Legislative Council

Thursday, the 16th August, 1979

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

QUESTIONS

Questions were taken at this stage.

TRADE DESCRIPTIONS AND FALSE ADVERTISEMENTS ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [2.45 p.m.]: I move—

That the Bill be now read a second time.

The prime purpose of this Bill is to amend section 8 of the principal Act, which relates to the publishing of false advertisements.

Difficulty has been experienced in enforcing these provisions which presently require the establishment of the fact that the publisher knowingly published a false and misleading statement.

The intention of the legislation was to provide a defence to such a charge if a person took reasonable precautions against committing the offence, had reasonable grounds to believe and did believe the statement to be true, and had no reason to suspect otherwise.

However, because of a drafting format which is not entirely satisfactory, the Act requires a prosecution to establish the entire offence without calling upon the deeming provision which exists in section 8 subsection (3) as to knowledge. That section was inserted to deal with the difficulties in relation to knowledge of falsity.

Much of the problem of the section lies in its format as subsection (3) speaks of "a statement in contravention of this section" when, in fact, it seeks to deal with the person who publishes the statement and not the statement itself.

This Bill, therefore, seeks to correct the situation by providing reasonable grounds for a defence by a person who publishes a statement which is false.

Penalties at present under the Act are very low, being in the order of a maximum of $200 or six months' imprisonment or both for a first offence; $200 to $500 or 12 months' imprisonment or both for a second offence; $500 to $1 000 or 12 months' imprisonment or both for a third and subsequent offence. The graduated penalties will be substituted by one maximum penalty of $5 000.

The limitations of section 8 have led to the necessity to refer matters to the Trade Practices Commission for action. This is not a desirable situation since, apart from the penalty which is much higher under the Trade Practices Act, local legislation should be adequate to deal with false advertisements published within the State.

The amendments outlined in the Bill now before the House will overcome the existing problems and upgrade the gravity of the offences, so that offences in this State are more in line with similar legislation in the Commonwealth and other States.

I commend the Bill to the House.

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

WILDLIFE CONSERVATION ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [2.50 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Wildlife Conservation Act, 1950-1977 which includes the Wildlife Conservation Act Amendment Act of 1976.

The Wildlife Conservation Act Amendment Act, No. 86 of 1976, was designed to better protect our wildflowers and other plants and to bring together the administration of flora conservation and fauna conservation in the Department of Fisheries and Wildlife. It also provided for the repeal of the Native Flora Protection Act, 1935-1938.

Closer examination of this amending Act has revealed the need for further amendments before it can be proclaimed.

Firstly, as a consequence of the Crown being bound in matters relating to flora, it has been found necessary to provide for consultative machinery between Ministers in charge of other

Government agencies and the Minister in relation to the exercising of rights or duties by instrumentalities of the Crown or local authorities. Similarly, the Minister has been provided with powers of determination where matters arise with respect to the exercising of rights or duties conferred or imposed on a person under any Act or agreement.

Secondly, the defence for a person charged with taking protected fauna on Crown land without a licence has been expanded to include having taken reasonable care. A similar defence has been provided with respect to taking protected flora on private land.

Thirdly, as the amending Act is presently worded, the special penalty for the unauthorised taking of rare flora can be imposed by the courts on the holder of a licence to take protected flora on Crown land who takes rare flora without obtaining the further consent of the Minister. The special penalty also can be imposed on a person who takes rare flora on private land without first obtaining the consent of the Minister.

However, a person who does not have a licence to take protected flora—that is, the majority of the community—and takes rare flora on Crown land can be charged only with taking protected flora and fined the lesser penalty attached to that offence. These amendments will clarify this situation.

The Bill also contains two proposals to amend the principal Act.

A new definition of "nature reserve" has been included to cover such reserves created by Acts other than the Land Act.

Finally, to avoid the application of the Interpretation Act, whereby private persons may bring prosecutions against the Crown, a provision has been inserted that all proceedings in respect of offences shall be taken by the director.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. F. Claughton.

HEALTH EDUCATION COUNCIL ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [2.54 p.m.]: I move—

That the Bill be now read a second time.

The Health Education Council Act at present requires the council to carry out the administration of the Act and gives it various rights and powers to do so.

This Bill seeks to make such changes as will enable the council to function as an advisory body to the Minister for Health on matters relating to health education of the people of the State.

The council is composed of representatives of various Government, semi-Government and private organisations concerned with education and health and the object of this Bill is to remove the responsibility for administration of the Act from the council to allow it to concentrate on the main function of promoting, maintaining, and improving the health of the community by means of education. This is in accordance with the expressed wishes of the council.

The council will continue to manage a trust fund created to receive special grants made by outside organisations for specified health education purposes. These funds do not form part of the daily operational expenditure of the council and recommendations can continue to be made to the Minister by the council as to the amount and direction of expenditure required.

The normal operational funds provided by the State Treasury will form part of the Public Health Department allocation.

The present staff will have all existing rights, entitlements, classifications, titles, and salaries preserved and will be employed by the Minister under the Health Act instead of under the Health Education Council Act.

The amendment to section 6 of the principal Act removes from the list of members of the council the reference to a representative of the Western Australian Teacher Education Authority, as the authority is no longer in existence. It also requires the council to record the minutes of its meetings.

I commend the Bill to the House.

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

BILLS (2): THIRD READING

1. Bulk Handling Act Amendment Bill.
2. Cattle Industry Compensation Act Amendment Bill.

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

PROPERTY LAW ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [2.57 p.m.]: I move—

That the Bill be now read a second time.

For many years it has been a common practice in the drawing of wills, partnership agreements, and other instruments, to confer on beneficiaries or parties the option to purchase land, partnership interests, or other property at the value assessed for probate purposes. The words used in individual documents were not always identical, but the principle was the same in all cases.

As members are aware, the phasing out of death duties is now imminent. This means that assessment of value for the payment of probate duty will be a thing of the past and it will no longer be possible to give effect to provisions like those mentioned.

There are numerous documents in existence which contain such provisions, and there is no doubt that this will create very serious difficulties for those involved in the administration of the relevant estates or agreements.

In Queensland, death duties have already been abolished and a similar problem there was overcome by special legislation which, in effect, specified that a valuation would be made by a duly qualified person instead of referring to the probate value. I am informed that this has worked well in Queensland and it is intended to adopt the same procedure in Western Australia. However, it will not be obligatory in the first instance to accept any such procedure.

The Bill makes provision for a person having a proper interest in a particular valuation to apply to the Supreme Court for an order that such a valuation procedure should not apply. In the event of an order being made, the method to be adoped would be as the court directed.

The amendment proposed also takes into account cases where a similar provision makes reference to a valuation for the purpose of Commonwealth estate duty. As that duty is now abolished, the problem is very much the same.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. W. Cooley.

ADMINISTRATION ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [3.01 p.m.]: I move—

That the Bill be now read a second time.

The amendments proposed in this Bill are designed to overcome certain problems which will arise after the 31st December, 1979, when death duty will cease.

Assessment procedures will no longer be carried out by the Commissioner of State Taxation after that date and, consequently, the reference in section 14(2) will be redundant.

The estate of a person dying prior to the 31st December, this year will still need to be assessed and, consequently, the Administration Act needs to retain its reference to the provisions of the Death Duty Assessment Act under which the amount of duty is assessed.

The amendment to section 29 is for the same reason, but applies to estates in which assets are located in more than one State of Australia. Up to and including the 31st December, 1979, estates in this category will still need to be assessed under the Death Duty Assessment Act.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. W. Cooley.

VALUATION OF LAND ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th August.

THE HON. R. F. CLAUGHTON (North Metropolitan) [3.02 p.m.]: In introducing this Bill, the Attorney General informed us it was necessary because of a deficiency in the principal Act, and, members will recall, the principal Act was a new measure to collect together all the valuation procedure legislation. Because of the deficiency it was found that local authorities, such as the City of Stirling which recently revalued its district, would not be able to declare a rate on the new valuation, and so it is of some importance to the local authorities to have the amending legislation passed through Parliament expeditiously. The Government has requested our co-operation, and we are pleased to give it.

I admit that I am not a legal person, but, as far as I can judge, the proposed amendment overcomes the deficiency referred to. However, looking at the principal Act, it is very difficult to see how the problem arose. To the ordinary citizen, the parent Act appears to cover quite adequately all eventualities.

Since it appears that the parent Act does not cover the situation outlined, the question arose in my mind whether ratepayers who wish to object to an assessment under a new rate when it is declared would be affected in much the same way. The inquiry I made led me to believe that such was not the case. However, I ask the Attorney General to examine that particular point.

Proposed new subsection (1a) of section 5 reads in part—

> . . . . . of a particular financial or rating year shall be deemed to be a valuation in force under this Act . . .

Section 32(1) of the parent Act refers to objections, and it says—

> Any person liable to pay any rate or tax assessed in respect of land who is dissatisfied with the valuation of such land made under this Act . . .

So while the amending Act says that the valuations are to be those in force, it does not state that they are actually to be made under the principal Act.

As I have indicated, I am not a legal person, and it is difficult for me to see how the problem arose that made the Bill necessary. I do not make any strong claim that my interpretation of the position is the correct one. I can imagine that the people in my electorate who are ratepayers of the City of Stirling and who want to place an objection when their valuations are increased by up to 15 per cent on last year's will be extremely annoyed to find that through some flaw in the legislation they have lost their right to object.

When the parent Act was introduced in 1978, there were two complementary measures. I would like to quote the comments of the Premier at the time of the introduction of the legislation, and these appear on page 2619 of the 1978 *Hansard*. The Premier indicated the consultation that had taken place, and had this to say—

> The Department of Local Government has made a survey of local authorities and as a result recommended that where a local authority has an interim valuation made, it does not apply this valuation for rating purposes to the remaining portion of the rateable year in which it receives these interim valuations but applies it in the next rating year . . .
>
> All of the provisions which affect the various Government departments and authorities have been discussed with those departments and authorities and are acceptable to them.

At the time that statement was taken to mean that the proposed legislation had been circulated to all local authorities, and that they had been in agreement with it. As it turned out, where a local authority wishes to make an interim valuation and then charge rates *pro rata* for the portion of the year, say, in respect of a new subdivision, the legislation deprived them of that power. A number of local authorities have made representations about this matter, and they requested that the Government further amend the legislation to return to them the power they had up to that time.

I would like to read to members a copy of a letter sent by the Shire of Wanneroo to the Minister for Local Government. This letter is dated the 30th July, 1979, and indicates the magnitude of the problem which has been created for local authorities such as the Shire of Wanneroo where a good deal of new development is taking place.The letter states—

> This Council, together with other developing local authorities is concerned with changes recently made in the form of Valuation of Land Act, 1978.
>
> The amendment to Section 534 of the Local Govenment Act, being the precluding of Councils from re-assessing of rates on property at the time it is sub-divided, does affect Council's financial situation and also throws an extra burden on existing residents. During the 1979/80 financial year this will adversely affect Council's finances by approximately $250 000 which, in effect, imposes an extra 3.8% on rate collections.

The letter continued to expand on the situation, indicating all the services which the local authority must provide once that land is subdivided and for which there is a financial obligation on the council. The letter then goes on to quote the following statistics—

> An indication of costs involved is that 1 905 lots were created in the last financial year and if only 50% of these lots were built on during that financial year, the cost in crossovers alone would be $104 720.

Crossovers, of course, are driveways.

Because of the quite considerable financial burden imposed on councils—this was a power it had previously under the old legislation—the Shire of Wanneroo has urged the Government to take action to amend the legislation so that that power again is granted to local authorities.

It is quite unfair that a developer can come in and start gaining from the sale of subdivided land without bearing any of these development costs at the time. In fact, it was pointed out to me that the benefit to a developer could last for 12 months if the subdivision occurred on the 1st July, because a full year would pass before rates based on a new valuation were liable on those properties.

From the examination the Opposition has made of the Bill, it has our support. We hope sufficient time will be given to its passage through this House and the Assembly to enable adequate response to the proposals to come from local authorities. This is important, in view of their concern about *pro rata* valuations. However, in the main, the Opposition will give every assistance to expediting the passage of this legislation through the Parliament.

THE HON. V. J. FERRY (South-West) [3.14 p.m.]: In rising to support the Bill, I intend to reinforce my argument by referring to the situation which presently applies to the Augusta-Margaret River Shire Council. I understand a number of local authorities in Western Australia have experienced difficulty in the operation of the present Act; therefore, this measure is before the House to correct the situation.

The Augusta-Margaret River Shire Council carried out a number of procedures in the last couple of years to try to rationalise its rating situation. At the end of July it was found it would be unable to adopt the new valuations and comply with the Valuation of Land Act. Accordingly, the council enlisted the aid of its local parliamentary representatives—namely, the member for Vasse (Mr Blaikie), the Hon. G. C. MacKinnon, and myself—to make representations in an endeavour to overcome this difficulty.

In fact, in a letter to me dated the 20th July, 1979, the President of the Augusta-Margaret River Shire Council (Mr A. P. Hillier) stated—

> I wish to take this opportunity to thank yourself and Mr Graham MacKinnon, M.L.C., Hon. Minister for Works, for receiving the Shire Clerk and myself at Parliament House on Thursday 19th July, 1979, to discuss the above matter.
>
> Council looks forward to your continued assistance to allow the valuations supplied by the State Taxation Department during 1979, not adopted by Council prior to 1st July, 1979, to be used for the 1979/80 rating year.

In another submission to the Minister for Local Government, Mr Hillier also acknowledged the work of Mr Barry Blaikie, MLA, and the other members.

The situation arose in this way: In September, 1977, the Augusta-Margaret River Shire Council requested the Commissioner of State Taxation to supply a revaluation based on the unimproved system of valuation for all properties within the shire. A subsequent acknowledgment advised that this revaluation would be incorporated into the 1979 programme with the required new valuations available for the 1979-80 rating year.

In May, 1978, the council requested the chief valuer to supply annual values for all townsites together with the scheduled unimproved values to enable the selection of the most suitable rating base within the district. This request also received approval, and the council supplied the State Taxation Department with all the necessary schedules and information required to perform the revaluation.

The revaluation of rural wards commenced in December, 1978, with the townsite revaluation being delayed until May, 1979, because of the apparent State Taxation Department budgetary problems.

Then, to the credit of the very progressive Augusta-Margaret River Shire Council, in May, 1979, it purchased a computer and file update, and process work commenced in early June on the rate system to accommodate the new valuations expected in mid-June, 1979.

All this work, of course, was taking place in the expectation that the council would be able to swing over entirely to the new valuations it had adopted.

Following various delays, the shire clerk, on the 29th June, 1979, came to Perth and personally collected the new valuation schedules and maps from the State Taxation Department. No mention was made to him at that time—or, in fact, prior to that time—by the valuers of the State Taxation Department of any anomaly known to exist.

Following extraction and presentation of valuation exercises, the council, at a special budget meeting on the 5th July, 1979, adopted the new unimproved valuations.

Having adopted those valuations it was found they were not to apply anyway, because the present Act did not allow for them to take effect until the 1st July, 1979. The senior valuer of the State Taxation Department contacted the shire clerk on the 12th July, requesting the date on which valuations were adopted and advising that it now appeared that the valuations that applied should have been adopted by the council prior to the 1st July, 1979, the date on which the Valuation of Land Act came into effect.

Here was the real difficulty. To its credit, the council had initiated many inquiries with Government departments and obtained legal opinion to try to overcome the problem. During the course of the shire's inquiries it seemed that neither the State Taxation Department nor the Local Government Department was aware of the need to adopt the new valuations as from the 30th June, 1979. As I said before, a number of local authorities appeared to be in similar difficulties.

However, the Augusta-Margaret River Shire, not wishing to place itself in a situation where it could be challenged legally—it obviously had regard for the welfare of its ratepayers and its own good name—made an approach to Mr Blaikie, Mr G. C. MacKinnon, and myself to see whether we could take steps to overcome the problem. Accordingly, we three made representations to the Government about this matter.

A lot of discussion followed over a number of days. The particular council to which I am referring has had a growth problem over a number of years. This is not uncommon amongst a number of local authorities, but the problem could not be corrected by adjusting the rate in the dollar on the old valuations. The shire was placed in such a position that whatever it did it was making the position worse.

The last revaluation of the Augusta-Margaret River Shire was undertaken in 1967 and these unimproved valuations have been in use since the 1968-69 rating year, with the exception of the Margaret River townsite which was revalued for the 1972-73 rating year.

There are a number of reasons the shire did not ask for a revaluation of its area in the year subsequent to the last adjustment in 1967. The shire is basically a rural one, and this is reflected in the well-being of the agricultural industries within the area. When I say "well-being" I must refer to the downturn in rural economy in recent years. Therefore, the 1967 valuations reflected the rural-based economy in the shire and the imposition by the council of subsequent adjustments in rates in the dollar placed the burden on rural wards.

Accordingly, the shire council in its wisdom endeavoured to keep the rating down as low as possible, bearing in mind it had to provide services to the community. The shire was mindful of the economic situation in which most of its ratepayers found themselves. Over the past few years the council did in fact attempt to overcome some difficulties by imposing a special rate on the Augusta and Margaret River townsites. It is well known, of course, that when one imposes special rates within a local authority from time to time, one must keep on imposing special rates. It is then found that a more complex and iniquitous situation arises.

The shire was very concerned with the need to have a consistent rating valuation and therefore, when it took all the necessary steps to do the right thing under the Valuation of Land Act, it found through no fault of its own, but because of legal technicalities, it was unable to provide any improvement.

This particular local authority has, in addition to its rural base, been called upon to provide a number of amenities within its townsite jurisdiction. There has been an expansion in the townsites in recent years. There has been more demand for small rural hobby farms and certainly an increased demand for caravan parks and tourist developments.

The Hon. J. C. Tozer: A few communes?

The Hon. V. J. FERRY: Yes. More important, of course, is the development of the wine industry. This has been very welcome in the area. In addition to the dairy and cattle content of the area there has been a swing to a mixture of rural and urban pursuits. The rating system therefore tended to become more complicated.

I give this information as a background to the problem. The shire requested that the Government take steps to do a number of things. One of the suggestions the shire put forward was for the Act to be amended, and we now are at the stage where we have certain amendments before us in the form of this Bill. The Bill has my support because I believe it will overcome the difficulties. Local authorities will be allowed more time to adopt the valuations and to put them into force, rather than is the case under the existing Act where the date applicable is the 30th June, 1979.

I think the case I have presented is a fairly typical one of a local authority—as should all responsible shires—attempting to do the right thing by its ratepayers in accordance with the legislation passed by this Parliament. However, the shire found itself to be completely stymied, to use a golfing expression. I support the Bill.

THE HON. J. C. TOZER (North) [3.28 p.m.]: In making my brief remarks to support this Bill, I start by referring to the last paragraph of the Minister's introductory speech, which reads as follows—

> This Bill will overcome the recent problem that has arisen and will also be in accord

with the original intention of the Valuation of Land Act.

I can only concur with those comments.

Like Mr Claughton, I have no doubt in my mind as to the intentions of the Act or of the words contained in it. I find this is yet another example of where, when our legal eagles get a hold of these things, they are made hard for simple souls like myself.

As late as the 19th July, 1979, in the *Local Government Bulletin* No. 196, this matter was referred to under the heading of "Valuations". This publication is distributed to all local authorities and is generally accepted by executive officers as a guide in respect of certain pieces of legislation or procedures which require elucidation. This is the publication which a shire or a town clerk would check when he wanted information. Portion of the publication reads as follows—

> The re-enacted provisions of Section 533 of the Local Government Act, no longer require Councils to adopt valuations for rating purposes.
>
> Subsection (2) of Section 533, provides that a Council shall use either the gross rental value or the unimproved value of land that was in force under the Valuation of Land Act as at 1st July in each year.
>
> The transitional provisions of Section 5 of the Valuation of Land Act provide, in effect, that valuations in force under the Local Government Act immediately before 1st July, 1979 shall be deemed to be valuations in force under the Valuation of Land Act.

It seems to me that when the Secretary for Local Government sent this to the executive officers, he did not recognise—as Mr Claughton and myself did not—there was a shortcoming.

The fact of the matter is there was no longer any requirement for councils to adopt valuations for rating purposes. It is stated in the Act—and the Secretary for Local Government reaffirmed that to the shire clerk—that the valuations shall be those in force under the Valuation of Land Act, as at the 1st July each year. I cannot see any difficulty in respect of these provisions but obviously there is.

On page 1 of the Minister's second reading notes is the following—

> As the law now stands, the valuations made and intended to be utilised as the basis for the assessment of rates and taxes for the current financial or rating year cannot now be used because the existing transitional provisions incorporated in the Valuation of Land Act legislation do not apply to those particular valuations.

The Hon. Victor Ferry has told us the Shire of Augusta-Margaret River was confronted with this problem. Maybe it was because it had a computer set-up and it had to refer to some other people, presumably the taxation valuers. During the months of May and June other local authorities throughout the length and breadth of Western Australia are writing up their rate books and, of course, that is the normal way the smaller local government authorities adopt their rates; they adopt their rates year by year on that basis. They adopt the valuation which appears in the rate book; of course this is the last valuation provided for them. This was obtained, either from the Taxation Department or an outside independent valuer in the past.

The Shire of West Kimberley was revalued in approximately February-March this year and there would have been no automatic resolution to adopt those valuations at all until such time as the rate was fixed, say, at the next meeting of the shire council. This is because the shire council believed, as I did, that the valuations in force—those shown on the plan as, say, allotment A with a valuation of $1 000—were, in fact, the valuations to be in force at that time. This has proved not to be the case. The Minister continued—

> To cover this situation, transitional provisions were included in the law to allow current valuations to continue to apply. However, subsequent events have revealed that for a valuation to be a "valuation in force", it must not only be a valuation that has been made, but it must also be a valuation that has been tested.

If the word "tested" is in fact what the Minister meant, I do not understand it. Perhaps he could refer to that word in his summing up to explain what it means. I rather think that it has been a typing error and should have been "adopted". It would, of course, then make sense. The Minister continued—

> It was a deficiency which could not have reasonably been forseen at the time of framing the legislation.

However, we are told that the actual words of the Act are deficient, so we will have to correct that position. The problem will not apply in subsequent years; it is only in this first year of the operation of the Valuation of Land Act. As this action has to be taken, I have pleasure in supporting the second reading of the Bill.

THE HON. N. E. BAXTER (Central) [3.35 p.m.]: When we debated the principal Act which this Bill amends I raised the question of the impossibility of the Valuer General immediately preparing valuations which could be used during the year because of the gigantic effort required. It stated in the Act this should be done as soon as possible. That may cover a fair period, but it did indicate that in a very short time new valuations might be fixed by the Valuer General. We find now that the legislation is in difficulties and we have this amendment before us.

Another problem has arisen and that is that the valuations will be used by a number of taxing authorities and particularly in relation to the adopted gross rental valuations which will come into being during this period. We have a situation where, if gross rental valuations are adopted, with the set rate for sewerage—particularly in country towns and seaboard towns, where it is 15c in the dollar—it will result in a huge lift in the amount paid by these people. This will be a 40 per cent increase on the total amount paid.

I contacted the Minister for Water Supplies and he assured me nothing would be done in this direction during the period from the 1st July, 1979, to the 1st July, 1980, and during that period something would be worked out to adjust this situation. This was a verbal assurance. I hope the Minister will give us some indication of how he will apply the gross rental valuations to the 15c in the dollar for sewerage. If nothing is done about this there will be an outcry throughout the country areas and the north because of the increased costs which will result.

The Hon. D. W. Cooley: They cannot do anything before the election.

The Hon. N. E. BAXTER: I do not think so because the gross rental valuations will not be available, but the Minister said it was not intended to apply them this year. It is fortunate the problem was discovered before the local authorities struck their rates for the year.

THE HON. G. W. BERRY (Lower North) [3.40 p.m.]: I rise to follow the line taken by Mr Baxter with regard to the new valuations which will be coming into force. A question has arisen in one of the areas I represent. Prior to the 30th June a revaluation took place which the local authority did not accept. It will have to accept it before the next rating year commences. One annual rental value has increased from $760 to $1 840. When the new valuations under the new Valuation of Land Act come into force it will be increased even further.

I raised this matter in the debate on the original Valuation of Land Bill. On page 3369 of *Hansard* for 1978 the Leader of the House said—

> Changes in the annual value to gross rental value does increase the values, but the local taxing authority will no doubt change its rate in the dollar to allow for the increase.

I interjected and said—

> That does not apply to the public works country sewerage scheme.

The Leader of the House went on to say—

> The Public Works Department has made adjustments to its system, too. The member is thinking about the local authorities which complained in regard to that matter. The member is bringing to my attention the matter in relation to which there has been some problem with rating of local authority properties, in country areas in the main. I think all members representing country areas have brought that aspect to my attention. If they have not yet received a letter from me telling them the matter is in the process of being adjusted, the letter is in the mail.

The fact of the matter is of course that the valuation which has just been concluded will have to be accepted by the local authority prior to the end of the financial year. It will be an increase of something like two and a half times the present rating value.

I understand the instruction given by the Public Works Department is that the rate of 15c is to be raised in three moieties over three years—llc, 13c, and 15c at the end of the third year. That is on the basis that the gross rental value when a revaluation takes place does not exceed the present rental value on the valuation which has just been concluded.

I draw the Minister's attention to the necessity to take some measures to amend another Act to provide some flexibility in the charge for country sewerage; otherwise local authorities will not be able to put in sewerage schemes because they will be too costly. I think some consideration must be given to varying that rate. Someone must look at the way the country sewerage scheme operates before these values come into force.

Sitting suspended from 3.45 to 4.01 p.m.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.01 p.m.]: I thank members for their support of the Bill. The Hon. R. F. Claughton indicated that the Opposition was prepared to co-operate to pass the measure speedily through the House, and that is appreciated.

The honourable member raised a point in connection with the right of ratepayers to object if there is a valuation using the term, "valuation in force". He raised the question as to whether there would still be a right of objection under section 32, which deals with valuations, in respect of valuations in force under section 5. I have considered the matter and discussed it with officers, and there seems to be no doubt whatever that there is still a right to appeal.

The phrase "valuation in force" really only means the valuation which for the time being is in force. So there is still a valuation. If we examine the amendment to section 5 we see that it contains references to the term "valuation". It talks about a "superseding valuation", "any valuation", and so on. Therefore, I have not the slightest doubt that objections may still be lodged under section 32, because the word "valuation" in that section includes any valuation made under the Act, whether or not it is in force at the time. Of course, in practice only a valuation in force would be the subject of a complaint by a ratepayer, because a ratepayer would not be concerned with a valuation unless someone was trying to enforce it.

So I am quite satisfied that the term "valuation" in section 32 means that the right of objection remains, even though another term is used in section 5.

In regard to the other items mentioned by Mr Claughton, I think he made it quite clear they are not within the ambit of the Bill. The matter of interim valuations which were made formerly under the Local Government Act and which are no longer available, is not dealt with in the Bill. Nevertheless, what Mr Claughton was saying is correct. Those councils which were formerly in the habit of making interim assessments or of making more than one assessment in a year are not now in a position to do so. This did affect a few councils which were in a position to do that—those councils which had subdivisions occurring in their areas.

I suppose the general answer is that it behoves any local authority to work out its budget at the commencement of the financial year and to endeavour to predict what its expenditure is likely to be, and to determine its financial capacity accordingly. In other words, the council's rating capability should be determined at the beginning of the year. A council must make allowance for subdivisions. Such an allowance would be suppositious to a certain extent because it would depend on whether or not the subdivision took place during the year; and if the council did not make an allowance, then the additional rates it would receive would amount to a bonus to it. No doubt it would be a very useful bonus, but it would still amount to more than the council originally predicted it would receive in that year.

However, it is quite correct to say that situation has been discontinued and it is a matter for the Local Government Act and not for the Act with which we are dealing at the moment.

The Hon. V. J. Ferry indicated his support of the Bill and instanced the Shire of Augusta-Margaret River. As a result of his association with that shire he clearly understands the importance of this Bill to the shires which are affected by it. He quite rightly pointed out the object of the legislation.

Mr Tozer made a number of comments which were of interest, and he referred particularly to the use of the word "tested" which was mentioned in the second reading speech. That is the right word to use. It is a word which was used in the court case which made it necessary for this Bill to be introduced. There was a Victorian case in which it was held that for a valuation to be in force it must have been made already and it must have been tested. That is what "tested" means; a valuation is deemed to have been tested when it has been used for an actual rate charge and either accepted by the ratepayer or challenged by way of an appeal and a decision made by the tribunal.

I do not think there is any point in going into the legal technicalities of the Victorian case; but it was as a result of that case that it became necessary for us to submit this amending Bill. In fact, we are not doing anything in the amending Bill which goes beyond the intention of the Act; nor are we doing anything in relation to the valuations which could not have been done by a shire under the old legislation before the new Act was introduced, because a shire could have adopted a new valuation before the 30th June and used that valuation in the assessments for the following financial year.

The Hon. G. W. Berry: Then what is all the shemozzle about?

The Hon. I. G. MEDCALF: I am saying that in relation to the valuations themselves we are not doing anything different, although we are making certain changes. We are supporting the valuation and creating the opportunity for new valuations to be adopted generally throughout the State.

The matter of sewerage rates was raised by Mr Baxter and Mr Berry, and difficulty could be caused in some areas. Under the country sewerage scheme the maximum rate is 15c in the dollar; and in the case of assessments made by the board, the rate can be varied. In the case of shire

councils there is a slight difference in that they are asked to impose the maximum rate, and this is where the problem arises. The Minister for Water Supplies has undertaken to look into this matter.

I understand the Minister is doing that. However, I cannot answer for him in his absence. I take it members will appreciate that. I am informed the Minister is already looking into this matter and that some action can undoubtedly be taken to relieve the situation. That action would be by arrangement between the department and the shires concerned. I will most certainly draw the attention of the Minister to the comments of Mr Baxter and Mr Berry, and ensure that he appreciates the points they made.

The Hon. N. E. Baxter: We are happy to get some publicity about it.

The Hon. I. G. MEDCALF: I will certainly endeavour to have the matter attended to as soon as possible.

In regard to the other point made by Mr Baxter, it is quite impossible to revalue the entire State in the time available. The Valuer General's department did in fact revalue 30 shires before the 30th June. Of course, revaluation is a progressive business which is carried out on a cycle. In the case of the metropolitan area, there is a four-year cycle; there is a five-year cycle in the case of country towns; and there is a cycle of approximately seven years in the case of rural areas. As and when it is possible to do so, all areas will be revalued; and, of course, they will be revalued in accordance with the cycle.

I think I have answered the inquiries as far as I am able to do so. I thank members for their support of the Bill.

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 and 2 put and passed.

Clause 3: Section 5 amended—

The Hon. R. F. CLAUGHTON: I do not wish to labour the point in respect of objections; however, I am not sure that the Attorney General has made the situation clear regarding why objections are able to continue. Section 32 states that any person liable to pay any rate or tax assessed in respect of land who is dissatisfied with a valuation, may serve a written objection upon the Valuer General. We are talking about valuations made under this Act. The valuations which are currently permitted to continue for the purposes of rating were made under different Acts which, in most cases, were repealed when the principal legislation was introduced last year. That is why I raised the question: because those provisions are no longer there. Where a valuation has already been made and adopted and assessments have been issued, then ratepayers had the opportunity to lodge objections at the time of issue.

For valuations adopted under the old provisions, since those provisions are now repealed would the right to object remain? I am not sure whether the Minister can enlighten us further on the matter.

The Hon. I. G. MEDCALF: The valuations which have been made have all been made under this Act, of course, because it is the Valuation of Land Act. If they were made under the section which has been superseded, they are still valid and in force by virtue of the continuation which is provided in this section. It is not intended to make further valuations. They were made under this Act, and they were made validly. I assure the honourable member that the valuations made under this Act are still subject to objection under section 32 of the Act.

The Hon. J. C. TOZER: I raise a point which the Minister may be able to clarify further. It deals with valuations being "tested". I find it impossible to understand how any valuation at the time of adoption could be "tested". It is only "tested" once it has been adopted and the rate assessment is directed to the ratepayer. We know now that any valuation made under this Act will be applied automatically as at the 1st July of every year. If the valuation has been made during the preceding year, there is no way that the valuation can be subjected to any "testing".

The Hon. I. G. MEDCALF: Mr Tozer's logic is unquestioned. It is true that a valuation could not have been tested if it had not been used by virtue of the definition I gave. That is precisely why we cannot use the old transitional Act. It was held by the court in the Victorian water supply case to which I referred that the phrase "valuation in force" meant a valuation that had been used or tested. In fact, these valuations have not been used or tested, so the phrase "valuation in force" was used wrongly in the sense that it was proved to be wrong as a result of this case.

It is on that basis that we have amended the sections which were amended earlier in the year to do away with the necessity to test the valuation

and provide that one can use either the valuation from last year or the new one.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

STAMP ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.21 p.m.]: I move—

That the Bill be now read a second time.

This Bill represents the completion of a major review of the Stamp Act, which has been carried out over the past two years. It follows the first step taken in this regard in 1976, when legislation was passed to remove a number of minor and irritating charges contained in the Act.

The present Stamp Act was enacted in 1921, taking the place of the 1882 Act. However, many of the provisions and charges currently in force have remained virtually unchanged since 1882.

In general terms this Bill now before the House is designed to implement the following proposals which represent the outcome of the review—

Generally update and streamline the Act to remove some outmoded provisions, modify the law to conform with current practices, and pass the general administration of the Act to the Commissioner of State Taxation;

Redraft certain sections and definitions;

Standardise the general administrative provisions;

Convert all rates of duty to a standard "per $100" base and simplify the application of duty and stamping of instruments;

Introduce provisions to prevent the undesirable loss of revenue from the use of known duty avoidance schemes;

Eliminate some anomalous situations;

Delete the remaining minor stamp duty charges and abandon a small progressive scale of duty; and

Adjust some fixed or nominal charges that have remained unchanged since 1882.

Dealing with each of these matters in turn, it will be noted that a large number of the amendments proposed by the Bill are designed to generally update the law, remove outmoded provisions or definitions and, at the same time, transfer or consolidate provisions in order to give a better understanding of the intention of the law. Provision is also made for the general administration of the Act to become the responsibility of the Commissioner of State Taxation, who currently administers all other taxing laws.

Certain sections of the Act and some of the definitions have simply been rewritten in accordance with more modern drafting techniques which should produce greater clarity of understanding and, although now reproduced in a somewhat different form, the meaning or intention of the law has not been changed.

It is intended to complete the removal of statutory declarations and prescribed forms from the law. In the cases involved, statutory declarations are considered to be an unnecessary imposition on taxpayers and, in times of changes in procedures and commercial practices, prescribed forms can be a hindrance to efficient management.

The general administration provisions have been standardised as much as possible to follow other taxing legislation, particularly the provisions relating to objection and appeals. This is a desirable situation, from the point of view of both taxpayers and the legal profession when dealing with the department in such matters.

Similarly, the provisions for the commissioner or his officers to inspect books, records, or instruments, or to obtain information under certain circumstances have been closely allied with other taxing legislation.

The opportunity has been taken to include a conversion of all charges to a "per $100" basis for the purposes of consistency and ease of calculation. This will affect the charges of duty on security documents, such as mortgages and licences for motor vehicles.

It is also proposed that a minor progressive scale applying to documents of security up to $200 be removed, as mortgages for such a small amount are never seen these days. This proposal could result in a few cents increase in the amount of duty payable in certain cases. However, the

number of occasions when such a small amount is secured by a document of one type or another would be minimal.

A somewhat similar change is proposed with the duty payable on the transfer of shares in co-operative and provident societies where a rate per $25 will be converted to the equivalent of a rate per $100.

One of the major reconstruction changes proposed in the Bill is that concerning the mortgage situation. The current law provides for stamp duty on a mortgage document. In addition, there is another amount of duty payable on any one or more documents involved in further financial arrangements by way of additional, collateral, auxiliary, or substituted security, transfer or assignment, etc., of that document. In all, there are 10 types of security documents attracting duty at three different rates. It is proposed to charge duty on only two types of these security documents and the remaining rates, being minor items of duty, are to be deleted from the law.

This move will be of particular importance to the various lending institutions which are faced with hundreds of mortgage documents each year.

Action is also to be taken to counteract some existing duty avoidance schemes. One such arrangement is the "splitting" of loans in order to avoid or reduce the amount of duty that is properly payable. This action by some taxpayers produces an inequitable situation and creates dissatisfaction for other taxpayers operating in this area of finance. It also affects the amount of revenue received from this source.

By another arrangement a purchaser agrees to buy a block of land on the understanding that the vendor will erect a house on the land for the purchaser. Ultimately, the house is completed and the property is then transferred to the purchaser. However, in many instances the transfer is presented to the State Taxation Department on the basis of only the land being transferred. This creates an inequitable situation between taxpayers and seriously disadvantages many other selling agencies.

A further avoidance scheme involves the transfer of land by two separate transactions. The first step is to complete a transfer, purporting to be by way of mortgage, conveying the legal interest in the property. Secondly, a subsequent agreement, between the same parties and entered into outside the jurisdiction of this State, completes the arrangement and effectively transfers the beneficial interest of the property. The current provisions of the law are to be modified to prevent the use of this scheme.

Still yet another arrangement involves the use of a provision in the existing Act whereby payments made in perpetuity, or for life, are utilised to effect the transfer of property. The law is to be amended to ensure that normal *ad valorem* duty is payable.

It is also proposed to eliminate some of the anomalies in the present law. One of these anomalies concerns the exemption from duty of cheques used by charitable organisations. It is intended to extend the existing provisions to overcome a current administrative problem in determining the eligibility of some organisations to this concession.

In another different situation, an exemption currently benefiting building societies is to be removed. The reason for this move is that, in 1965 when the exemption was first given to building societies, the societies were very small organisations operating for a particular purpose involving the receipt of money over a stated term of years, with almost a total restriction on the withdrawal of those deposits. The character of those societies has changed dramatically in recent years and their day-to-day operations can now be likened to those of a savings bank or a credit union, which does not enjoy the same concession. It is proposed to place all these organisations, which operate in the same manner, on a similar basis.

The present law contains an exemption provision for instalment purchase agreements when the goods have been purchased for resale. It is now proposed also to extend the exemption to include those situations when goods are leased by the dealer.

A further anomalous situation exists in respect of receipts issued by banks and building societies for term or fixed deposits on which duty is currently not being paid, and those receipts issued by corporations conducting similar banking operations upon which duty is being paid. It is proposed to exempt this type of document from duty.

As a further measure of relief, it is intended to delete the stamp duty charge on agreements, memorandums of association, articles of association, discharge of mortgages, and collateral, additional, or substituted securities.

The Bill also provides that any transfer pursuant to a contract of sale stamped with *ad valorem* duty will not be charged with any further duty.

All these items contribute very little revenue, but are a time-consuming expense, both to the taxpayer and the State Taxation Department.

Provision is included to update the duty situation relating to betting tickets. The proposal is to have only two different areas to which two separate rates will apply.

It is not the intention of the Bill to increase revenue collections by amending the existing rates of duty. However, the review has highlighted several situations which should now be adjusted.

One such matter relates to some nominal charges which have been in the legislation since 1882 and have never been amended during all these years. In the main, these charges apply to certain documents which are not provided for under a specific head of duty, such as—

A lease of any other kind;

a conveyance of any kind; and

a simple deed not otherwise chargeable with duty.

These types of documents are assessed only with a nominal amount of $1 under the current law. This flat charge of $1 for these types of conveyances, leases, and deeds is recorded as 10s 0d. in the original legislation of 1882 and, as already stated, has remained unchanged for nearly 100 years. Inflation has not caught up with the duty on these types of documents and, therefore, it is proposed to increase this type of charge from $1 to a more realistic figure of $5, in order to cover the cost of services provided.

The increase will, to some extent, rectify the inequitable situation that has arisen over the years when, because of changes in value, the amount of duty payable on an *ad valorem* type of instrument has risen, but these charges have remained static. There is also one other type of document in this category and that is a duplicate of any instrument.

Currently a duplicate instrument attracts duty of only 50c, except when the duty on the original document is less than that figure. In those cases, both the original and the duplicate are stamped with the same amount of duty.

It is proposed to raise this long-standing flat charge of 50c to $2 which, for the reason already given, is more realistic these days.

The existing provision—to cover the fact that when the duty on the original instrument is less than $2 then a duplicate will attract duty equal only to that lesser amount—is to be retained.

It is estimated that all the proposals in the Bill will result in an increase in stamp duty collections of approximately $200 000 in the current year. The additional revenue likely to be obtained is minimal in relation to current receipts from stamp duty and arises mainly from the proposed updating of charges which have been unchanged since 1882.

As the Bill arises from an overall review and updating of the existing legislation and is not intended as a revenue-raising measure, it is being introduced before the Budget to enable it to be considered separately from the Budget proposals.

It is proposed that the Bill will operate from the date of proclamation, which will probably be some time later this year. It is necessary to have a time lag between the date of assent and the date of proclamation, in order to allow the Commissioner of State Taxation time in which to circularise various members of the commercial world and the legal and accounting professions of the changes that will affect them.

However, two operative clauses are to commence from the date of assent. These particular clauses relate to possible sources of duty avoidance and, therefore, the need to remedy the situation as soon as possible.

In recognition of the fact that the Bill is a rather complex one, printed explanatory notes have been prepared to assist members in their examination of the proposals. Copies of these notes will be distributed by the Clerks.

The Premier has undertaken in the Legislative Assembly to study the provisions dealing with duty on "gifts" generally and in particular those from spouse to spouse.

The cases involving spouse to spouse are reducing and are expected to be very few in future, because of the removal of death duties from the 1st January, 1980.

However, no change is proposed until a Treasury review is complete.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. F. Claughton.

IRON ORE (HAMERSLEY RANGE) AGREEMENT ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.33 p.m.]: I move—

That the Bill be now read a second time.

The purpose of the Bill is to ratify an agreement between the State and Hamersley Iron Pty. Limited. The agreement amends the proviso in section 9 (1) (b) of the Iron Ore (Hamersley Range) Agreement Act 1963-1976.

Under the existing proviso the company is required to pay an additional rental of 25c per tonne on all iron ore on which royalties are paid. This rental would become due as from August, 1981. This date is expressed in the principal agreement as being the 15th anniversary of the date iron ore was first exported.

The amending agreement now before the House brings forward that date to the 1st July, 1979. However, the additional rental will only be payable on 8 million tonnes in 1979-80 and 10 million tonnes in 1980-81.

The company agreed to advance its obligation in this manner, because it was conscious of the need for upgraded public roads in the Pilbara area. It has previously contributed $2 million towards the cost of public roads in the Pilbara.

We have been aware of the social problems that exist in the Pilbara area. These, in some measure, have been brought about by the poor condition of inter-town road connections. The road connections are mostly unsealed and subject to closure during the wet season. To alleviate this particular problem a five-year Pilbara road improvement programme was drawn up.

The $24 million Pilbara road improvement programme proposed, provided for the following—

> $7.4 million to complete the construction and sealing of the Tom Price-Paraburdoo road;
>
> $10.6 million to improve and upgrade the road between Nanutarra on the North West Coastal Highway and the Paraburdoo turn-off. This work would include a black top for about 70 kilometres;
>
> $2 million on the Hardey River Bridge and drainage improvements on the spur road to Paraburdoo;
>
> $4 million on access roads from Paraburdoo and Tom Price to the future initial highway between Newman and Port Hedland.

Because of the change in Commonwealth policy with respect to the funding of roads, the funding of this programme would need to be from State resources.

The advanced rentals to be paid by Hamersley Iron Pty. Limited during 1979-80 and 1980-81 will amount to $4.5 million. These additional funds will make it possible to bring forward by two years the starting point of the planned work.

Clause 4 of the schedule to this Bill is the operative clause of this amending agreement. In brief, it provides for—

> The payment of an additional rental on 8 million tonnes during 1979-80;
>
> the payment of a further additional rental on 10 million tonnes during 1980-81; and
>
> the payment of additional rents as set out in the principal agreement from July, 1981. However, during each of the three years following that date 7.7 million tonnes will be exempted from the charge.

The exempted tonnage comprises a credit for the additional rental to be paid in advance on 18 million tonnes plus an allowance of 1.7 million tonnes per year. This represents the present value of payments to be made in 1979-80 and 1980-81 as against the future value in three years after July, 1981. In other words, it is the discounted present value calculated approximately on the long-term bond interest rate of Hamersley Iron Pty. Limited's future obligation.

There are other minor provisions which provide for adjustments in the highly unlikely event should the set tonnages referred to be not reached.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. F. Claughton.

STIPENDIARY MAGISTRATES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th August.

THE HON. R. HETHERINGTON (East Metropolitan) [4.40 p.m.]: The Opposition supports this Bill, because it contains some valuable provisions. It is an improvement on what applies at the present time. Therefore, in general principle, we have no objection to this measure.

However, I have one grave reservation about the Bill and that is that it perpetuates a provision in the Act which has been included since 1965. In my opinion, this provision is an abrogation of the basic principles which have applied in Great Britain and Australia since 1689. I am referring to the notion that judicial officers should be appointed for a fixed term or for life and that there should be no way in which their terms of office can be manipulated, because at times this could lead to improprieties being committed. It

would be possible for a judge or magistrate to be influenced by the Executive.

Until 1689 high judicial appointments in Great Britain were made according to Royal pleasure; that is, according to the pleasure of the King or according to the pleasure of the Executive. The situation came to a head with the dismissal of Mr Justice Coke by King James I, if my memory serves me correctly. The Chief Justice was dismissed because the King did not like his judgment.

The Monarch retained the power to dismiss judges until the so-called "Glorious Revolution" of 1688 and from the time of the reign of William and Mary judges were appointed for life and could be removed from office only after the consent of both Houses of Parliament had been obtained.

All British colonies have followed this principle and we have followed it in this State. The same principle is adopted for the appointment of justices of the Supreme Court.

This principle was modified when a retiring age for judges was introduced. The retiring age for justices is 70 years. However, when amending provisions such as this are introduced the existing justices are governed by the situation which pertained prior to the latest amendment. This ensures that judges are not disadvantaged and that no undue pressure has been or could be seen to have been placed on them.

Under this Bill, and under the parent Act, a magistrate normally retires at the age of 65 years, but his appointment may be continued at the Governor's pleasure. If the Governor sees fit, the magistrate's appointment may continue until he is 70 years of age. I am not suggesting any improprieties have occurred. I am not making any accusations. I am referring to a matter of principle. It is possible that improprieties could occur and it is possible that a magistrate who pleases an Attorney General could be rewarded. That reward might mean the magistrate's appointment being continued from the age of 65 to 70. There might be the implied threat that, "We will let you go to 70 if you are good." I am not suggesting it would be spelt out in such brutal terms; but such situations have occurred in other places and they could occur here.

Although I sympathise with the provisions of the Bill, I believe the principle I have mentioned is a bad one and it should not have been introduced in 1965.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber.

The Hon. R. HETHERINGTON: The principle to which I am referring is a bad one and it should not have been introduced in 1965. It should definitely be removed now. I realise there are problems in this area and, therefore, I do not intend to be difficult about the matter. I shall move an amendment at the Committee stage; but I shall not force the issue to the point of calling for a division. I merely want to bring this matter to the attention of the Attorney General and suggest there is a problem concerning a matter of basic principle. I should be interested to hear the Attorney General speak on this subject when he replies.

I wonder whether it would be possible to appoint magistrates in a temporary capacity. I am aware that when the bench is subjected to great pressure of work it is necessary on occasions to appoint magistrates temporarily. I am not unsympathetic to what the Government is trying to do.

I raise this matter as I believe it involves a most important principle. Certainly, had we a Bill before us to make a provision like this for justices of the Supreme Court, I would oppose it root and branch, because it would be grossly improper. I am not too sure whether it is not improper for people holding high judicial office, and whether it is not improper for magistrates who are holding important judicial office. We will not pretend that magistrates are not important; they are indeed. I know the cliche has been quoted often, but I must quote it again: we must make sure that justice is not only done, but also seen to be done. It is possible that the Act as it now stands makes this dubious.

I was not aware of the provisions of the parent Act until I saw the amendments to it. Gradually as I have been reading the Bill and reading the Act, I have become more and more disquieted. Therefore, although the Opposition does not intend to oppose the second reading, I bring these reservations before the House and before the Attorney General for his comments.

THE HON. R. J. L. WILLIAMS (Metropolitan) [4.46 p.m.]: I rise to support the Bill, and in supporting it, I would like to correct the previous speaker. While Mr Justice Coke of England may spell his name "C-o-k-e", it is pronounced as "Cook".

The Hon. R. Hetherington: I realise that, but I did not want to confuse *Hansard*.

The Hon. R. J. L. WILLIAMS: I appreciate the honourable member's concern for *Hansard*. In regard to the other objection raised by the honourable member, it came rather forcibly to me

while he was speaking that the term of a justice could be extended at the Governor's pleasure after the retirement age.

Because of certain pastimes I followed at that time, I was very friendly with the previous Chief Stipendiary Magistrate, and he was a character. Not only was he a character, he was invaluable to this State, and if he could have continued on until he reached the age of 80 years, I would have been happy to see him do so. As a matter of fact, he was appointed to another position. I am referring to Mr A. G. Smith who, upon retirement, was asked to take on the chairmanship of the Small Claims Tribunal in an endeavour to relieve the pressure on the stipendiary magistrates' courts.

I am glad to say that once and for all this measure will sever the attachment of the magistracy to the Public Service. This had been a grey area, and the Government is to be commended for cutting the tie clean and ensuring that we now exist as the Legislature, which is the supreme body. We should never let the magistracy forget that, because some magistrates believe they have power above that of the Chief Justice of the State, and certainly above that of the Legislature. This legislation will put them in their correct role—they now form part of the judiciary.

We know that the stipendiary magistrates are under a tremendous amount of pressure at the present time. As an observer I suppose I would have visited the stipendiary magistrates' courts more frequently than has any other member of this House. I note the comments of Magistrate McGuigan last week about the pressure in his court. It so happens that earlier this year I had been an observer in his court on a Monday morning. I was forcibly struck by a certain question, which nobody as yet has answered for me. However, I know that my learned colleague, the Attorney General, will be able to answer it. Nobody will shake me from my belief—and I will give mathematical proof of it in a moment—that a number of people brought before a magistrate in the East Perth Court on a Monday morning, are not fit to plead. In my opinion many of them are under the influence of alcohol, and I have been told it is up to the magistrate to decide visually whether or not a person is fit to plead. No question arises when a defendant has legal representation, but certainly problems arise when a defendant is not represented.

I would like to state the sort of situation that can arise. Many members of this House, myself included, can look at a person and say, "Well, he has had a few." We may make this comment because of the man's actions, his speech, or because he is unconscious. However, in the case of a magistrate, he would be sitting in a position similar to yours, Mr President, and the defendant would be in the approximate position of the Government Whip. Provided the Government Whip sat or stood in his position, I would defy the President to be able to tell whether or not he was under the influence of alcohol.

The Hon. W. R. Withers: I can assure you he is!

The Hon. G. E. Masters: Not!

The Hon. R. J. L. WILLIAMS: I can assure members he is not. However, I was drawing an analogy and I hope the House will take it as that.

Let us take an example. A person is arrested and charged with drunken driving. A breathalyser test is taken at 2.00 a.m., and it shows a reading of 0.38 per cent. I admit that that is quite a high reading. This person then comes up before the court at 10.00 a.m. on the same morning. Provided a person has a normal liver, the astonishing fact is that the liver action of the body will get rid of only 0.02 ml of alcohol per hour from the blood. So that nine hours later, the defendant's blood alcohol level will have decreased to 0.14 per cent. Under our laws at 0.08 per cent a person is driving under the influence, and at 0.15 per cent he is committing the offence of drunken driving.

For the reasons I have outlined, I suggest that the Attorney General should seek to bring in a regulation that a person should not appear before the court until 24 hours have elapsed since the taking of a breathalyser test.

I have bailed out several people who have been charged with drunken driving, and usually they are in a terrible state when I pick them up. Let us consider the case of a young offender aged from about 18 to 22 years, who has never been inside a court in his life before. Here he is because, after a binge on a Sunday night—and this is not unknown in our community—he has been picked up by the Road Traffic Authority for a traffic offence. He is then told to appear in court the next morning at 10.00 a.m. I am sorry that one member is not present in the Chamber at the moment because I know he would appreciate what I am talking about. An offender may spend a night at the lockup or be bailed out. In either case he must then appear before the magistrate in the morning.

Anyone who has visited the East Perth Court on a Monday morning will know that there are people queuing up there as though waiting for seats to some popular entertainment. All I ask is that the Attorney General should look at the

matter with a view to postponing proceedings until 24 hours after the taking of a breathalyser test. One effect of such action would be to minimise the traffic jam at the courts on a Monday morning because it would spread the cases out. Secondly, it would remove any doubt from people's minds in regard to a defendant's comprehension of the proceedings.

Perhaps there is no reason that a person should not be permitted to plead while under the influence of alcohol, if that fact can be concealed from the magistrate. I believe a person could conceal the fact that he had a blood alcohol content of up to 0.2 per cent as long as he is standing or sitting in the one spot and no tests are carried out. Perhaps in the future the magistrates may deem it necessary to stand down a case for 24 hours until the person concerned has had time to sober up. I realise that an unfortunate situation could arise in the case of a very heavy drinker because he would be suffering withdrawal symptoms during this period, and for instance, he could have what we commonly refer to as the shakes.

To return to the Bill itself, I believe it is a milestone in the history of the magistracy of this State. It has now achieved what its members have been looking for—a complete severence from any source other than the judiciary. This puts magistrates in a very responsible position; a position they have wanted to be in. The Government is to be commended for grasping the nettle as the problem has been around in this State for more years than I can remember. The stipendiary magistrates do a tremendous amount of good work. I am pleased to say that I talk frequently with several of them, although I must admit I talk with them very circumspectly because one never knows when a certain day may dawn upon one. I have great pleasure in supporting the Bill.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.57 p.m.]: I thank members for their support of the Bill. I particularly thank the Hon. John Williams for his understanding of the principle it contains. We are doing something in Western Australia which has not been done in any other State of Australia.

As a result of the criticism which had been voiced from time to time that magistrates were thought by some to be public servants, we made inquiries in the other States as to the situation in regard to magistrates and we discovered that in other States they are public servants and that those States had no intention of making any change in the situation. Certainly they did not intend to do what we have done here. We made our inquiries in a number of different places, and I must say it became apparent to me that we were taking a fairly bold step. It is heartening to note that the honourable member has appreciated the significance of it.

I believe Mr Hetherington also appreciated the significance of it, but I was rather puzzled by his reference to the method whereby magistrates hold office. Perhaps I did not quite understand what he was saying, in which case, of course, I am not voicing any criticism of his comments. Magistrates hold office now in exactly the same way as do judges. Magistrates hold office during good behaviour which is, to use a term in law, *quandiu se bene gesserint*, and that is of course the highest form of tenure of office. It applies to Supreme Court judges, District Court judges, and the magistracy. In that respect they are all the same; they can be relieved of their commission only by an address presented to both Houses of Parliament.

The Hon. R. Hetherington: I appreciate that point. I was merely suggesting we are deleting it by giving five years' pleasure after the age of 65. I am sorry if I did not make that point clear.

The Hon. I. G. MEDCALF: I am sorry if I misunderstood the honourable member because we have conferred on magistrates the same status as judges in relation to their tenure of office. This is really a most significant provision and, as I say, it does not apply in all parts of Australia.

On the question of appointing temporary magistrates, the position is much the same as it is for judges. We can appoint temporary judges; we can appoint acting judges of the Supreme Court. We can take a legal practitioner either from the Crown or from private practice, give him a gavel and make him an acting judge. The Governor in Executive Council can confer such an appointment.

In the same way, we are proposing to do this in order to relieve problems which arise from time to time in the magistrates' courts. In other words, should we have a situation where we must detatch some magistrates for special duties—with their consent, of course; it could be that they are required for an inquiry or some other special duties—it may be necessary to appoint a temporary magistrate, and we look to the legal profession to supply such a person; or, we may obtain such a person from the ranks of retired magistrates.

I gather that is the real complaint, if indeed it can be termed a complaint, which the honourable member has made about the legislation; certainly,

he voiced his criticism very faintly. I believe his real complaint was that we can appoint a retired magistrate to act after he has retired. Supreme Court judges retire at age 70 years whereas magistrates retire at 65 years. It is commonly agreed that some people between the ages of 65 and 70 years still have a lot of valuable experience which they can use and which can be used in the service of the State and the community. It was for that reason and for that reason alone we decided to incorporate this power.

Indeed, before this magistrates have served after the age of 65 years, but we are not formalising the matter so that a magistrate may be re-appointed.

However, it by no means indicates the Government would be likely to suggest to a magistrate he should continue beyond his term as a means of inducing him to change his decision in certain respects. Indeed, I do not know of any Government in Western Australia which has emulated the actions of some Governments elsewhere in offering some kinds of inducements to judicial officers to change their decisions. It is just something that, in the safeguarding of our system and the separation of powers, one would not contemplate. As I say, I do not know of any case where this has occurred in Western Australia or, indeed, in Australia; possibly there may have been an instance at some time, but certainly it has not been recently.

We have so imbibed the Westminster system of the separation of powers between the judicial system and the Executive that the Executive simply does not interfere in judicial matters; indeed, it does not even comment on judicial matters. That is not always reciprocated by the judiciary of course, which sometimes comments on legislative matters. However, we observe the separation of powers scrupulously, so I cannot conceive of such a situation arising.

I ask members to accept that the arrangements for the appointment of temporary magistrates, be they legal practitioners out of private practice or ex-magistrates who have attained the age of 65 years but not 70 years, have been made in good faith in order to accommodate what might otherwise be a difficult situation. It is not always easy to obtain a suitable person to join the magistracy. A magistrate must have quite distinct qualities. He must be a man of considerable judicial knowledge and personal sagacity in order to be a successful magistrate. I think members will agree that such people are few and far between. Every lawyer does not make a good magistrate; nor does every other candidate for the magistracy.

Therefore, one must appreciate it is not easy sometimes to find sufficient magistrates for the job in hand. That is why we found it necessary to include this provision for temporary appointments.

I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. D. W. Cooley) in the Chair; the Hon. I. G. Medcalf (Attorney General) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. R. HETHERINGTON: I think I was less than generous in my remarks during the second reading stage about the virtues of the Bill. I take the Attorney General's point of the uniqueness of this provision and I welcome it. The Attorney General and the Government are to be congratulated on this provision, in which the judiciary is clearly delineated from the Public Service.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 5 amended—

The Hon. R. HETHERINGTON: Why is it necessary to change the word "Minister" to "Attorney General"? I know it sounds more elegant, but I thought the Attorney General was in fact a Minister. I am wondering what will happen if in a succeeding Government we have no Attorney General but a Mininster for Justice. I realise he would then have the power conferred by this clause, but I wonder why it has been seen necessary to make the alteration.

The Hon. I. G. MEDCALF: I can assure the honourable member it was not put in at my request. Of course, as the honourable member suggests, the powers of the Attorney General can be exercised by any Minister, so there is no technical problem there. I suggest that perhaps the Parliamentary Draftsman simply put it in because he thought it was more appropriate in an Act which confers judicial independence on the magistracy.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Section 5B added—

The Hon. R. HETHERINGTON: During the second reading stage. I foreshadowed an amendment to this clause. However, after listening to the Attorney General I do not intend to move my amendment. Instead, I should like to

reiterate my concern just to make clear what I am saying.

I am not accusing the Government of any impropriety or of any intended impropriety; I am simply speaking on a matter of principle. I accept the point made by the Attorney General that, up to the age of 65 years, the position of magistrate in fact is like any other judicial appointment; a magistrate holds office through good behaviour and can be removed only by an address of both Chambers of Parliament.

However, it seems to me that the powers of new section 5B—in fact, the powers conferred by the present Act—given to the Attorney General, through the Governor, are powers to continue an appointment. I take the Attorney General's point about temporary appointments and about the need at times for such appointments. I certainly take the point that people between the ages of 65 and 70 years—particularly, for some reason, people who have sat on the Bench—often seem to be in the full flower of their faculties. Indeed, there are some judges and magistrates who, at the age of 80 years, still have a great capacity for work. There are some people we would like to see continue. However, we cannot do this because it is very difficult to write such a provision into legislation. So, we produce an arbitrary line.

However, it seems to me that under this legislation we no longer have that arbitrary line. We have a sort of arbitrary line at age 65 years and a definite arbitrary line at age 70 years, and then we have a grey area of five years during which time an appointment may be continued. I believe this provision leaves itself open to impropriety.

I will not carry my concern to the point of moving an amendment; I simply leave my worries before the Attorney General so that he may think about the matter. No doubt, he will continue the legislation as it stands at the moment. I will certainly continue to think about it because it has been only since this Bill was before me that I began to see a possible dubious area. Having read the Bill and reread it, gradually my reservations have built up. When I first looked at it I had no objections; I saw only the good parts of it—the parts which I have already mentioned are good and which are a plus for this State.

I remain unconvinced; when there is even the possibility of impropriety such a provision should not be allowed into legislation. I will not take the matter further. As the Attorney General said earlier, I voiced my objection faintly. I am certainly not suggesting there is a miscarriage of justice here, real or about to happen, or that has happened; I am not suggesting any impropriety has occurred or will occur. However, I certainly have had reservations of this nature expressed to me by a legal practitioner who has been a magistrate; he said he did not like this part of the Bill at all.

I intend to examine the position further and if I feel more strongly about it later than I do now, I may even bring in a private member's Bill.

I am not trying to be difficult. It is just that I am very concerned at all stages with any possible erosion of our freedoms. I am very jealous of guarding our judicial system. I do not like to see anything that could be considered to be eroding these things. My comments should not be seen as casting criticism of any party political kind. This should be considered without any suggestion of anyone behaving improperly.

The Hon. I. G. MEDCALF: We could have provided in this Bill that stipendiary magistrates would hold office until the age of 70 years, but I doubt whether that would have met with the approval of the stipendiary magistrates. I have a feeling they would have preferred the age to be 65 years. The institute has approved of the detail in the Bill; it has raised objection to none of the points in it. It is simply that we felt the talent which is available should be made use of if the occasion arises. We have no present intention of making use of any particular person. The provision is there purely as a power which could be used.

We must bear in mind that there are theoretical objections to almost everything we contemplate doing in practice. It is possible to mount an argument which is perfectly reasonable and valid as an argument; but where one is making arrangements of a practical nature one has to weigh the various arguments, theoretical and otherwise, on both sides. Our actions have met with the approbation of the magistrates, generally, through their institute. I will bear the honourable member's comments in mind.

Clause put and passed.

Clauses 8 to 12 put and passed.

Clause 13: Schedule substituted—

The Hon. R. HETHERINGTON: I wonder if on page 11 of the Bill the title, "Affirmation" has become a misnomer. The first time I saw one of these it read to the effect, "sincerely promise, declare, and affirm". The word "affirm" gave the title "Affirmation". As the word "affirm" does not appear, perhaps we should call it a promise or a declaration.

The Hon. I. G. MEDCALF: The fact is that traditionally we have an oath or an affirmation and traditionalists hate changing words. Rather than rock the boat we decided to leave it as it is.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

WESTERN AUSTRALIAN MARINE ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 14th August.

THE HON. R. HETHERINGTON (East Metropolitan) [5.21 p.m.]: The Opposition has no objection to this Bill, which merely helps to update the regulations so that they are in line with changes in technology. It seems we amend this Act quite a lot. I remember seeing amendments to this Act coming to the House on a number of occasions since I have been here. I wonder if it is time the whole Act was thrown out and re-enacted; but if that were to happen I imagine we would merely begin to amend the new Act. The Opposition supports the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.22 p.m.]: I thank the Opposition for its support of this Bill. It is an old Act and we are endeavouring to get it in order, but it is a rather difficult task.

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.

SOLICITOR-GENERAL ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th August.

THE HON. R. HETHERINGTON (East Metropolitan) [5.25 p.m.]: The Opposition welcomes this Bill. It is obviously desirable that the Solicitor General does not lose any monetary advantage through becoming Solicitor General. I think most of these gentlemen would do so as they could probably earn more if they remained outside that office. We support the Bill.

THE HON. R. J. L. WILLIAMS (Metropolitan) [5.26 p.m.]: On behalf of the back-benchers on this side of the House I support and welcome this Bill, but I do not wish to see it escape without my saying certain words. The Bill is here for a specific purpose and that is to correct an anomaly in respect of our previous Solicitor General, who has brought great honour to the State of Western Australia by being appointed a judge of the High Court of Australia, the first Western Australian appointee.

For those of us who know the now Mr Justice Wilson it was indeed an honour which he could have taken years ago. He is respected by everyone on both sides of the law; he is a respected citizen. I say these words purely so that they will be recorded in *Hansard* and so that Mr Justice Wilson will know that this Parliament really appreciates him, not just as a former Solicitor General but also as a citizen and jurist of great note who will write history for Australia in the future—with, I am certain, great honour and dignity.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.27 p.m.]: I thank the honourable Mr Hetherington for his indication of the Opposition's support. I thank the honourable John Williams for his remarks and I assure him I will convey his words to His Honour, Sir Ronald Wilson, as he is now. I am sure he will be very touched to receive them.

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.

SUNDAY ENTERTAINMENTS BILL

Second Reading

Debate resumed from the 14th August.

THE HON. R. HETHERINGTON (East Metropolitan) [5.29 p.m.]: The Opposition welcomes this Bill. It is a sensible measure to tidy up the authority and I am glad to see that the Chief Secretary's Department now has control of this Act. The Opposition supports the Bill.

THE HON. G. W. BERRY (Lower North) [5.30 p.m.]: I rise to support the Bill. There is one matter about which I am concerned. In his second reading speech the Minister stated—

> Some of the recommendations have already been adopted by administrative action. For instance, it now is permitted that family film entertainment be provided on Sunday afternoons.

I recall another Bill to provide for family films to be shown at drive-ins. No "R" certificate films graced the screens. Now of course they are an essential part of the programme at drive-ins. I hope "R" certificate films will not be screened on Sunday afternoons.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.32 p.m.]: I thank Mr Hetherington for expressing the Oppositions's support of the Bill. In relation to the matters raised by the Hon. G. W. Berry, I can assure him there is no intention at all for "R" certificate films to be classed as family entertainment. I trust that will be the belief of others who will administer the legislation.

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.

LAND TAX ASSESSMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th August.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.37 p.m.]: This is a Bill to attempt to rationalise the method of issuing land tax assessments, and the requirement of landowners to submit returns. I remind members that the Minister stated—

> The purpose of this Bill is to extend the relevant provisions of the Land Tax Assessment Act to enable the Commissioner of State Taxation to relieve taxpayers from the obligation to lodge annual land tax returns.

The basis of the proposal is the keeping of records by the commissioner and the proposal stands on the adequacy of the commissioner's records. However, anything that reduces the amount of bureaucratic paperwork that citizens are required to face is to be commended. Therefore members on this side of the House support the proposals.

I note that Mrs Jessie Bussola is in the Chamber. As a result of her appointment to the position of Deputy Chief *Hansard* Reporter, she received some publicity in this morning's paper. I am sure all members congratulate her on that appointment.

Members: Hear, hear!

THE HON. N. E. BAXTER (Central) [5.38 p.m.]: The first part of the Minister's introductory speech reads as follows—

> The purpose of this Bill is to extend the relevant provisions of the Land Tax Assessment Act to enable the Commissioner of State Taxation to relieve taxpayers from the obligation to lodge annual land tax returns.

I think it should read—

> The purpose of this Bill is to ratify the actions taken by the Commissioner of State Taxation to relieve taxpayers from the obligation to lodge annual land tax returns.

I use the word "ratify" because I have in my hand an annual land tax return form for 1979 and on the form is the following—

> This Return must be made by all Persons (including Companies, Trusts, Partnerships, Associations, etc.) who on the 30th June 1979 owned land in Western Australia, or occupied or used any land in Western Australia under Lease from the Crown or a Local Authority, or was on that date in any other way deemed to be the "Owner" thereof within the meaning of the Acts quoted hereon, unless exempted from so doing by notice of the Commissioner.
>
> NOTE A: RETURNS ARE NOT REQUIRED
>
> (1) Where land holdings have not changed
>
> If a return was furnished based on ownership of land on 30th June 1978 and the land holdings have not changed, no return is required.

So, the commissioner has taken steps already to obviate the necessity to supply a return this year. Some months ago *The West Australian* reported that this had been done. I obtained a form with the intention of lodging my return but found a section which stated that if a person had lodged a return for land owned as at the 30th June, 1978, a further return was not necessary.

So this Bill really ratifies that situation, as well as making it unnecessary to lodge a return if a return has been lodged previously, unless land has been sold, bought, or changed hands in the meantime.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.39 p.m.]: I thank honourable members for their support of this Bill. With regard to Mr Baxter's comment, one should bear in mind that probably, in order to save the taxpayers' money, the Commissioner of

State Taxation—who is very conscious of this—decided he did not want to produce two lots of forms, and he therefore cancelled one order.

This Bill was introduced in another place on the 12th April, 1979, and I suppose the commissioer confidently anticipated that as he was endeavouring to save people lodging a return the Bill would be passed with acclaim by both Houses. The Bill was unfortunately delayed in another place and has only just reached this House. It is agreed that we are in fact ratifying something the commissioner has done. One would say that in the interests of saving taxpayers' money, the commissioner's decision is a wise one.

The Hon. N. E. Baxter: Not having to fill in a form, which is not necessary!

The Hon. I. G. MEDCALF: Of course that will not have to be done now.

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 5.47 p.m.

QUESTIONS ON NOTICE

EDUCATION: SCHOOLS

Heaters

137. The Hon. R. F. CLAUGHTON, to the Minister for Lands representing the Minister for Education:

(1) Does the Government have a general policy on the replacement of oil-fired room heaters in Government schools?

(2) If "Yes", will the Minister state the policy?

The Hon. D. J. WORDSWORTH replied:

(1) No.
Where wood fires are replaced, gas heaters are generally installed. Oil is only utilised in areas where gas supplies are not viable. An investigation is currently being undertaken to determine whether electrical energy can be utilised economically in schools.

(2) Not applicable.

SEWERAGE TREATMENT PLANT

Shenton Park: Use of Methane Gas

138. The Hon. R. HETHERINGTON, to the Leader of the House:

(1) Is it a fact that a "white paper" has been, or is to be printed and circulated within the water board recommending that methane gas from the sewerage plant at Subiaco be used to generate electricity for use in the plant?

(2) If "Yes", will he table the paper?

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

(1) and (2) Equipment to generate compressed air and electricity from methane gas has been available at this plant since 1961 and has been used for this purpose.

STOCK

Cattle Industry Compensation Fund

139. The Hon. Neil McNEILL, to the Minister for Lands representing the Minister for Agriculture:

(1) What amounts have been paid out from the Cattle Industry Compensation Fund in the year 1978-79 by way of—

(a) compensation;
(b) administration; and
(c) labour engaged in detection, control and related measures?

(2) For the year 1978-79, how many—

(a) T B ; and
(b) Brucellosis;

reactors were detected?

The Hon. D. J. WORDSWORTH replied:

(1) (a) $213 414.36.
(b) Nil.
(c) $134 122.30.

(2) (a) 113.
(b) 424.

CULTURAL AFFAIRS

State Film Centre

140. The Hon. R. HETHERINGTON, to the Minister for Lands representing the Minister for Education:

(1) Is the Minister aware that since the State Film Centre has been attached to the Western Australian State Library free use of the courier service to distribute films to the schools has been withdrawn?

(2) Will the Minister arrange for the Education Department courier service to be made available without charge for the distribution of films from the State Film Centre to schools?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) This is already being investigated.

FARMERS STORES

Karratha

141. The Hon. J. C. TOZER, to the Minister for Lands:

(1) Is it a fact that the agreement between the State Government and Farmers Stores at Karratha provides for—

(a) Stage 1—5 shops of 4 000 sq. ft. each;
(b) Stage 2—2 shops;
(c) Stage 3—7 shops;

in addition to the shopping space which comprises supermarket/departmental store?

(2) Does the Minister consider that the Stage 2 shop condition has been met when, in fact, three of the shops are occupied by Australia Post and two by the Commonwealth Bank?

(3) In view of the fact that it is reported locally in Karratha that Australia Post has signed a further three-year tenancy agreement with Farmers Stores, will the Minister request the Premier to exert every possible pressure on the Commonwealth Minister for Posts and Telecommunications to construct a post office on the shopping centre site, which has been owned by Australia Post for several years, as soon as practicable?

(4) Will the Government urge the Commonwealth Bank to build its own premises—rather than rent two small lock-up shops—as is befitting in the prime growth centre in Western Australia?

(5) Will the Minister instruct Farmers Stores to meet the condition under the agreement which calls for 14 shops in Stage 3 development?

The Hon. D. J. WORDSWORTH replied:

(1) The agreement provides *inter alia*—

(a) Stage 1—Five (5) shops totalling 4 000 sq. ft. in addition to 16 800 sq. ft. of shopping space which comprises supermarket/department store.

(b) Stage 2—Two (2) shops totalling 1 600 sq. ft. in addition to 14 400 sq. ft. of shopping space which comprises supermarket/department store.

(c) Stage 3—25 000 sq. ft. of shopping space which will comprise supermarket/department store and seven shops.

(2) Yes. The agreement does not regulate the tenants of shops.

(3) Negotiations are currently proceeding with the Commonwealth with a view to re-siting the post office site in conformity with town centre re-design.

(4) I will raise the matter with the Commonwealth Bank.

(5) Stage 3 development is not due under agreement provisions. However, the company intends to construct five additional shops in advance of agreement provisions.

RAILWAYS

Railcars

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

(1) On what date did tenders for the five powered railcars and five trailer cars for use on the suburban rail passenger service close?

(2) Were the tenders called for on the basis of purchase or lease?

(3) When will the evaluation of the tenders and a decision on their acquirement be made?

(4) Has any recommendation for funding of the cars been made to the Treasurer for inclusion in the forthcoming State Budget?

(5) If not, why not?

(6) If "Yes", how much?

The Hon. D. J. WORDSWORTH replied:

(1) June the 28th, 1979.

(2) Tenders were called on the basis of the option of purchase or lease.

(3) Mid December, 1979.

(4) No.

(5) No payments under either arrangement will be necessary in 1979-80.

(6) Answered by (5).

LAND

South Hedland Motel Site

143. The Hon. J. C. TOZER, to the Attorney General representing the Minister for Housing:

(1) Is it a fact that the land adjacent to the Last Chance Tavern at South Hedland has been set aside for a motel, and that the proprietor of the tavern has been allocated this land on the condition that he provides the accommodation units?

(2) How many motel units are to be provided?

(3) Is there a time limit existing for the provision of the units?

(4) When is it expected that building will commence?

(5) If the current allottee cannot meet the stipulated conditions, will his leasehold be cancelled and tenders invited from other developers to utilise the land and provide this necessary South Hedland accommodation facility?

The Hon. I. G. MEDCALF replied:

(1) to (5) The developer with whom the State Housing Commission has entered into a contract for the development of motel units on the land adjacent to the Last Chance Tavern has asked the commission to review the terms of the contract; but his proposals have not yet been considered by the board of the State Housing Commission.

EDUCATION: SCHOOL

Balcatta

144. The Hon. R. F. CLAUGHTON, to the Minister for Lands representing the Minister for Education:

Will the Minister advise what action is being taken to improve ventilation in the Balcatta Primary School boys' toilets?

The Hon. D. J. WORDSWORTH replied:

A plan for improved ventilation in the boys' toilet at Balcatta Primary School is being investigated by the Public Works Department.

145. *This question was postponed.*

HOUSING: STATE HOUSING COMMISSION

Land: Derby

146. The Hon. J. C. TOZER, to the Minister for Lands:

(1) Is the Minister aware that, in the News of the North supplement to *The West Australian* on the 7th August, 1979, the State Housing Commission called tenders for the development of a motel on Lots 105-107 Knowsley Street, and Lots 88-90 Delawarr Street, Derby?

(2) Is it a normal function of the Lands Department or the State Housing Commission to make available Crown land for private development of this type?

(3) Is the revenue received from the sale of this land to be retained by the State Housing Commission for its own use, or paid into Consolidated Revenue as would be the case if the Lands Department had disposed of the land?

(4) Does the use of this site for a motel conform with the Shire of West Kimberley town planning scheme for the town of Derby, or a resolution of the shire council made under an interim development order?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) to (4) Land is not under the jurisdiction of Lands Department as it is held in fee simple.

TRAFFIC: MOTOR VEHICLES

Seat Belts

147. The Hon. F. E. McKENZIE, to the Leader of the House representing the Minister for Police and Traffic:

(1) Would the Minister advise the reasons that the Road Traffic Authority decided it was necessary to introduce the loss of demerit points for not wearing or not having seat belts securely fastened?

(2) Could the Minister explain why the loss of demerit points applies to drivers of motor vehicles and not to passengers?

(3) Why did not the Road Traffic Authority indicate to the public that it was considering applying the demerit points system to seat belt offenders so that public discussion and reaction could be obtained before its introduction?

(4) Is the Minister aware that the decision to include the loss of demerit points is extremely unpopular because the person offending in this manner constitutes a danger to no-one other than himself?

(5) In view of the above, will the Minister give consideration to revoking that part of the regulation which applies to the loss of demerit points?

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

(1) The offence was considered of such a serious nature as to justify demerit points.

(2) Not all passengers possess a driver's licence and a demerit point penalty would discriminate against those holding a licence.

(3) The importance of wearing seat belts has been aired many times and the revised penalty for this particular offence was only one in an overall revision.

(4) In a minor collision, the driver failing to wear a seat belt may be rendered unconscious, an event that may not have occurred had he been wearing a seat belt. In such an event he can no longer control the vehicle and may constitute a danger to other persons.

(5) No. The penalty is considered appropriate.

ELECTORAL: STATE

Rolls

148. The Hon. F. E. McKENZIE, to the Leader of the House representing the Chief Secretary:

(1) On what date did the electoral rolls close for reprinting?

(2) Is it a fact that the new rolls will not be available until early September?

(3) What is the reason for the delay between the time of closing off the rolls and their availability to the public?

(4) Will he take steps to ensure the period between closure of the roll and its availability to the public is reduced in the future?

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

(1) Rolls closed for new enrolments on the 6th July, 1979 for reprinting after necessary adjustments under date the 20th July, 1979.

(2) Yes. It is anticipated that printing should be completed by the 7th September, 1979.

(3) and (4) The period is necessary because of office procedures of enrolment, adjustment, correction and removal of names as a result of new enrolments, preparation of computer tape for roll printing, and the printing. The period between the date of closing of this draft roll and its availability will be approximately eight weeks which compares favourably with other draft issues between elections. The availability of draft rolls is considered in conjunction with other printing priorities.

HEALTH: MENTAL

Swanbourne Hospital

149. The Hon. Lyla ELLIOTT, to the Minister for Lands representing the Minister for Health:

Further to our visit to Manning House at Swanbourne Hospital on the 27th April, and the Minister's letter of the 7th May, will he now advise what action has been taken and progress made in respect to—

(a) the air-conditioning of the patients' common room;

(b) the reduction in noise coming from earth moving equipment at the rubbish tip near Manning House;

(c) the removal of the horse paddocks from the vicinity of Manning House; and

(d) development of facilities on the Lemnos site in lieu of the present Swanbourne Hospital site?

The Hon. D. J. WORDSWORTH replied:

(a) Mental Health Services engineering staff in conjunction with Public Works Department officers are preparing a suitable scheme for the airconditioning of all of Manning House.

The work will proceed as soon as plans and specifications are complete and will be a first charge against the department's 1979-80 maintenance vote.

(b) Indications are that there has been some reduction in noise from the tip site near Manning House.

(c) There are no horses in the paddocks adjacent to Manning House,.

This area will not be used for livestock in future.

(d) Early stage planning of facilities on the Lemnos site is proceeding.

RUSSIAN JACK STATUE

Cost

150. The Hon. Lyla ELLIOTT, to the Minister for Lands representing the Minister for Cultural Affairs:

With reference to the report in the *Daily News* of the 11th July concerning the unveiling in Halls Creek of a bronze sculpture of Russian Jack—

(1) What was the total cost of this statue met by the Government; and from which department's funding?

(2) Have any steps been taken by the Government to give recognition this year to the special position of the Aboriginal people at the time of European settlement in Western Australia 150 years ago?

(3) If not, will it now reconsider its previous decision, and commission a sculptor to create a statue of Yagan, the Aboriginal hero, as desired by the Aboriginal community and leading experts on Aboriginal history and culture?

The Hon. D. J. WORDSWORTH replied:

(1) The Minister for Cultural Affairs has indicated that he has been advised that the sum involved was $12 000 from the State Treasury.

(2) The 150th Anniversary board has involvement with Aboriginal people in a number of projects as part of the year's celebrations.

(3) Not applicable.

151. *This question was postponed.*

TRAFFIC: PEDESTRIAN CROSSINGS

School Crossings Committee

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

In view of his answer to my questions Nos. 126 and 128 on the 14th August, 1979, which revealed firstly that the powers of the School Crossings Committee are very limited, and secondly that an average of nearly 1 000 school-age children are injured and 24 killed each year in this State as a result of conflict with motor vehicles, will the Minister—

(a) widen the scope of the School Crossings Committee to enable it to visit and make recommendations on sites with potential children/traffic conflict, as well as those only requiring manned crosswalks; and

(b) arrange for an inquiry into the whole question of traffic/children conflict with a view to reducing the high injury and death rate?

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

(a) No. Reports on potential children/traffic conflicts are investigated by competent patrol officers who submit recommendations to appropriate authorities.

(b) No. Present procedures are considered adequate.

HEALTH

Women's Refuge Centres

153. The Hon. Lyla ELLIOTT, to the Minister for Lands representing the Minister for Health:

Further to my letter to him of the 18th June requesting the re-instatement of funding for the Emmaus Women's Refuge, and his reply of the 5th July stating that if the provision of emergency accommodation for women and children was found to be inadequate he would ensure the matter was given further attention—

(1) Did the Minister see the Press report in the East Supplement of *The West Australian* of the 9th August, 1979, headed "Stirling Refuge full to capacity" stating that in the three weeks since the shelter had opened four women and 13 children had to be turned away because there was not enough room for them?

(2) If "Yes", will he now give approval for the funding of the Emmaus Women's Refuge in view of—

(a) the fact that it is already operating in Bayswater;

(b) (i) it has the support of the Bayswater Shire Council;

(ii) The Inter Refuge Committee; and

(iii) other bodies; and

(c) a need for additional accommodation of this type has been demonstrated?

The Hon. D. J. WORDSWORTH replied:

(1) Yes. Inquiries have revealed that the women and children concerned were referred to other refuges and were subsequently accommodated.

(2) Members of Socius Inc. have been told that a decision will be made regarding the funding of Emmaus Women's ,Refuge approximately one week after a new submission is lodged. The final decision will be mainly dependent on the extent to which the need for additional accommodation, detailed in this submission, is confirmed by information held on the overall accommodation situation.

ANIMALS: DONKEYS

Killing

154. The Hon. Lyla ELLIOTT, to the Leader of the House representing the Chief Secretary:

As Minister responsible for the Prevention of Cruelty to Animals Act, will he advise—

(1) When is the Agriculture Protection Board's mass shooting of donkeys in the Kimberley planned to take place?

(2) What steps has the Minister taken to ensure that the form of killing proposed is the most humane?

(3) Will the Minister have an officer of his department present to ensure that no animal is left to suffer in a wounded condition?

(4) Will he provide assistance to the RSPCA and the Animal Protection Society to enable those organisations to each have a representative present at the killing?

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

(1) The campaign will commence early in September.

(2) The Agricultural Protection Board is a responsible body which will pay due regard to humane aspects.

(3) No.

(4) No, but the RSPCA has already arranged for an observer to be present.

CYCLES: CYCLEWAYS

Advisory Committee: Report

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

(1) Has the Government yet received a report from the interdepartmental committee set up to recommend on bicycle planning?

(2) If "Yes", will the Minister table the report?

(3) If not, when is it anticipated the report will be received and decisions reached by the Government?

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

(1) Yes. An interim report covering some recommendations has been presented to Cabinet.

(2) The report is still being considered and as it is only an interim report, it is not appropriate that it should be tabled at present.

(3) A final report is expected early in 1980.

QUESTION WITHOUT NOTICE

LOCAL GOVERNMENT

City of Subiaco

The Hon. W. R. WITHERS, to the Attorney General representing the Minister for Local Government:

Is the Minister aware that:

(a) The City of Subiaco is endeavouring to force an increase in

rentals on Hay Street properties to induce a height in property values, and that they are inducing one transport company tenant into accepting their proposals through a minor breach of a lease agreement.

(b) That each time the company tries to negotiate new terms the City of Subiaco increases the stringency.

(c) Will the Minister request a meeting with both parties to determine a reasonable mediation which will ensure a fair deal for the ratepayers of Subiaco and their tenants.

The Hon. I. G. MEDCALF replied:

(a) The Minister understands that the City of Subiaco has taken certain action against a company which leases property from that municipality and which is alleged to have breached the conditions of its lease agreement.

The Minister also understands that council has offered to adjust the lease conditions, on the basis of the lease rental also being adjusted, so that the present breach can be accommodated. If, as the question asserts, the breach is a minor one, I would have thought that it would be open to the company to rectify this breach to enable it to continue to enjoy the existing lease arrangements.

The relevance of an increase in lease rentals to an inducement to the height of property values, escapes the Minister.

(b) No.

(c) On the information available to the Minister, the negotiations involve a purely commercial matter in which there is no legislative power for the Minister to intervene and which should be resolved by the two parties concerned.