it. Perhaps if I say the normal rights of Australian citizens who have inherited the rights of those who were British subjects in the past, it will satisfy the Attorney-General.

The Hon. R. G. Pike: Including a bicameral system.

The Hon. R. HETHERINGTON: A bicameral system has something to do with vested interests and nothing to do with this Bill. I will discuss that when I am speaking on another Bill later in the session.

I do not know whether I can appeal to the Government and have it listen to me; certainly, since I have been in the House, I have gained no confidence that I can do that, perhaps because I am too new or perhaps because I am on the wrong side of the House. However, I suggest very seriously that the Government let the Bill go through as it stands, and then bring in new legislation to establish new procedures and start again with the Jandakot water scheme, so that the new procedures can be seen, understood, and followed. The property owners will then be able to see what procedures are being validated in the present Bill and what the new procedures are, and they can take the measures they see fit under the new procedures.

I would also like some kind of guarantee to be written into the legislation to give adequate compensation to landowners whose land is not being resumed, necessarily, but whose livelihood is being destroyed because the high water table on which they are depending for their livelihood is being sucked away from them in order to supply water to the rest of the inhabitants of Perth. This may be desirable but if it is done I think we should consider the landowners who settled in that district believing they could follow a livelihood because there was a high water table and who suddenly find the water table being removed from them by the activities of a Government instrumentality. This is the aspect which particularly concerns me.

It seems to me that if the legislation is amended it will be a very arbitrary and wholly undesirable piece of legislation which is not in accordance with—if I might say so—the very best British traditions. There are some British traditions which are not so good.

Therefore, although the Opposition will support the Bill—or perhaps I should say will not oppose it—I certainly will not raise my voice loudly in its defence. We will look very closely at the Attorney-General's proposals when the Bill reaches the Committee stage, and we might then be forced to oppose his intentions, if he still has them, with much greater vigour. I hope he will change his mind.

With those remarks, I give my reluctant support to the Bill as it stands.

THE HON. W. R. WITHERS (North) [4.22 p.m.]: Like the previous speaker, I will agree to the passage of this Bill. However, I too am disturbed about the amendments which appear on the notice paper, particularly paragraph (c) of the proposed amendment.

Some of the older members will remember that approximately six years ago I stood in this House on my own and opposed every member of this Chamber because part of a Bill which was going through this House was totally immoral. I refer to a Bill which was put through by the Tonkin Government and agreed to by my colleagues. That Bill circumscribed the law courts and prevented action in the courts of law by a citizen of Western Australia. I said at the time it was immoral, and I say it again; and I will continue, while I am a legislator, to say that any retrospective legislation which circumscribes the law courts in this State is immoral in my view.

Regardless of how any person may rationalise the needs of the State, I believe that if we, as legislators, or our officers make a mistake we must abide by that mistake. We should correct it if we can, but if a court action is pending on that mistake I believe it should be heard in the court.

The previous speaker raised some points on which I believe I should comment, because although we and others recognise a particular problem in regard to water needs in this State, I do not believe I can agree to some of the proposals put forward by the previous speaker.

He referred to the need for water in the metropolitan area and said we should consider its use by the future citizens of Western Australia. I have previously said several times in this House that the Perth water supply from surface water resources will run out for future expansion in 1988, and that is tomorrow. In other words, we must reach zero population growth or industrial growth from 1988 onwards from the point of view of surface water. From then on we will have to go into aquifers; but we are already going to aquifers, and the horrifying aspect is that we do not seem to be able to get from any authoritative source figures relating to the maximum draw rates from the particular aquifers and the changes in the salinity quantum of those aquifers at the maximum draw rate.

When I have mentioned this matter in the past members have asked me, "Why are you so interested when you live on the Ord River, a place with enormous quantities of fresh water?" I have stated that the reason I have gone to the Ord River is that it has a tremendous amount

of fresh water. One of my past occupations was that of rainmaker. I was a senior cloud-seeding officer with the CSIRO, and up to the time I went to the Ord River I did every contract rainmaking job throughout Australia for the CSIRO. It was then I learnt the harsh reality of life without water. It made me realise that water was a very precious commodity which we take for granted and which cannot continue to be supplied to people in the ever-expanding cities of Australia, particularly Perth.

It is unfortunate that the Metropolitan Water Supply, Sewerage, and Drainage Board endeavours to supply water to an ever-increasing population in the most urbanised country in the world, using historical statistics and methods which have prevailed throughout the world in the past centuries. It is about time we started to change those ideas. The past and current idea is to bring industry to the population source and the work force. This cannot continue because the work force eventually runs out of natural resources; namely, water.

I have said previously in this House that we must now look at taking the population to the natural resources—to the centres that have water and potential for the provision of cheap power, and which can provide the minerals and industry for the survival not only of our nation but also of mankind.

I have ranged rather wide. I wanted to reply to the previous speaker. He also has recognised the problem but I wanted to demonstrate there was a difference in thinking, in that I do not believe it is possible to keep supplying water to an ever-expanding Perth.

Several other countries of the world are also beginning to realise this. I have previously pointed out that some provinces of Canada—a country with enormous water resources—have already realised the problems of decentralisation to the point that they will now give capital grants—not loans but grants—to the extent of 40 per cent of the cost of establishing an industry up to \$2 million and a further \$7 000 per annum for every job created in that industry, just to get people away from the metropolises which are growing beyond the natural resources. They are realising they must do this to support the population. If we do not do it also we will wind up with the problems New York is experiencing.

The Hon. R. Hetherington: We are not in disagreement. I just did not put it as well as you did.

The Hon. W. R. WITHERS: Like the previous speaker, I support the Bill. However, I have expressed my opinion on paragraph (c) of the amendment on the notice paper and I will debate that when the Minister presents it.

THE HON. R. THOMPSON (South Metropolitan) [4.30 p.m.]: I would like to point out, particularly to the new members in this Chamber, that I have sat through the debates on possibly something like 2 000 Bills in this place, and I have seen only two measures which have given me such concern. One is the Bill about which Mr Withers spoke, and which was repressive legislation.

The Hon. I. G. Medcalf: And you supported it.

The Hon. R. THOMPSON: Of course, I did, but I did not like supporting it. Mr Medcalf supported it, too.

The Hon. I. G. Medcalf: For the same reason.

The Hon. D. K. Dans: In fact, I think Mr Withers was the only member who opposed it.

The Hon. R. THOMPSON: I would like to point out to the newer members what was contained in that Bill. The normal process of the law could not be achieved because one entrepreneur held all the known iron ore reserves in Western Australia. They were temporary reserves, and for the benefit of the State some had to be taken away and transferred to the control of the Minister. That was the reason for that legislation, and that is why it received the approval of the Parliament.

The PRESIDENT: I suggest the honourable member tell the Chair what is in this Bill.

The Hon. R. THOMPSON: Yes, Sir; I have finished on that point. However, I am not sure whether I am speaking to the Bill before us, or the Bill and the amendment which is on the notice paper. If one considers the progress of this Bill in the Parliament, one will find that the second reading was introduced on the 6th September in the Legislative Assembly. The second reading speech was delivered down in this Chamber—

The Hon. H. W. Gayfer: You mean "up" in this Chamber.

The Hon. R. THOMPSON: —yes, "up" here—on the 21st September. In introducing the Bill, the Attorney-General said—

Although it is considered this Bill would achieve its purpose of validating the deficiencies of past administration, Crown Law

advice received since the introduction of the Bill is strongly in favour of rewording clause 2.

This is the only real substantive clause in the Bill and it is considered that in its present form it does not clearly reveal or make the intention of the Government abundantly clear.

I thought instead of using the word "abundantly" he should have used the word "dictatorially". The Attorney-General continued—

In view of this I wish to inform members I will be moving an amendment to that clause during the Committee stage of the Bill.

That was said on the 21st September. On the notice paper of the 22nd September we found the amendment, which actually cuts away the content of the Bill and leaves us with a repressive measure, the like of which has never been seen in this Parliament in my time as a member. I hope I will never see another such Bill.

I appeal to all members to reject the Bill, and I hope by the time I have finished speaking it will be abundantly clear to them that the people of Western Australia have rights, and it is our job as legislators to protect their rights and not simply to accept Government legislation. We must not fool the people, because the Metropolitan Water Supply, Sewerage, and Drainage Act can be termed to be watertight inasmuch as people placed in such circumstances are of no interest to it whatsoever. Nowhere in the Act can be found a compensation provision to deal with a situation such as this.

If the Government were honest it would be introducing legislation to cover that situation, instead of bringing down this repressive Bill. The people concerned will suffer, just as others have suffered in the past; and this is the fault of the department and the board—and perhaps the fault also of the Crown Law Department. It is certainly not the fault of the landowners. Therefore, I will have something to say in respect of the amendment before I finish.

This is not a new subject. The Government has been aware of the opposition to this move for almost 18 months. I was first advised of the situation by the Town of Cockburn on the 2nd March, 1976, when that authority objected to the proposal in respect of the Jandakot area.

The Hon. I. G. Medcalf: It goes back further than that.

The Hon. R. THOMPSON: I know it does. I am speaking now of the time I was first acquainted of it by the Cockburn Town Council. Later, in mid-April of 1976, I received a circular from the Jandakot District Citizens' Environmental Protection Group, which set out for my consideration the complaints of the people concerned. I wrote to the group and explained that I work closely with the Cockburn Town Council. To that end I have carried out my obligation to my constituents and to the council. Following a series of meetings held at Jandakot by the interested group of people—

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

The Hon. R. THOMPSON: I was not invited to any meetings, either. However, Mr Oliver was not a member then.

So it can be seen that when the group of people became concerned the council was drawn into the matter and took an active interest in it. Other local authorities have joined the Cockburn Town Council, and currently that council is receiving financial support from the Shire of Kwinana, the Shire of Armadale-Kelmscott, the Shire of Rockingham, the Shire of Mandurah, and the Shire of Swan, in respect of its legal battle which, by the stroke of a pen, the Attorney-General wants to wipe away. We do not think he should be allowed to do that, and I hope this Chamber will not allow it.

We then move to the 7th May, 1976, when the Cockburn Town Council wrote to the General Manager of the Metropolitan Water Board and asked him to reply to a questionnaire it enclosed. The council received a reply to its questionnaire on the 30th May, 1976. I will read the questions and answers, because I feel it is ever so important that I do. The first question was—

Will there ever be restrictions on the quantity of water used by land owners?

The answer was—

The word "ever" is of concern to the Board which is not in a position to give an assurance with regard to future policy. The present policy is no restriction for existing requirements but unlimited extraction cannot be permitted and the degree will be considered in the light of applications.

The second question was—

If the scheme affects the supply, will the Government or Board effect compensation for alterations to pumps or equipment so affected?

The answer was—

This would be the subject of consideration depending upon the circumstances which might arise.

The third question was—

Will water be pumped in volume in winter only?

To which the answer was, "No." The fourth question was—

Will a licence fee ever be charged?

The answer was—

A fee is not contemplated but the question again includes the word "ever".

The next question was—

Will wells or bores ever be metered?

The reply of the board was—

Again the word "ever" is included and the metering of bores is not contemplated, however a meter may be installed if wastage is thought to be occurring.

The Hon. I. G. Medcalf: You would not think the general manager would answer that question by saying, "No, never"?

The Hon. R. THOMPSON: Unlike the Attorney-General, the Cockburn Town Council is protecting its ratepayers.

The Hon. I. G. Medcalf: I asked you a question. Do you think the Metropolitan Water Board would be able to answer, "No, never"?

The Hon. R. THOMPSON: Its officers illegally entered upon the grounds of these people.

The Hon. I. G. Medcalf: It is a pity you don't answer the question.

The Hon. R. THOMPSON: I will answer it; but I am not obliged to answer any questions the Attorney-General poses.

The Hon. I. G. Medcalf: How long will you take to answer the question?

The Hon. R. THOMPSON: I might be here until 6 o'clock, but if the Attorney-General is patient I will answer his question.

The PRESIDENT: Will you direct your comments to the Chair?

The Hon. R. THOMPSON: Yes, Sir. The question posed to me is whether it is reasonable for the general manager of the board to answer this questionnaire. Of course it is.

The Hon. I. G. Medcalf: To say, "No, never."

The Hon. R. THOMPSON: Of course it is reasonable, because employees of the board illegally entered the properties of these people and sank test bores. They have gone ahead with

other works. Therefore it is reasonable for the board to answer the questionnaire. I will prove beyond doubt the reason for the principle which is spelt out in the Attorney-General's amendment.

The Hon. I. G. Medcalf: The general manager cannot bind the Parliament.

The Hon. R. THOMPSON: He was not being asked to bind the Parliament; he was being asked to give some assurances regarding the future of the landowners.

The Hon. I. G. Medcalf: Using the word "ever."

The Hon. R. THOMPSON: That is right.

The Hon. I. G. Medcalf: He could not say, "No, never." He would be binding Parliament if he did that.

The Hon. R. THOMPSON: If the Government adopted an honest approach to this matter, assurances would be given. However, if the Attorney-General will be patient for a minute I will come back to him.

The Hon. I. G. Medcalf: I will need to be very patient.

The Hon. R. THOMPSON: I wish to progress with my argument in my fashion, and not in the fashion of the Attorney-General. The sixth question asked of the Metropolitan Water Board by the Cockburn Town Council was—

If meters are connected, will metered water be charged for?

To which the answer was, "No." The seventh question was—

Where work has been carried out to use the natural water level as is for irrigation purposes, can the Board give a written guarantee that they will not interfere with the process of low land farming?

The board replied, "No." That should answer completely the interjection of the Attorney-General.

The Hon. I. G. Medcalf: I am afraid it doesn't.

The Hon. R. THOMPSON: These landowners—and there are many of them, as you know, Sir, because you now represent some of them—went to Jandakot and developed the area. It has never been a very successful farming area, but they have used the water table exclusively for pasture and have built up the Jandakot area with credit to themselves—not to the Government or to anyone else, because everything that has been done at Jandakot has been done by damned hard work on the part of the people concerned. No hand-outs or concessions have been given to them.

As a matter of fact, within view of the Serpentine pipeline there are about two dozen houses which have no mains water connected to them and must rely on underground water. In the same area numerous houses are without electricity. Of course, if one approaches the Metropolitan Water Board for the extension of the water main to this area one is told, "Yes, you can have it at a cost of \$39 000 or \$40 000." That would be the cost of the trunk main extension.

Have not these landowners the right to buck the system when they see the fruits of their sweat and toil taken away from them at the whim of the Government, just because the board and the Government have not done their homework? Its action is not fair or just; and under no circumstances will I tolerate it.

I appreciate that under the Act the water belongs to the Crown, but I should point out that these people have no alternative water supplies. They have developed their own water supplies, and they are entitled to every bit of protection we can give them.

Shortly after the questionnaire I have mentioned was sent out, the member for Cockburn arranged a meeting between the General Manager of the Metropolitan Water Board, Mr Dans and myself in the council chambers. That was sometime last year. The only question I put to the general manager and the engineer was: What compensation will be payable to the landowners if their water table is reduced through the pumping of underground water supplies? Of course, the general manager would not give any assurance.

I had to come back to that in a different way. I said to the general manager, "I cannot find anywhere in the Act a provision to enable litigation to be entered into for the payment of compensation, arising through the actions of the board in taking away the water." The reply he gave was, "It would be a very costly exercise. The cost would be substantial because of the need to obtain reports from engineers, and the people concerned would have to prove their case."

How can a small landowner or a small businessman who has been adversely affected—and probably sent bankrupt, because he has lost his pasture and water supply—enter into litigation and obtain reports from engineers in respect of actions over a period of 18 months before he lost his water supply? There has been no co-operation from the Metropolitan Water Board.

A further question I asked of the general manager was this: Would he monitor all the bores

and wells within the mound area of the underground water scheme? The reply was, "No." So we can see that the local people, the council, and the members of Parliament representing those people, got the brush off. Those people apparently have no rights, because the general manager was acting on what was contained in the Act—that the water belonged to the Crown, and the board was going to take it.

During the period of time about which I have been speaking a working committee comprising representatives of the Cockburn Town Council, the affected landowners, and the Metropolitan Water Board, was set up. That was a futile exercise because those people received a blunt "No" to their requests. That was the answer they received to every proposition they put up; and they were merely seeking protection.

Following the rebuttal arising from the questionnaire, the Town of Cockburn wrote to the Premier on this matter. The draft reply is a lengthy one, so I do not intend to read all of it. I shall merely refer to the pertinent points, and I shall make a copy of it available to the Minister. The fourth paragraph stated that planning for this work has been directed to the establishment of a public water supply, subject to constraints imposed by environmental consideration, and the interests of landholders and owners.

The first mistake made by the Government was to say that consideration of the interest of landholders and owners would be given. Of course, that has not been given, and is still not being given. The next part of the letter stated—

The broad conclusion drawn from the investigation is that the resource is not developed presently to an optimum extent. The annual net recharge is estimated to be 11.5 million cubic metres, and the estimated present usage is 2.7 million cubic metres. The scheme proposed by the Water Board has been designed to develop 5.5 million cubic metres per annum.

The last paragraph of the Premier's letter is interesting. It states—

The Water Board has the responsibility for the provision of water to its area and the development of this resource is an integral part of the activities necessary to discharge this function. In doing so due regard is being taken of the general interest of rate-payers, settlers, and environmental factors involved.

Of course, that is not correct, because the ratepayers and landholders at that stage were still left completely in the dark.

It is interesting to compare the last paragraph of the Premier's letter with the last paragraph of the amendment on the notice paper in the name of the Attorney-General which reads as follows—

- (c) proceedings in respect of a challenge to the undertaking and execution of such works or proposed works by reason of the failure to so comply shall not be instituted or maintained in any court

That has no regard for what the Premier said in his letter—that due regard for the general interests of ratepayers, settlers, and environmental factors involved will be taken. Of course, due regard has not been taken of this in the obnoxious and abortive piece of legislation before us.

The matter progressed further. On the 1st March, 1977, the Cockburn Town Council put forward its objections. The notice of objection by the council is as follows—

Notice of objection by the Town of Cockburn of 5 Boyd Crescent, Hamilton Hill, to the Jandakot Underground Water Scheme and more particularly to the construction or provision of the works as proposed in the Notice of Intention (MWB 361985/74) advertised in *The West Australian* on February 4th, 1977.

Various topics were discussed in that long submission, and they include land use, rural subdivisions, the environment, land values, and compensation.

The interesting point of objection relates to compensation and the notice of objection contains the following—

The Town of Cockburn objects to the Scheme on the basis that the matter of compensation for losses arising from the introduction of the Scheme has yet to be determined.

Compensation is of particular concern:

- (a) Where the use of the land is to be injuriously affected.
- (i) through the loss of surface water
 - (ii) through the loss of viability of operation due to increased extraction costs
 - (iii) through the loss of viability of operation due to restrictions imposed under the Regulations and By-Laws.

I do not have time this afternoon to cover all aspects referred to in the notice of objection. The fact is objection has been made.

The council has tried to do everything right in respect of this matter, but to say the least it has been snubbed. It has been misled by the Premier, in view of the amending Bill now before us and the amendment on the notice paper.

Let us turn to the reason for the Bill being brought before us. We find that the Cockburn Town Council approached a firm of barristers and solicitors in Perth to prepare a case for the council and the ratepayers concerned. On the 26th July, 1977, a statement of claim was lodged with the Supreme Court, the claim number being 1622/77. It named the Cockburn Town Council and eight others as plaintiffs.

The pleadings have also been made available to the Crown Solicitor. I can just imagine what took place when the Crown Solicitor received the pleadings. His first reaction would be to look at the Act; and on so doing he would then say, "The Crown Law Department, the board, and the Government do not have a leg to stand on" because the board has not complied with the Act.

That is admitted in the Bill before us, because what the Government is trying to validate are the things done under sections 19, 20, 21, 22, 23, 23A, 23B, and 23C of the Act. That would have been picked up in the pleadings lodged in the Supreme Court, and in no other way.

If members are interested they should read the pleadings and the Act to find out where the board has failed. It has failed in respect of section 20 of the Act. Under paragraph (a) the board was obliged before undertaking the construction of the Jandakot groundwater scheme to cause to be prepared a statement showing the net earnings estimated to be derived from the works; under paragraph (b) to cause to be published a statement showing the net value of the ratable property to be benefited by the works; and under paragraph (c) to cause the said statements or certified copies thereof to be deposited in the office of the board.

None of these things has been done. That is expressly what is contained in the Act, and any member reading it can come only to the same conclusion.

Under section 21 of the Act the estimates so deposited under section 20 were to be open for inspection by any person interested, at all reasonable times, on the payment of the prescribed fee.

By Section 23 of the Act, before a valid approval for the Jandakot groundwater scheme could be given by the Governor the board was obliged to—

- (a) be satisfied that the provisions of the Act had been complied with;
- (b) be satisfied that the revenue estimated to be derived from the proposed works was sufficient to justify the undertaking;
- (c) submit the estimate of revenue to be derived from the works and the value of the rateable area to be benefited thereby to the Governor for approval.

Where did the board fail? It failed as follows—

- (a) to make any estimate of the nett earnings to be derived from the Jandakot groundwater scheme;
- (b) to prepare any statement showing the nett earnings to be derived from the Jandakot groundwater scheme;
- (c) to prepare any statement showing the value of the rateable property to be benefited by the Jandakot groundwater scheme;
- (d) to cause to be deposited at its office and to be made available for inspection by persons interested, the originals or certified copies property to be benefited by the Jandakot groundwater scheme;
- (e) to be satisfied that the provisions of the Act have been complied with;
- (f) to be satisfied that the revenue estimated to be derived from the Jandakot groundwater scheme is sufficient to justify the undertaking;
- (g) to submit to the Governor for approval a statement of the nett earnings estimated to be derived from the Jandakot groundwater scheme and a statement showing the value of the rateable area to be benefited thereby.

The board has not done one thing; it is wrong on every count. The argument is not whether the water should be taken, or whether it should be used for the metropolitan area or for industry at Kwinana. The argument concerns the rights of individuals. It concerns the rights of the Government to act within its own laws and it concerns the protection of the individual by the Attorney-General.

The Attorney-General is charged with a very responsible portfolio. He knows only too well that the law should not only be seen to be done,

but it should be done. He has said that on several occasions and I respect him for that. When the process of law is being carried out, and when we see these interested people are going to be disadvantaged by the actions of the Government, we find the Government takes certain actions. After these people lodged their pleadings in July—and a date has been fixed for hearing the case on the 25th of this month—we find we get, post haste, a Bill which in the main is not so bad.

As it stood it was not so bad because it did not interfere with the process of the law. The Bill as it stands will allow the case to proceed. The original Bill was only validating those things that had been done, but the court could still have determined the rights or wrongs of the case and determined the costs pertaining to it.

The Hon. I. G. Medcalf: It would have also validated those things that hadn't been done.

The Hon. R. THOMPSON: That is very true and that is where the Minister made the colossal mistake in his second reading speech; he omitted many things.

The Hon. I. G. Medcalf: I didn't actually deliver the speech, but never mind that. What I am saying is that you said it will validate things that have been done; but it also validates things that have not been done.

The Hon. R. THOMPSON: After reading the Minister's second reading speech the average person would think it was a very good Bill. I am surprised the Minister did not double check it and come up with a more profound second reading speech.

The Hon. I. G. Medcalf: It is better to be frank and let everyone know what the Government's intentions are.

The Hon. R. THOMPSON: We knew about the amendment the day after the Minister introduced the Bill. The Minister must have had the amendment in his pocket because it appeared on the notice paper at 11 o'clock the following morning. All members know that amendments are handed in the night before, so it must have been tucked in the Minister's little pocket, thus indicating the Crown Law Department had drawn it to the Minister's attention.

The Hon. I. G. Medcalf: Of course it was; what is sinister about that?

The Hon. R. THOMPSON: Why did not the Minister say he intended changing the Bill?

The Hon. I. G. Medcalf: I did in the second reading speech.

The Hon. R. THOMPSON: In the Minister's experience in law courts and in this Parliament I am sure he has not witnessed anything like this Bill—

The Hon. I. G. Medcalf: I do not know what you are talking about.

The Hon. R. THOMPSON: —where the people's rights have been taken away. In fact they have been taken away by the Attorney-General who should be protecting their rights.

The Hon. I. G. Medcalf: I have not got the power to take anyone's rights away.

The Hon. R. THOMPSON: The Minister says he does not have that power yet he has the audacity to introduce this amendment—

The Hon. I. G. Medcalf: You have the audacity to speak on the Bill.

The Hon. R. THOMPSON: —to take away people's rights. The Minister would have fought for the rights of people during his legal career and when he was a member of the Opposition, but now that he is in Government we find he brings in an amendment which I believe to be the worst I have seen. It reads in part—

proceedings in respect of a challenge to the undertaking and execution of such works or proposed works by reason of the failure to so comply shall not be instituted or maintained in any court

I thought that Hitler's Germany was over and done with. I thought we had a form of democracy in Australia where the rights of people and the process of law still counted. The Minister is subverting the law and I sincerely trust the members in this Chamber will not have a bar of the amendment. I would have liked to move an amendment to the original Bill. I would rather accept the bad Bill we have in front of us than accept this abortive amendment. I think it is a shocking state of affairs.

The Hon. I. G. Medcalf: You can move an amendment.

The Hon. R. THOMPSON: The Minister knows how far I would get with an amendment. The whips would crack again as they have before.

The Hon. R. G. Pike: We saw them crack last night, but you were not here; they missed you in the whiplash. Mr Latter will deal with you.

The Hon. R. THOMPSON: No-one will deal with me.

The PRESIDENT: I will deal with the member if he gets away from the subject.

The Hon. R. THOMPSON: I have not got away from the subject of the Bill; the trouble is caused by the unparliamentary interjections. I mentioned earlier how the people of Jandakot had done everything their own way. They have been denied school buses, transport, water extensions, power extensions, and many other things that people living just 10 kilometres away in the city are able to enjoy. Jandakot is within the metropolitan region.

It was interesting to note in May of last year that I received a request from a group of residents who live in Hammond Road in Jandakot asking for a water extension. There were 16 properties involved and the cost was around \$39 821. That was to be the contribution by the landowners to get water to their properties. Strange but true, the area of land which this pipe was to go past was owned by the Metropolitan Water Board. After much negotiating we had the figure whittled down and I thought the Government's final figure was over-generous. At a ratepayers' meeting held on the 20th September, 1976, in the Cockburn council offices, I told them to accept the Government's offer as quickly as possible. I said it was a fob to the residents of Jandakot; it was a pay-off so the Government could say, "We have made some contribution to water schemes in Jandakot."

They accepted the offer and I then told them we would be running a disaster course with the Government and the board. We have run into that disaster now. The disaster was created because the residents had the temerity to engage a firm of barristers to lodge an injunction of restraint in the Supreme Court asking for costs against the board for all the things it had not done. That is where the people have run into the disaster they now face.

Under the Act there is a good and sufficient provision for resumption of and payment of compensation for land. There is not one square foot of land being resumed or about to be resumed, and yet we see a dam site proposed to be constructed involving the resumption of thousands of hectares of land in the hills catchment area.

If the Jandakot water scheme is so valuable to the metropolitan area, why does not the Government resume the land? Why should the Government benefit? The small business people whom the Liberal Party is supposed to protect are being disadvantaged. The Government should resume the land and resettle the residents without cost, in an area nearby where they will have

the amenities they have built up and paid for themselves. This is the dishonest approach the Government and the board are taking.

The Hon. I. G. Medcalf: Are you putting that up as a proposition?

The Hon. R. THOMPSON: It is a proposition, and if the Attorney-General would agree to it I would call a meeting tomorrow and put it to the ratepayers.

The Hon. I. G. Medcalf: I wanted to know if you were making that proposal.

The Hon. R. THOMPSON: The Government has not offered compensation to these people; it will not give a guarantee that the water table, if lowered, will be restored and that the wells will be deepened.

The Hon. I. G. Medcalf: I have to tell the Minister for Water Supplies if you are making the proposition.

The Hon. R. THOMPSON: Well, I will make the proposition.

The Hon. I. G. Medcalf: You are making it; are you?

The Hon. R. THOMPSON: I will make the proposition.

The Hon. I. G. Medcalf: What is it?

The Hon. R. THOMPSON: That the whole of the Jandakot mound be resumed and when I get the Minister's answer I will call a meeting of the ratepayers and ask them either to accept or reject it.

The Hon. I. G. Medcalf: How can you make a proposition, when in fact you are not making one? You are not making a proposition if you intend to wait.

The Hon. R. THOMPSON: I will make that proposition on behalf of the people as long as just and fair compensation is paid.

The Hon. I. G. Medcalf: You are not authorised to do that.

The Hon. N. E. Baxter: You will give their land away whether they like it or not.

The Hon. R. THOMPSON: I said I will take it to the ratepayers—to the landowners—for their acceptance or rejection.

The Hon. I. G. Medcalf: Why don't you make a proposition when you are in a position to do so?

The Hon. R. THOMPSON: You should be patient.

The Hon. R. Hetherington: We hoped you might make a better proposition than you have made so far.

The Hon. I. G. Medcalf: What is the suggestion? There is a lot of talk, but I have not heard any suggestions.

The Hon. R. THOMPSON: Nobody has put any propositions to the ratepayers up to this stage, and they have been haggling with the department for quite a period of time. I believe the Cockburn Town Council recommended resumption, I will find what I am looking for and will comment on it, because I feel this has been one of the propositions that was put forward by the Cockburn Town Council. I cannot put my finger on it at the present time. I will certainly find it and I will refer to it. Of course, the Minister has all this correspondence available to him on the departmental file.

I will conclude in the manner in which I started by saying that this is the most obnoxious legislation I have seen since I have been a member of this Chamber. I think it is a disgrace that litigation by landowners has been entered into, and we quite unjustly have an amendment to an Act of Parliament brought down for the consideration of members to deprive them of their legal rights. Unless the facts were clearly demonstrated to members, they would be under the illusion, if they believed what the Minister said in his second reading speech, that this was a reasonable Bill. It sounded to be a reasonable Bill if one took note of the Minister's second reading speech; but it is a totally unreasonable Bill when one sees the further amendment.

I would support the first part of it; but I am totally opposed to the second part of it; that is, the amendment on the notice paper.

The Hon. I. G. Medcalf: Are you saying you support the Bill, but not the amendment?

The Hon. R. THOMPSON: Yes; and if the Minister gives me his reply to the effect that he will go along with the Bill as introduced, and then delay the passage of the Bill for a day, after he has given me that assurance I would move one or two minor amendments.

The Hon. I. G. Medcalf: Are you supporting the Bill?

The Hon. R. THOMPSON: I am supporting the Bill as printed, subject to minor amendments, if the Minister will go along with the Bill and not move his further amendment.

The Hon. I. G. Medcalf: You will support the Bill as printed, provided you are allowed to amend it?

The Hon. R. THOMPSON: I will support the Bill at the second reading stage—

The Hon. I. G. Medcalf: Provided I do not amend it.

The Hon. R. THOMPSON:—subject to a couple of minor amendments at the Committee stage.

The Hon. I. G. Medcalf: You are very difficult to do business with.

The Hon. R. THOMPSON: I know; it is hard to get it through to the Attorney-General. I will support the second reading of the Bill as printed. In the Committee stage I would like to move some minor amendments—change a couple of words—to the Bill as it is now printed. I will then support the passage of it through the Committee stages. Is that clear? We now know where we stand.

Under no circumstances should the citizens of Western Australia be placed in the position in which this Parliament is placing them. We are supposed to be a democracy. Let us continue to be a democracy and not take people's rights away from them, because one department has done the wrong thing, probably in ignorance. But their ignorance should not be foisted upon us. We should still be able to protect the rights of individuals and the people whom we represent.

THE HON. I. G. PRATT (Lower West) [5.20 p.m.]: It is my intention to support the Bill, but I do so with some reservations. As I am following another speaker who also had some reservations about the Bill, I think it is necessary for me to clearly disassociate myself from some of the remarks he made in case people may be mistaken in thinking I agree with him, because we both have reservations.

The Hon. R. Thompson: I would not be foolish enough to think that.

The Hon. I. G. PRATT: The honourable member is very well known for the viciousness and meanness he shows in personal attacks. However, he has outdone himself today. Do we need to ask why? No; we do not need to ask why. It is very evident. I think it is a disgrace that a person of the integrity and the standing in our community of the Attorney-General, should be treated in this manner.

The Hon. R. Thompson: Let him speak for himself.

The Hon. I. G. PRATT: I am speaking for myself and my conscience. I am saying what I feel, and I am quite proud to say it.

I believe we have to pass this validating legislation, because of the importance of the whole issue of water supply. If we look at the deficiencies in the actions of the department we

find that although it has deficiencies, these deficiencies did not have any practical effect on what was being done, which was the provision of a water supply.

The department may have been wrong, and I agree there were deficiencies. However, what practical effects did these deficiencies have as far as drilling bores for pumping water? None whatsoever. The valuation of the areas to be served could have no effect on the requirements of water, because our water is all mixed up anyway. The water from Serpentine Dam and the water from Canning Dam is mixed with water from underground bores. For practical purposes, how will one define those provisions? How will one assess the valuation of areas to be served?

Another deficiency is the revenue to be derived. With inflation as it is today, how could one have an accurate and lasting assessment of the revenue to be derived from a scheme? It would be pure guesswork and it would be dishonest to do so. I believe this is why we have paragraph (c) of the amendment that the Attorney-General intends to move. I see nothing sinister about that. It is logical and I think people who are trying to build something into it that is not there are doing themselves and the people they represent a disservice. I look forward to hearing the Attorney-General further explain this when he moves the amendment. I am quite sure we will be satisfied with the explanation he gives. I am satisfied with my understanding of it.

The reservations I have are quite significant. They refer not only to the situation specifically, but to the whole situation of the Jandakot mound. This area intrudes partly into my electorate, but more significantly into the electorates of the Hon. R. Thompson and the Hon. D. K. Dans. They are probably more concerned with the lower areas that are to be used for such activities as market gardening. However, these activities have a lesser impact in my electorate.

There has been talk of compensation. I do not wish to go into that at any length, because I do not think it is very relevant to the validation. It is another issue. It would be confined to the areas that the honourable members I have mentioned represent.

Representations have been made to me by people who share my concern for the future of their bores and their personal water supplies. Statements have been made in departmental circles from time to time, as was referred to earlier in the debate today, that the water does not belong to anyone; it belongs to the people through the Government. This was referred to a

few years ago by a gentleman in another place and the suggestion was that water should be metered. Of course, he said it in passing and I do not think he intended it to be taken seriously. However, it is a worry in people's minds.

Comments by officers of the department have led people within the area to believe they are facing the probability, or at least the possibility, of having their right to draw underground water taken away from them, restricted, or metered, and the metering would be on a use-and-pay-basis. I could not support that. When the initial legislation concerning the Jandakot mound came before Parliament I sought assurances from the Minister responsible that this was not the intention. I received the assurances at the time that it was not the intention to restrict or prohibit the use of bores on individual people's properties.

However, I am led to believe that comments by officers since then have caused this fear to rear its head again in the minds of the people living in the area. When it was agreed to bring this validation proposition before us, I again sought assurances from the present Minister that there was no intention of restricting or prohibiting the use of private bores in the area. Again I received his assurance that this was not the case.

However, comments made in another place lead me again to seek that assurance and I ask the Attorney-General, as the Minister representing the Minister for Water Supplies, to give me that assurance when he replies to the debate. I seek an assurance that there is no intention—and I clearly define my term “no intention”—to limit, restrict, or meter the bores on these private properties. I do not ask him to give me an assurance that never will this be done, because as he so clearly stated himself, no-one can say what a Government of whatever political colour may do in 10 years' time. Heaven forbid that it happen, but in three years' time we could have a change of Government. We could find the present Opposition deciding at that stage that it wants to restrict these bores. We cannot guarantee now that would not happen.

I hope the Attorney-General is forthcoming with those assurances and I can pass his assurances of the Government's intentions on to the people I represent who live in the eastern section of the Jandakot water mound. I support the Bill.

Debate adjourned, on motion by the Hon. R. J. L. Williams.

(50)

LEGAL REPRESENTATION OF INFANTS BILL

Second Reading

Debate resumed from the 7th September.

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [5.30 p.m.]: During the course of the second reading debate, questions were raised by Mr Cloughton and Mr Baxter as to whether or not we were duplicating the position of a guardian.

In the Bill before the House, we are providing that a court will appoint a guardian for infants in certain cases. A question was raised by Mr Cloughton, and much the same question was raised by Mr Baxter, as to whether the functions of the Director of the Department for Community Welfare were being duplicated, as the director is a guardian of some infants under certain Acts. I indicated that the matter was receiving attention.

I would now like to tell the House, having taken into account the comments of the members, that a form of amendment has been devised in conference with the Director of the Department for Community Welfare and his legal adviser which will satisfy the queries raised by them. This amendment appears in my name on the notice paper and it will be dealt with during the Committee stage. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 4 put and passed.

Clause 5: Guardians *ad litem*—

The Hon. I. G. MEDCALF: I desire to move the following amendment—

Page 3—Insert after subclause (4) the following new subclause to stand as subclause (5)—

(5) Before making an appointment under this section, the court shall inquire into the guardianship of the infant for purposes other than those of this Act, and, where it appears to the court that the infant is pursuant to, or for the purposes of, any other law of this State or any law of the Commonwealth under the guardianship of the

Director of the Department for Community Welfare of this State the court shall not make an appointment under this section unless and until the court has caused notice to be served on the Director and given him an opportunity to be heard on the question of such an appointment.

The object of this amendment is to make it possible in all cases where the Director of the Department for Community Welfare is the appointed guardian of any infant, whether under State or Commonwealth Statute, for him to receive notice of any proceedings under the Legal Representation of Infants Act.

Whether the Supreme Court, or any other court, is administering this Act, such a court will have to inquire into the guardianship of any infant. If it appears that an infant is under the statutory guardianship of the Director of the Department for Community Welfare under either State or Commonwealth law, then the Court should not make any appointment under the Legal Representation of Infants Act until it has caused notice to be served on the director and he has had an opportunity to be heard on the question of such an appointment.

As I have said, this amendment has been approved by the director and his legal officer, and I am quite satisfied, as they are also, that it will give the director all the power that he requires.

I mentioned the fact that the director may be appointed to a guardianship under a Commonwealth Act because some Commonwealth Acts require this even though he is a State officer. This applies particularly in respect of the Commonwealth Immigration Act where the director acts on behalf of the Commonwealth Minister for Immigration in regard to an immigrant child, particularly when a child has been brought here for fostering or adoption.

There are other Statutes where this situation applies.

I believe this amendment will meet with the approval of members.

The Hon. R. F. CLAUGHTON: I am quite happy to support the amendment moved by the Attorney-General. As far as I can determine, it covers the objections I raised during the second reading debate.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 7 put and passed.

Title put and passed.

Bill reported with an amendment.

SUITORS' FUND ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [5.38 p.m.]: This Bill is simply to provide the funds for the administration of the Legal Representation of Infants Bill. There has been no opposition to it, and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 5.40 p.m.

QUESTIONS ON NOTICE

WATER SUPPLIES

Swimming Pools

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

(1) Is it a fact that the Government will place no restrictions on the filling with water of newly installed swimming pools?

(2) What is the expected total water consumption for the above purpose in the period up to the 31st March, 1978?

The Hon. I. G. MEDCALF replied:

(1) Yes.

(2) 83 000 cubic metres (estimated maximum).

FAMILY COURT

Maintenance Orders

168. The Hon. R. J. L. WILLIAMS, to the Attorney-General:

(1) Is the Attorney-General aware that maintenance orders for families made by the Family Court of Western Australia are not enforceable in other States?

(2) Is it a fact that the Department of Community Welfare in South Australia will do nothing to enforce such an order until a court order of South Australia is made in favour of the applicant?

- (3) Is the Attorney-General aware that the Australian Legal Aid Office will not provide legal aid for such representation to be made and that people who are unable to provide the fees to engage a private solicitor to represent their case, are seriously disadvantaged?
- (4) Could the Attorney-General advise the House as to whether or not this anomaly which causes hardship to people who have been awarded maintenance orders by the Family Court of Western Australia has been the subject of discussion between the Federal and States Attorneys-General?
- (5) If no discussions are taking place and no recommendations have been made, would the Attorney-General take the initiative in correcting this apparent anomaly in law and thus relieve the hardship suffered by those who cannot receive moneys awarded to them by the Family Court of Western Australia?
- (6) If discussions and recommendations have taken place, would the Attorney-General inform the House as to the outcome and recommendations emanating from these discussions?

The Hon. I. G. MEDCALF replied:

- (1) No. Maintenance orders are enforceable throughout Australia under Regulation 129 and section 105 of the Family Law Act.
- (2) I am not aware of the attitude of the Department for Community Welfare in South Australia. However, under a recent agreement entered into by Collectors of Maintenance in all States (including South Australia), an order forwarded by a Collector to a Collector in another State will be registered and enforced by that Collector at no cost to the applicant.
- (3) I understand that the Australian Legal Aid Office will not grant legal aid for the enforcement of a maintenance order. However, the answer to question (2) indicates that legal aid may not be required.
- (4) Questions in relation to the enforcement of maintenance orders have been discussed by the Standing Committee of Attorneys-General on a number of occasions. Local orders are enforced in Western Australia by the Collector of Maintenance at no cost to the applicant where hardship is demonstrated. Interstate enforcement now takes place as indicated in the answer to question (2) above.
- (5) and (6) See answer to question (4).

ROAD FUNDS

Allocation to Local Authorities

169. The Hon. H. W. GAYFER, to the Minister for Transport:

- (1) Which Shires have been granted funds from the Supplementary Grant Fund created by the new system of Shire Statutory Road Grants and what were the amounts in each case?
- (2) How many applications have been received?
- (3) How many applications have been rejected?
- (4) Which shires are represented in (3) above?

The Hon. G. C. MacKinnon (for the Hon. D. J. WORDSWORTH) replied:

- (1) Although the Rural Councils Roads Committee has held two meetings and written directly to a number of Councils either seeking further information or advising of their decision on the Council's submission, no recommendations have as yet been made to me.
- (2) Applications have been received from all Councils except one.
- (3) I am not aware that any applications have been rejected outright but I understand that seven are still under consideration.
- (4) Answered by (3).

ABORIGINES

Alcohol Abuse

170. The Hon. LYLA ELLIOTT, to the Minister for Transport representing the Minister for Health:

In view of Aboriginal Medical Service findings that alcohol abuse has caused considerable damage to the physical, emotional and social functioning of one-third of Perth's adult Aborigines—

- (1) What treatment and rehabilitation services are being provided by the W.A. Alcohol and Drug Authority for Aborigines, having regard for their special cultural background?

- (2) What measure of success in rehabilitation is claimed by the Authority with Aboriginal patients?
- (3) Are there any plans for new facilities to be administered by the A.D.A. directed towards Aboriginal patients?
- (4) What assistance is given to other voluntary organisations providing care to alcoholic Aborigines?

The Hon. G. C. MacKinnon (for the Hon. D. J. WORDSWORTH) replied:

- (1) The Authority has 85 beds available for various stages of treatment and rehabilitation, all of which are available to all patients, including Aborigines. Out-patient counselling and services are also available to cater for special problems of Aborigines. The Authority has on its staff two Aboriginal welfare officers.
- (2) The success in rehabilitation is difficult to evaluate and measure in respect of all patients.
- (3) The Authority has plans to increase its available bed capacity to cater for the escalating problems. These facilities whilst not specifically for Aboriginal patients, will be available to all persons.
- (4) The Authority has available limited funds to assist voluntary agencies providing care for all dependent persons. Those agencies caring specifically for Aborigines on approaching the Authority would be considered for assistance.

WATER SUPPLIES

Storage Capacity

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

- (1) In determining the Government's current water conservation campaign, what is the total metropolitan water storage expected to be at the 31st March, 1978?
- (2) What is the present total metropolitan storage?
- (3) What has been the total consumption of water from metropolitan service dams since the 31st March, 1977?

The Hon. I. G. MEDCALF replied:

- (1) 94 million cubic metres.
- (2) 174.4 million cubic metres.
- (3) 38.5 million cubic metres from hills sources.

ROAD FUNDS

Allocation to Local Authorities

172. The Hon. H. W. GAYFER, to the Minister for Transport:

- (1) Is the Minister aware that the Commissioner for Main Roads in addressing the Annual Conference of the Country Shire Councils' Association on the 3rd August, 1976, said—"in order to gain acceptance of the proposal it may be necessary to introduce a proviso that no local authority should receive a formula grant which is less than its present statutory grant"?
- (2) Would the Minister advise if the principle that no local authority should get less was dropped by the Government (or the Main Roads Department) or at the request of the sub-committee of the executive of the Country Shire Councils' Association?

The Hon. G. C. MacKinnon (for the Hon. D. J. WORDSWORTH) replied:

- (1) I was not present. Your quotation was not in the Committee's prepared notes and as far as I can ascertain he did not make a statement in the context of your quote.
- (2) While this principle was obviously considered, the Committee comprising representatives of the Country Shire Councils' Association, the Country Town Councils' Association and the Main Roads Department decided not to adopt the principle.

HOUSING

Redcliffe

173. The Hon. F. E. MCKENZIE, to the Attorney-General, representing the Minister for Housing:

- (1) Would the Minister advise why the redevelopment programme for the Redcliffe Housing Estate is not now being proceeded with?

- (2) If the area is not to be re-developed as originally intended, will the State Housing Commission tenants be given the option of purchase entitlement as is provided in other areas?

The Hon. I. G. MEDCALF replied:

- (1) Redevelopment proposals have been deferred for an indefinite period, due to planning problems which have arisen, and which require close evaluation.
- (2) Tenants who desire a Commission-owned dwelling outside the redevelopment area will be entitled to the capital portion in their rentals towards the deposit on such dwelling. Sales of properties within the redevelopment area have been frozen.

HOSPITAL

Princess Margaret

174. The Hon. R. F. CLAUGHTON, to the Minister for Transport representing the Minister for Health:

- (1) (a) Has the Minister reviewed the policy of concentrating paediatric services at Princess Margaret Hospital;
- (b) if so, has a decision been made to change this policy?
- (2) (a) Has consideration been given to the proposal of the City of Subiaco and other local authorities that paediatric services in the metropolitan area should be decentralised;
- (b) if so, what decision has been made by the Government on these proposals?

The Hon. G. C. MacKinnon (for the Hon. D. J. WORDSWORTH) replied:

- (1) and (2) A great deal of consideration has been given to the question of paediatric services. The following information indicates the present and planned future intentions.

In a city the size of Perth, it is practicable to have only one specialist hospital for the care of children.

The Princess Margaret Hospital must continue in its current role as the State's paediatric teaching hospital which caters for children not only from the metropolitan area, but from throughout the

State. A substantial proportion of its patients come from country areas. There is no justification for the duplication of many services which are warranted only at one centre.

The bed size of the Princess Margaret Hospital has been limited to 350, compared with 305 available at present. All other redevelopment relates to essential upgrading and expansion of departments to adequately service the hospital.

Fremantle Hospital has a 60-bed paediatric facility and it is planned that the Lakes Hospital will have a unit of similar size. Each of the other metropolitan hospitals has a small unit for the treatment of children by practitioners in the local area. The unit at the Armadale-Kelmscott Hospital will be increased in size and the new hospital at Wanneroo will include beds for children.

There are logistical difficulties in providing special clinics for children in the suburbs, not the least of which is the availability of paediatricians.

Discussions on the feasibility of paediatric out-patient clinics in the outer suburbs are still proceeding.

PRISONS

Aborigines

175. The Hon. F. E. McKenzie for the Hon. LYLIA ELLIOTT, to the Leader of the House, representing the Chief Secretary:

Will the Minister advise—

- (a) the number of prisoners presently held in Western Australian prisons;
- (b) the percentage of those prisoners who are of Aboriginal descent;
- (c) whether persons of Aboriginal descent are over-represented on a population basis;
- (d) the proportion of those Aborigines in prison whose offence could be directly or indirectly linked to alcohol abuse;
- (e) what rehabilitation facilities are being employed for these prisoners, which provide for the unique cultural, social and emotional situation of the Aboriginal people; and
- (f) whether the Department has any plans to improve existing rehabilitation facilities, and if so, what are they?

The Hon. G. C. MacKINNON replied:

- (a) 1 130.
- (b) 32.74 per cent.
- (c) Yes. Aborigines comprise only 2.1255 per cent of the population.
- (d) Figures not available. To further assist the Hon. Member, she is referred to the House of Representatives Standing Committee on Aboriginal Affairs Official Hansard Report of Proceedings held in Perth on 28th October, 1976, and to the Department of Corrections Research Report No. 27 dealing with alcohol and Aboriginal imprisonment rates.
- (e) The Department of Corrections has, wherever possible, complied with the United Nations Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations which provide that there shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status.
- (f) Yes, to further explore the development of co-operative enterprise.

PASTORAL LEASES

Number Occupied and Abandoned

176. The Hon. R. F. CLAUGHTON, to the Minister for Transport, representing the Minister for Lands:

- (1) In each of the State's pastoral regions will the Minister advise—
 - (a) the number of occupied pastoral leases; and
 - (b) the number in each region subject to a stock reduction programme?
- (2) How many pastoral properties have been abandoned since the 1st January, 1977?
- (3) (a) Has the Government a programme for the re-location of pastoralists, or cancellation of a lease where a property is shown to be no longer economically viable;
 - (b) if so, will the Minister supply details?

The Hon. G. C. MacKinnon (for the Hon. D. J. WORDSWORTH) replied.

- (1) (a) There are 584 pastoral leases registered in the whole of the State. Of these, 98 are in the Kimberley Division and 486 in the remaining four Divisions of the State.
 - (b) 44 in the Kimberley Division and 32 in the remaining part of the State (Gascoyne Catchment area).
- (2) No pastoral leases have reverted to the Crown since 1st January, 1977, because of abandonment.
- (3) (a) No.
 - (b) Answered by (3)(a).