

# Legislative Council

Tuesday, the 8th August, 1978

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

## BILLS (32): ASSENT

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

1. The Fremantle Gas and Coke Company's Act Amendment Bill.
2. Inventions Act Amendment Bill.
3. Cemeteries Act Amendment Bill.
4. Local Government Grants Bill.
5. Community Welfare Act Amendment Bill.
6. Police Act Amendment Bill.
7. Murdoch University Act Amendment Bill.
8. Legal Aid Commission Act Amendment Bill.
9. Legal Practitioners Act Amendment Bill.
10. Alumina Refinery (Worsley) Agreement Act Amendment Bill.
11. Reserves Bill.
12. Rural Housing (Assistance) Act Amendment Bill.
13. Factories and Shops Act Amendment Bill.
14. Petroleum Products Subsidy Act Amendment Bill.
15. Alumina Refinery (Wagerup) Agreement and Acts Amendment Bill.
16. Aerial Spraying Control Act Amendment Bill.
17. Audit Act Amendment Bill.
18. Supply Bill.
19. Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Bill.
20. Housing Agreement (Commonwealth and State) Act Amendment Bill.
21. Western Australian Marine Act Amendment Bill.
22. Road Maintenance (Contribution) Act Amendment Bill.
23. Road Maintenance (Contribution) Act Amendment Bill (No. 2).
24. Railways Discontinuance and Land Revestment Bill.
25. Public Trustee Act Amendment Bill.
26. Listening Devices Bill.
27. Taxi-cars (Co-ordination and Control) Act Amendment Bill.

28. Workers' Compensation Act Amendment Bill.
29. Liquor Act Amendment Bill.
30. Family Court Act Amendment Bill.
31. Local Government Act Amendment Bill (No. 2).
32. Town Planning and Development Act Amendment Bill.

## CLERK OF THE LEGISLATIVE COUNCIL AND CLERK OF THE PARLIAMENTS

*Appointment of Mr J. G. C. Ashley*

**THE PRESIDENT** (the Hon. Clive Griffiths): I am pleased to advise members that His Excellency the Governor-in-Executive-Council has approved of my recommendation that Mr J. G. C. Ashley be appointed Clerk of the Legislative Council and Clerk of the Parliaments, to be effective as from the 1st August, 1978.

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [4.45 p.m.]: Mr President, I seek leave to make a very brief statement.

Leave granted.

The Hon. G. C. MacKINNON: I have no doubt that all members will avail themselves of the chance, when they speak, to congratulate Mr Ashley on his preferment to the position of Clerk of this House and Clerk of the Parliaments, but I would like to take this opportunity to congratulate him personally. It is an important tradition that this House supplies the Clerk of the Parliaments, and I am delighted that the tradition has been continued.

I wish Mr Ashley all success in his new position. It is always a thrill to reach the apex of the career one has chosen, and Mr Ashley has done that. I am sure he will distinguish himself in the years ahead. Thank you, Sir.

## QUESTIONS

Questions were taken at this stage.

## SMALL CLAIMS TRIBUNALS ACT AMENDMENT BILL

*Receipt and First Reading*

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

*Second Reading*

**THE HON. D. J. WORDSWORTH**  
(South—Minister for Transport) [5.00 p.m.]: I move—

That the Bill be now read a second time.

Since the inception of the Small Claims Tribunal some three years ago, increasing numbers of consumers have taken advantage of this convenient method of having justice dispensed. The wide range of claims brought before the tribunal in this time has disclosed a need to make further amendments to the Act to cover situations which have become evident.

In the first instance it has been found there are complaints coming before the tribunal relating to the purchase of second-hand motor vehicle engines. It is a widespread custom to purchase these engines from car wreckers and there is evidence that in some cases the engines are unsatisfactory and yet are being sold at high prices. Examples of this include the case of a wrecker who purchased two vehicles for \$150 and sold an almost useless engine from one of the vehicles for around \$300 to \$350. Another is of a wrecker who sold an engine for \$240 while expert evidence revealed it was worth only \$40 to \$60 as scrap.

Under the Small Claims Tribunals Act, the tribunal can only make an order for payment of money or for rectification of faulty goods or services. Once the property in goods has passed to the buyer, his only remedy is to claim damages. He is, however, landed with useless goods.

In the two cases cited, the buyer has to sell the useless engine, if he can find a buyer, and the tribunal can award him only the difference between the selling price and what he paid for it. A recent case in Victoria also highlighted that position.

In such instances, it would have been desirable to make each wrecker take the engine back and refund the purchase price, or, alternatively, to provide an engine passed as satisfactory by technical officers of the Bureau of Consumer Affairs.

In South Australia, under the Consumer Transactions Act, a consumer is entitled within a reasonable time not exceeding seven days after deliver of the goods, to rescind the contract for breach of condition by the supplier.

To prevent abuses, the South Australian Act provides that the purported rescission of the contract is of no effect if the goods are not returned to the supplier within a reasonable time or if they have become unmerchantable or damaged by abnormal use after delivery to the

consumer. Furthermore, a rescission can be declared invalid on the ground that it is an inappropriate remedy in the light of the nature of the goods, the conduct of the parties or the circumstances of the transaction.

The proposed amendment to section 20 will enable a referee, in circumstances mentioned, to order the return of an engine to the wrecker and for money paid to be returned to the consumer. The amendment will, of course, apply to other goods where the protection of buyers is considered to be justified in such instances.

The Bill seeks also to provide the tribunal with the power to summon persons before it after the initial hearing has commenced. This is where it is considered that the evidence of such persons is relevant to the proceedings.

A further amendment will enable forms of service of papers issued by the tribunal to be made in accordance with the Interpretation Act. The mode of service provided in that Act is broader than that provided in section 40 of the Small Claims Tribunals Act where notice is required to be sent by pre-paid certified mail, which has considerably increased expenditure with rises in postal rates in more recent times. Other forms of service by mail will be more economic and yet at the same time be deemed to be good service for the purposes of the Act.

I commend the Bill to the House.

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

**HEALTH ACT AMENDMENT BILL***Receipt and First Reading*

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

*Second Reading*

**THE HON. D. J. WORDSWORTH**  
(South—Minister for Transport) [5.06 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes five fairly extensive amendments to the Health Act.

There is a proposal to amend certain penalty clauses related to the sale of food and drugs. Other provisions relate to the statutory recognition of the Public Health Laboratory Service and an extension of the powers of local authorities to promote medical service for the benefit of their respective districts.

Two matters which will have far reaching effect concern proposals to set up expert committees to study perinatal deaths and infant mortality and deaths from anaesthesia.

Because some of the proposals will operate only after certain appointments are made, the Bill provides that these provisions will come into effect on a proclaimed date.

The first of the five matters to which I have referred relates to offences and penalties within part VIII of the Health Act. Part VIII of the Health Act is concerned with the sale of food, drugs, therapeutic substances, disinfectants and pesticides. At present there are many references to penalties with a great variety of penalties.

The Food Standards Advisory Committee has reviewed this part of the Act and made comparisons with comparable legislation elsewhere. It recommends that a standard scale of penalties be introduced with higher penalties for second and third offences.

The Bill proposes to delete reference to individual offences and penalties and insert a single penalty section.

The types of offences created under part VIII of the Health Act include the sale of food from contaminated premises, adulteration and false description and the employment of infected persons. These are relatively serious matters, but the penalties now proposed are not harsh in such circumstances. Existing penalties vary from fines of from \$40 to \$100 and in some cases provide for imprisonment up to six months.

The standard scale of penalties proposed is set out in the Bill and provides for a fine of from \$50 to \$100 for a first offence. A second offence would be subject to a fine of from \$200 to \$500. Subsequent offences could attract a fine of from \$300 to \$1 500 or imprisonment for a period not exceeding six months.

Since 1911 when the Health Act was first enacted the Public Health Department has maintained a laboratory service. This now is a large organisation employing over 300 people. Branches of the laboratory operate in all major Government hospitals throughout the State. The laboratory service caters also for a significant part of the needs of private medical practice and is the only such service readily available to the more remote areas.

The laboratories have a varied role. They serve the Public Health Department in relation to food, water, communicable diseases, environmental factors, and occupational diseases. They provide also a medical laboratory service to most of the Government hospitals. In addition, they complement and assist privately owned laboratories. Another important function is the forensic service which supports our legal and law enforcement agencies.

In framing amendments designed to give statutory recognition to this service, due regard has been taken of earlier concern expressed by the Australian Medical Association.

The wording of the Bill makes clear reference to the fact that the Health Laboratory Service may provide a service at the request of a hospital or other body. This has removed the cause for the concern.

The Bill also makes provision for the Minister to appoint committees and to specify their functions and composition. In this regard the Minister has given an undertaking that a committee will be established to advise him on the rationalisation of laboratory services.

The committee will include two nominees of the Australian Medical Association to present the views of private laboratory services.

The committee will report on the rationalisation of laboratory services generally and will be asked to examine existing arrangements and any proposed expansion or development. By this machinery the Minister will be informed of all points of view. He will be informed of the ability of the private sector to provide a service, thereby saving expenditure of public funds.

The principal pressure for legislation to recognise the laboratories lies in the Commonwealth-State arrangements for the provision of health services, and the conditions as to payment for services.

Fees to be fixed under the regulations will generally follow the scale which has been negotiated between the Commonwealth and the States.

When the Health Act was introduced in 1911 it was commonly accepted that most infectious diseases could be traced to bad drains, household garbage, and similar insanitary conditions. Whilst this may still be valid in some circumstances, the greater understanding of many diseases forces us to adopt a broader and more positive approach.

For many years local authorities were required to provide hospitals for the treatment of infectious patients and to meet part of the cost of treatment. This was a penalty for their assumed neglect of sanitation. Today most infections can be treated in a general hospital provided special safeguards are observed.

Since local authorities have been relieved of direct financial responsibility for hospitalisation, sections 316A to 323B of the Health Act have no application. The Bill proposes that they be repealed.

Provision is made also in the Bill to grant power to local authorities to undertake activity and provide funds to assist in the provision of health services.

Members will note there is reference to the support of those community health services which the Minister is authorised to establish. A local authority will not be empowered to operate these services in its own right but, nevertheless, there are many practical ways in which it may assist.

The securing of land is an ideal area where many local authorities can readily give help and some may be prepared to offer a financial contribution. Developmental work such as roads, parking facilities, and maintenance are other likely forms of assistance. Already several local authorities have given such help, but there is doubt as to the extent of their powers. The proposed amendment would establish the position beyond challenge.

The second point to be mentioned is the proposed power to provide premises from which private doctors and dentists may conduct a practice, and the provision of living accommodation for them.

For many years it has been believed that local authorities had this power. Numbers of country shires have provided these facilities in past years. It is now revealed that there is a lack of statutory power for such undertakings and the amendment is intended to put the question beyond doubt.

It should be noted that the powers proposed would be exercised at the discretion of local authorities. There would be no compulsion.

In 1960 this Parliament took the somewhat adventurous step of legislating to create an expert statutory committee to study the causes of mortality associated with childbirth.

It is very satisfying to note that, whereas in the five years preceding the formation of the Maternal Mortality Committee there were 41 recorded maternal deaths, in the first five years after the committee was formed the number had dropped to 25. In the five-year period 1972-1976, the number had dropped to 15 despite increased population.

These figures probably reflect a number of factors, but it is surely not unreasonable to claim that this was a valuable piece of legislation, and to note the fact that knowledge of the management of possible hazards associated with childbirth has been increased with substantial benefit. This Bill now presents a similar proposal in relation to perinatal and infant deaths.

In the five-year period 1972-1976 a total of

2 351 still births and neonatal deaths were recorded. It cannot be expected that all or even a substantial percentage of these deaths were preventable. Nevertheless, expert medical opinion has expressed the view that a significant number of lives could be saved in the future if a parallel approach to the investigation of maternal mortality is adopted.

The Bill proposes that all deaths from 20 weeks gestation to one year of age should be reported to the Commissioner of Public Health. The commissioner would exclude those cases where death was obviously not preventable by medical intervention. This would include, for example, death resulting from a traffic accident. Other deaths would be investigated by an expert.

Bearing in mind that the investigation is aimed solely at increasing our knowledge of medical science, all details recorded would be confidential to the purposes of the inquiry, and the identity of the deceased infant would be suppressed. This would in no way interfere with the duties and powers of the Coroner. The investigator would report direct to the chairman of the committee.

The Bill proposes the insertion of a new part XIII B in the Health Act. It provides for the appointment of 10 persons, each having expert knowledge of some area of interest to the purposes of the committee. The organisations to be represented are specified in the proposed section 340 AB (3).

Deputies would be appointed to act in the absence of a member. Machinery is created to call for nominations, make appointments, and fill vacancies. Members of the committee and investigators will be remunerated at rates to be determined by the Minister.

The Bill provides that knowledge gained as a result of investigations may be passed on to the medical profession, but anonymity and the right to privacy are preserved.

There is also a proposal to create an expert committee to investigate anaesthetic deaths. The medical profession has long been of the opinion that a percentage of deaths which occur during or following anaesthesia are preventable. In Western Australia we lack statistics as to the size of the problem, but if a line can be taken through the South Australian experience there could be around 40 deaths each year which are associated with anaesthesia.

The machinery which the Bill seeks to create is similar in all respects to the Maternal Mortality Committee and the proposed perinatal and infant mortality committee. Naturally the composition

of the committee is adapted to deal with the problems of anaesthesia.

In relation to both the perinatal and infant mortality committee and the anaesthetic mortality committee I am able to inform members that all the bodies mentioned as nominators of members of both committees have been parties to detailed discussions. Many of the propositions embodied in the Bill are derived from their suggestions, and there is general support for both proposals.

I commend the Bill to the House.

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

### **SECURITY AGENTS ACT AMENDMENT BILL**

#### *Receipt and First Reading*

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

#### *Second Reading*

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [5.19 p.m.]: I move—

That the Bill be now read a second time.

Section 34(8) of the Security Agents Act, 1976, at present imposes an obligation on banks or other financial institutions to disclose on demand to authorised persons particulars of each account to which a licensee under the Act has deposited any money.

In practice, it is sometimes impossible for a bank or other financial institution to meet this requirement unless the authorised person nominates the account which he wishes to inspect. There is the normal legal obligation to maintain secrecy of clients' accounts and hence the onerous responsibility of ensuring there is no disclosure of particulars of any accounts to which the licensee has not deposited money.

The proposed rewording of section 34(8) as contained in this Bill is intended to restrict the requirements to accounts nominated in the written authority. The Bill also makes provision for the relief of liability by the bank where it is complying with a specific demand by an authorised person.

The Act presently contains an immunity provision covering the Commissioner of Police and others discharging a duty under the Act and it is now intended to include managers and other officers of banks and other financial institutions.

I commend the Bill to the House.

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

### **CENSORSHIP OF FILMS ACT AMENDMENT BILL**

#### *Receipt and First Reading*

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

#### *Second Reading*

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [5.22 p.m.]: I move—

That the Bill be now read a second time.

As provided for in the Censorship of Films Act, there is an agreement in effect for the function of the censorship of films in this State and for the hearing of appeals against such censorship to be discharged by the Commonwealth Film Censor on behalf of the Government of Western Australia. Under the Act the censor may require any film to be exhibited before him at the expense of the applicant for approval.

Fees are charged on submission of any film for approval, or on application for permission to reconstruct or alter a film already approved and also on appeal for every film or advertisement, as detailed in the schedule to the Act.

At an officers' meeting in Adelaide in March last year, it was resolved that a recommendation be made to the respective Ministers in each State for an increase in fees with the hope of achieving uniformity. New South Wales, South Australia, and Tasmania have already done so, and Queensland is expected to do so shortly, with Victorian legislation uncertain at present.

The fees in this State have not been altered since the inception of the Act in 1949, and to obviate the likely necessity of amending the Act from time to time in order to maintain uniformity with other States the Bill seeks to provide for the prescribed fees to be set by regulation.

The proposed increases are, firstly, from 50c to \$5 for every reel of film submitted for approval or for permission to reconstruct or alter a film already approved with a minimum of \$10 per film; and, secondly, from \$1 to \$50 for every film or advertisement submitted on appeal.

Apart from consequential amendments in respect of deleting reference to the schedule of fees, the Bill also contains some metric conversions.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. F. E. McKenzie.

### SUITORS' FUND 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) [5.24 p.m.]: I move—

That the Bill be now read a second time.

The Suitors' Fund Act, 1964-1977, made provision in respect of the liability for costs of certain litigation and established a fund to meet such liability. This Bill seeks to amend the principal Act so that the court may, in certain circumstances, grant an indemnity certificate as to the costs awarded against a person under disability, or his next friend.

The Rules of the Supreme Court of Western Australia make provision for persons under disability to be permitted to be represented in the court by a next friend or guardian *ad litem*. For the purpose of Order No. 70 of the rules, a "person under disability" means a person who is an infant or a patient.

A patient, as defined in the rules and in this Bill, includes an incapable person within the meaning of the Mental Health Act, any person who, by reason of mental illness, defect, or infirmity, is declared by the court to be incapable of managing his affairs, and any person who is an incapable patient or an infirm person within the meaning of the Public Trustee Act, 1941.

In any matter where there is a claim by or against a person under disability, no settlement, compromise, payment, or acceptance of money paid to the court is valid unless it is approved by the court. In the event that an appeal is pending, the approval of the full court is required.

There can be instances where approval of a proposed settlement is refused by the court and the matter subsequently goes to trial. If the amount awarded at the trial or on appeal is less than the amount offered on the compromise, then the costs can be awarded against the next friend of the person under disability. This would be an unjust situation and it is therefore considered desirable that in such instances the person concerned should be entitled to some form of indemnity against those costs.

It is proposed in this Bill to make provision to enable a person under disability or his next friend to make application to the court for an indemnity certificate. This will entitle a person to be paid the costs from the Suitors' Fund up to a maximum of \$5 000 or such other amount as may from time to time be prescribed.

I commend the Bill to the House.

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

### LAND DRAINAGE 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) [5.27 p.m.]: I move—

That the Bill be now read a second time.

The Bill covers two main areas—preliminaries to construction of works and rating.

Firstly, boards are authorised to carry out construction of drainage works, and sections 60 and 62 of the Act detail the procedures to be adopted before construction can commence.

Members will recall the 1977 amendments to the Metropolitan Water Supply, Sewerage, and Drainage Act which deleted the requirements for financial and some technical data to be prepared before the plans were open for public inspection.

The Government has decided that amendments to the Land Drainage Act are necessary so that preparation of the details mentioned earlier is not mandatory. Members are assured that these amendments in no way weaken the public interest, and boards will continue to be required to advertise proposed works, to make plans available for public inspection, and to receive objections.

The Bill provides for a new section in substitution of the present subsection (2) of section 60. This subsection limited the value of exempt works to \$1 000.

The proposed new section does not specify a sum of money but permits the establishment of a value for exempt works by an Order-in-Council thereby eliminating the need to amend the Act from time to time in line with money values.

Only minor works are involved and at this stage the money value of works to be exempted is envisaged in the order of \$10 000.

Turning to the amended rating provisions, drainage schemes continue to become more sophisticated than when the legislation was first enacted. Systems are now being operated to maintain the water table in summer months in certain areas as well as removing winter runoff. In addition, some farmers are also irrigating their properties from water held up in the drains. These varied schemes have added to the cost of operating and maintaining the various systems.

The amendments will allow charges to be raised against those who benefit from the works.

The Act at present provides for land to be rated for drainage on either—

- (i) unimproved capital value; or
- (ii) area.

The maximum rates are 10c in the dollar of unimproved value or 50c per acre. Both alternatives are used. However, most drainage districts are rated on an area basis. Because of inflation, rates determined on an area basis reached the prescribed maximum some time ago.

In order to maintain equity between the districts and allow charges to be raised to a more realistic level, it is proposed to amend section 88 to increase the maximum rate which may be charged to \$10 per hectare.

The Bill introduces new provisions which will enable the department to enter into arrangements with local authorities for the collection of drainage rates.

The local authorities in drainage districts maintain similar rating records, and the Bill provides powers for a drainage board, or the Minister acting as the board, to enter into an agreement with a local authority to levy and collect drainage rates as agent and to make a payment to the local authority for this service. This mechanism is extensively used in the Eastern States and will assist the Government in containing costs.

Finally, the various penalties included in the Act have been amended to bring them into line with current monetary values.

I commend the Bill to the House.

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

## WATER BOARDS 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) [5.31 p.m.]: I move—

That the Bill be now read a second time.

The Bill seeks to amend the Water Boards Act in regard to two matters: disqualification of members of water boards, and preliminaries to construction of works.

Section 10 of the Act at present prohibits any person who is concerned or participates in a profit of a contract with the board from continuing as a member.

Because of this provision three members of the Busselton Water Board were disqualified. They were businessmen who conducted transactions with the board in the normal course of business. There was no question of undue preference extended by the board to its members, or that any dishonesty was involved.

In one case the member had obtained a contract to supply fuel to the board, in another the member supplied a truck after the calling of tenders, and in the third instance the member, who is a chemist, provided first-aid supplies.

I understand that in regard to the chemist, the member of the board purchased first-aid equipment from the chemist's shop without the chemist being aware that the equipment was for use by the board. No doubt members will agree that such an occurrence should not disqualify the chemist who was placed in that situation.

In order to prevent a recurrence of the disqualification episode, it is intended by this Bill to vary the Act to permit members to enter into contracts with the board, provided such transactions are in the ordinary course of business and are undertaken in good faith. In regard to the second matter, water boards have the authority to construct works under the Act. However, before these works are undertaken, section 41 sets out a series of preliminaries to construction.

Members will recall amendments to the Metropolitan Water Supply, Sewerage, and Drainage Act last year which deleted requirements for the preparation of an estimate, a statement of earnings, and other technical data to be prepared before public inspection of the plans.

Sections 40 to 45 of the Water Boards Act contain procedures which are similar to those applicable to the Metropolitan Water Supply, Sewerage, and Drainage Act before the 1977 amendments, and therefore should be amended.

The Bill deletes the former requirements for the preparation of financial and other technical data

to be prepared before advertising the plans, and at the same time the legislation ensures that the public interest is preserved by requiring the water boards to advertise proposed works, to make plans available for public inspection, and to receive objections.

Because of the re-enactment of section 41 it has been necessary to insert new section 45A to permit the Governor by Order-in-Council to declare certain works as exempt and not subject to the provisions of sections 40 to 45 of the Act. This will enable minor works to be carried out by boards without the need to go through the procedures applicable to works of a significant nature.

I wish to inform members that as the result of an undertaking given by the Minister for Works in another place, I will be moving an amendment to the Bill during the Committee stage.

I commend the Bill to the House.

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

### **AGRICULTURE AND RELATED RESOURCES PROTECTION ACT AMENDMENT BILL**

#### *Receipt and First Reading*

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

#### *Second Reading*

**THE HON. D. J. WORDSWORTH**  
(South—Minister for Transport) [5.35 p.m.]: I move—

That the Bill be now read a second time.

The amendments contained in this Bill seek changes to those parts of the Act which deal with zones and regions, the rating and financial aspects, the use of poisons, and the regulation-making powers of the Governor.

The members of zone control authorities are appointed from regional advisory committee members from regions within the zone. No provision exists at present for the appointment of deputy members. Occasions have arisen when authority members have not been able to attend meetings, and to ensure adequate representation the Bill provides for deputy members of zone control authorities and regional advisory committees to be appointed. A deputy will have all the powers, functions and duties of the member of the authority or committee for whom he is deputising in the absence of that member and the amendments give deputy members the

same rights as members to remuneration and allowances where applicable, and ensure that the validity of actions of an authority relate to deputy members as well as members.

Members of regional advisory committees and zone control authorities are drawn in part from shire councillors. The present Act provides for one-third of the members to retire on the first Wednesday in April, whereas the Local Government Act provides for shire councillors to retire on a rotation basis in May of each year. As a result a person may become ineligible to serve on a committee or authority one month after appointment. The Bill provides for an amendment to make the retirement date the first day of August. Present appointees will retire on the date already fixed, but all future appointees will retire on the first day of August.

At present the Act provides for regional advisory committee members to be appointed by the board and for the publication of the names of members in the *Government Gazette*. Membership is continually changing and to facilitate administration, the Bill provides for deletion of the need to publish names in the *Government Gazette*.

No provision exists at present for the members of regional advisory committees to be paid allowances. Pastoral area members travel considerable distances to meetings and the Bill allows for the Minister to determine allowances to be paid to committee members from these areas. The allowances will be paid from the control fund which is a fund established at the Treasury from the proceeds of rates and Consolidated Revenue Fund contributions.

The present Act provides for the establishment of a declared plants and animals control fund to provide moneys to carry out operational work on declared plants and animals on and in relation to private land held under pastoral lease. Funds are provided from the proceeds of a rate and appropriation from the Consolidated Revenue Fund. During the 1976-77 and 1977-78 financial years, a general rate of 3c in the dollar of the unimproved value has been levied on pastoral leasehold land. An appropriation has been made from the Consolidated Revenue Fund to provide sufficient funds for control work to be undertaken at the level carried out by the APB, councils, regional councils and vermin boards in the 1975-76 year, which was the year immediately preceding the coming into operation of the Agriculture and Related Resources Protection Act.

The Government has overmatched the rate

proceeds on an approximate two-to-one basis. At present the legislation allows in the financial years commencing the 1st July, 1978, and thereafter, for the general rate to be set at an amount not exceeding 4.5c, and the rate collections to be matched by an equal contribution from the Consolidated Revenue Fund. Because of economic and drought problems being experienced in much of the pastoral areas it is considered that the overmatching contribution by the Government as made in 1976-77 and 1977-78 should be continued for a further two years and the Bill provides for the necessary amendments.

At present the Act provides that the "taking" of animals is prohibited when poison is used. The object is to protect people from risk which may result from the handling or consumption of poisoned animals. "Taking" is defined as trapping, snaring, shooting, or catching of animals. The APB is required to publish notices setting out full details relating to the use of poison and the animals the taking of which is prohibited. Eradication measures for rabbit control are being impeded in some areas as when poisoning is carried out rabbits cannot be destroyed by shooting or trapping. The Bill provides for an amendment which will give the board power to allow animals to be shot or trapped, but prohibiting human consumption.

Provision is made for additional regulation-making powers by the Governor to allow for regulations to be made regarding the payment of bonuses and prevention of fraudulent practices in respect of bonus payments. Power will be given to enable regulations to impose penalties of between \$200 and \$1 000 for the first offence and between \$1 000 and \$2 000 for second and subsequent offences.

I commend the Bill to the House.

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

## ARCHITECTS 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) [5.42 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to implement certain proposals put  
(63)

forward to the Government by the Architects Board of Western Australia.

Members will appreciate that the Architects Act, 1921-1969 establishes the principles under which architects may practise in this State and provides for the Architects Board to maintain responsibility for the registration and conduct of members of the profession. The Bill represents the final outcome of discussions with the Architects Board over a period of several years.

In respect of the practise of architecture in corporations, the Bill provides that the principal executive officer must be a practising architect. In addition, no less than three-fifths of the directors, who between them must hold no less than three-fifths of the total voting rights, must be practising architects.

It is also proposed that directors of corporations will be jointly and severally liable for acts or omissions of their corporation in a professional respect to the same extent as if they were practising on their own account.

The practice of architecture by corporate bodies has been accepted in a number of other States of the Commonwealth. Corporate practice is a privilege which is enjoyed by some of the other professions, and the Government has accepted the proposal put forward by the Architects Board as being reasonable, subject to safeguards to ensure that the public is protected.

The Bill also provides that foreign corporations practising architecture in this State are liable to take out a policy of professional indemnity insurance.

At present, under section 14 of the Architects Act, qualified persons are required to have had at least four or six years' experience in the work of an architect, depending on circumstances, before they can become registered. It is now intended the period of experience necessary for all applicants who have passed the required examinations will be six years.

A further amendment to this section of the Act provides that the board may have regard to advice from the Architects Accreditation Council of Australia or other body when determining the fitness of persons to be registered. This amendment will facilitate the registration of architects who have obtained in foreign countries qualifications which are regarded as being equivalent to Australian qualifications.

There is an amendment to provide for appeals to be heard by the District Court in lieu of the Local Court. This is to enable the board to be awarded a reasonable amount of costs. At the present time every case taken by the board,

whether successful or otherwise, costs money as the scale of charges under the Local Court is inadequate.

The Act currently provides that annual subscriptions by registered architects may not exceed \$20. It has been accepted that there is no point in imposing a statutory limit on annual subscriptions. The board has to pay its way and to do so has to impose a fee on members which will produce sufficient revenue to balance its commitments. Under the amendment the board will be at liberty to set a fee it sees as being necessary.

Over the years the board has not had a great deal of success in prosecuting unqualified persons who have held themselves out to be architects. The amendments to section 29 are designed to lessen the possibility of unqualified persons representing themselves to the public as architects. It will be noted that subsection (2) of section 29 remains unaltered, thereby ensuring that builders, draftsmen and others may continue to design and superintend the erection of buildings.

The principle that architectural draftsmen may still provide a service to the public is also reinforced.

I commend the Bill to the House.

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

## POISONS ACT AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

**THE HON. D. J. WORDSWORTH**  
(South—Minister for Transport) [5.46 p.m.]: I move—

That the Bill be now read a second time.

The amendments to the Poisons Act contained in this Bill are directed at tightening control over the supply of addictive drugs to drug addicts. The proposals are considered necessary because of the unhappy fact that Western Australia has a drug addiction problem.

The Government, through education, the police, the Alcohol and Drug Authority, and the public health authorities, has endeavoured to keep this problem under control. It is disappointing to find that a few people in responsible positions have contributed to an undermining of control.

The Poisons Act is directed at the regulation of sources of supply through legitimate channels.

The first important amendment relates to section 23 of the Poisons Act. As the section stands, a person who manufactures, distributes, supplies, or sells poisons, including drugs of addiction, is required to hold a licence. The section also authorises pharmacists, doctors, veterinary surgeons, and dentists to use, or supply, or sell these drugs. There is no authority written into the section or elsewhere in the Act to regulate the issue of prescriptions.

Several months ago a few medical practitioners became well known for their willingness to prescribe addictive drugs to drug addicts. Prescriptions were written at such a rate that supplies available to addicts were greatly supplemented.

It is known that some of these supplies found their way into the local illicit trade. Some patients were presenting themselves at various places to obtain prescriptions under assumed names. This had a direct detrimental effect on the efforts of the Alcohol and Drug Authority to bring patients under treatment to control or overcome their disease.

A further matter of concern is the number of prescription pads which have been stolen from doctors' surgeries. These have been used by forgers to obtain supplies of addictive drugs through legitimate suppliers. It is essential to the maintenance of control that supplies to addicted persons be confined to authorised outlets and subject to reasonable limitation.

The amendment to the section would introduce a new element of control over the prescription of drugs of addiction and specified drugs. This control would be exercised through regulations which it is proposed to make. The power to make regulations is dealt with later in the Bill.

The Bill also provides for the creation of an offence for breaches of the Act in relation to the supply or procurement of poisons generally and includes reference to authorities granted by the Commissioner of Public Health. This relates to my remarks on the preceding clause which contemplates the issue of authorities to prescribe or supply addictive drugs.

It is intended also to raise the penalties for offences. The present maximum is a fine of \$200. It is proposed that this be increased to a fine not exceeding \$500 for a first offence with second and subsequent offences attracting a fine not exceeding \$3 000. The new scale of penalties would more nearly equate with the scale which

operates for comparable offences under the Police Act.

It is proposed that the whole of section 43A which deals with the illegal supply of drugs of addiction be repealed. As this subject is adequately covered by the Police Act, it is felt that the doubts which are created by parallel legislation should be removed. The repeal of the section would mean that the responsibility would clearly lie with the police in future cases.

Subsection (2) of section 44 of the Poisons Act fixes a penalty of \$2 000 or imprisonment for three years for certain serious offences involving narcotics. The Bill seeks to raise the maximum fine to \$3 000 to match penalties fixed by the Police Act.

Section 64 of the Act gives authority to the Governor to make regulations necessary for the administration of the Poisons Act and it is intended to provide additional regulatory powers which will enable the intention of the amendments to section 23 to be achieved.

It is a requirement of the Poisons Act that every proposal to make regulations be reviewed by the advisory committee and the views of the medical and pharmaceutical professions will be canvassed through their representatives on the committee.

I commend the Bill to the House.

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

## CONSTRUCTION SAFETY ACT AMENDMENT BILL

### *Second Reading*

Debate resumed from the 11th May.

**THE HON. D. W. COOLEY** (North-East Metropolitan) [5.52 p.m.]: I am authorised to indicate that the Opposition does not oppose this Bill. We understand that clause 3 corrects an oversight to the Act that was missed in 1972. The Bill allows the Coal Mines Regulation Act to apply in respect of work on the surface of a mine.

Clause 4 of the Bill changes the name of the Employers' Federation to the Confederation of Western Australian Industry; a procedure which has been done often over the last year or so. Clause 6 gives discretionary powers to the inspectors with regard to action they can take in respect of serious injury as well as death.

Clause 7 increases the penalties under the Act to \$400 for a first offence, \$600 for a second offence, and \$1 000 for the third and subsequent offences with a \$20 penalty for every day an

offence occurs after a conviction. The Opposition looked at this aspect seriously and felt that although the penalties had been increased they were still rather light, as in this case we are dealing with the lives of men and women. We feel that a person responsible for construction safety should face stiffer penalties if he contravenes the Act.

The penalties are light when one considers the consequences that could result from negligence in construction safety. One could consider the Industrial Arbitration Act where provision is made to fine unions that go on strike \$1 000 immediately and every member of the union can be fined \$100. If the union has 1 000 members on strike the fine could total \$100 000.

**The Hon. G. C. MacKinnon:** When was that last imposed?

**The Hon. D. W. COOLEY:** No-one would say such penalties would apply because they are the maximums; the fines could be less when the case came before the courts. The Opposition is happy to see that some progress has been made with respect to penalties even though we believe they should be stiffer. The Opposition supports the Bill.

**THE HON. R. H. C. STUBBS** (South-East) [5.56 p.m.]: As I handled the Construction Safety Bill on behalf of the then Minister in another place when the Bill was last before this Chamber in 1972 it is fitting I say a few words to this present Bill. Firstly, I would like to congratulate Mr John Ashley on his appointment as Clerk of the Parliaments and Clerk of the Council and I hope he occupies those positions for many years to come.

During the last session of Parliament I said that while you, Mr President, sat in that Chair, you had witnessed history being made in this House when its membership was increased to 32 members. You are now witnessing a change in the Clerks of the House which not many Presidents have had the privilege to witness. I hope also that Mr Hoft can be congratulated in advance because he certainly deserves promotion.

After reading *Hansard* it became apparent that a member in another place indicated that the original Bill was the work of the Labor Party; it was not. The Construction Safety Bill was drawn up by the Government prior to the Tonkin Government, but the latter introduced it into Parliament. The Tonkin Government adopted everything put forward on this subject. I thought I would put that situation right because when speaking in this House one has to say what is correct.

The Construction Safety Act superseded the old Inspection of Scaffolding Act which had a rough history. The Bill to establish that Act was drafted in 1913 at the request of the building trade, but it was not proceeded with. The First World War interrupted things and I suppose building slackened and no move to introduce a scaffolding safety measure was made until 1923. However, that too was unsuccessful when someone moved in this House that the Chairman should leave the Chair. A more successful Bill was introduced in 1924 and further amendments were introduced in 1926, which were unsuccessful.

Further amendments were introduced in 1929—which were unsuccessful—1954 and 1955 were successful. It is interesting to read the objections put forward at the time. Luckily we are much more aware of the current situation, but in those days Perth did not have very tall buildings. Most buildings dating back to the early 1900s that are still standing in Perth are only a couple of storeys high. In those days scaffolding safety was not as important as it is today with our multi-storied buildings. Therefore, this Bill is something that is needed.

In the objections to the Bill of 1923, one member said that no serious accident had ever occurred, and therefore there was no call to amend the Act. Another member said that, under the provisions of that legislation, a haystack would be termed a building, and therefore every farmer would have to put up a scaffold for a haystack. Yet another member said that a piece of orange peel would be a structure under the definition of the then Bill. All those were rather amusing observations, and they showed the thinking of the time.

Mr Cooley has already mentioned what the amendments in the Bill before us entail; therefore, it would be superfluous for me to reiterate them. All I can say is that I support the Bill.

*Sitting suspended from 6.02 to 7.30 p.m.*

**THE HON. T. KNIGHT** (South) [7.30 p.m.]: I would like to take this opportunity to congratulate sincerely John Ashley on his appointment as Clerk of the Legislative Council and, of course, on his position as Clerk of the Parliaments of Western Australia.

I believe John will do an exceptionally good job. In the few years I have been here he has been of tremendous assistance to me. Each time I have had occasion to contact him I have received the help I wanted. I congratulate him on his appointment.

I support the Bill. As a former building

contractor involved in the building industry I believe that construction safety is most important for the protection of workers. The workers are a very valuable part of the building industry, and we have to ensure their safety to the highest degree by means of introducing legislation of the type now before us. I believe conditions will improve as time goes on.

In future, at the time of tendering the tenderers will have to allow for the conditions laid down in the Act. In this way, all contractors will be aware that they will have to comply with the conditions of safety in the work they perform.

**The Hon. D. W. Cooley:** They will not tender for extra fines.

**The Hon. T. KNIGHT:** So often contractors have been able to short-cut and win a tender. As a result of this legislation, and the conditions which will be enforced by Government officers, the contractors will have to allow for the standards laid down. That will ensure the safety of the workers, and I believe it will reinforce the viability of the industry and the builders. A builder will not be able to claim that he has been caught out by tendering too low, because the conditions will be laid down in the Act. I fully support the Bill.

**THE HON. D. J. WORDSWORTH** (South—Minister for Transport) [7.35 p.m.]: I thank members for their support of this legislation. It must be gratifying to those in the industry, and to the general public, to see members from both sides of this House in agreement with legislation. We are often accused in our respective parties of playing politics. Both those with experience in the industry, and the employees involved in the unions, agree with the legislation.

I would like to thank the Hon. Claude Stubbs for his brief history of the legislation. It was of interest to learn that the legislation was drawn up in the first place by one political party, and presented in this House by another party.

This measure certainly sets out to tighten up construction safety. I did note the remark by Mr Cooley on the matter of equitable fines. I am sure that will be considered in future 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.

# STOCK (BRANDS AND MOVEMENT) ACT AMENDMENT BILL

## *Receipt and First Reading*

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

## *Second Reading*

**THE HON. D. J. WORDSWORTH**  
(South—Minister for Transport) [7.40 p.m.]: I move—

That the Bill be now read a second time.

The amendments contained in this Bill relate to the compulsory spay marking of bovine female animals, the use of numerals for the branding of swine, and computerisation of the brands register.

Members will be aware that the purposes of the Act are—

- to provide for a means of identifying livestock through a system of registering a brand consisting of two letters and a numeral to the respective owners of such animals; and
- to provide, in the interests of controlling the stealing of livestock, that stock being moved off a property are correctly branded and certified as such in the document accompanying the animals.

However, following the decline in the profitability of the beef industry between 1974-1977, and a subsequent reduction of the number of breeders being held, the spaying of cattle became a more common practice.

In order to protect producers who might purchase spayed bovine females, producer organisations consequently sought the permanent identification of these animals and a regulation made under the Act enabled owners wishing to identify spayed animals to use a cull mark in the form of a circular hole not less than 20 millimetres nor more than 40 millimetres in diameter in the ear not allocated for the registered ear mark. This regulation was gazetted in April, 1977.

More recently producer organisations have agreed that the use of the spay mark should be made compulsory with the object of positively ensuring that the interests of the purchasers of spayed cattle are protected. This is not possible with the existing regulation and for this reason it is proposed that section 53 of the Act be amended so that the owner of spayed cattle shall use the mark approved by the Registrar of Brands to identify such animals.

The Act provides that the registered brand for swine and for other livestock shall consist of two

letters and a numeral; and whilst this has worked reasonably well for cattle, horses, and to a lesser extent for sheep, it is proving unsatisfactory in the case of swine.

Surveys have shown consistently that although farmer participation in pig branding is high—about 90 per cent being attempted—only about 30 per cent of brands can be read correctly and related back to the actual property of origin. Many brands are incorrectly identified since some letters are easily misread for other similar letters.

Experience overseas and to a limited extent in Western Australia indicates that the use of numerals only is better. Not only is there less misreading of the numbers, but also they cannot be accidentally read upside down. Further, the use of all numerals lends itself to computerisation. Brands are already being placed on computer and it is intended to evolve a system of numbers related to the rotary brand number from the brands directory, similar to the system used for cattle tail tag numbers.

The proposed amendments to sections 15 and 21 will permit the registrar to allot, in the case of swine only, a registered brand consisting of numerals only as an alternative to the present two letters and a number.

Section 24 of the Act requires the registrar to publish a complete brands directory at least once every 10 years in the *Government Gazette*; to publish annually in the *Government Gazette* a directory containing all of the brands registered, transferred, or cancelled during the preceding year; and to send copies of the directory and supplementary directories to nominated persons.

This requirement was laid down at a time when it was possible for registrations, transfers, and cancellations of brands to be carried out manually by clerical officers. The procedure is extremely labour intensive and therefore expensive, and with present staff, the number of brands registered and the high rate of change, it has been virtually impossible to comply precisely with all of the requirements of section 24.

The storage and retrieval of information of this nature lends itself to computerisation and the department is well advanced in transferring the brands register to a computer programme. This procedure will permit not only considerable savings in clerical input but will also ensure more efficient updating and retrieval from the directory than the present system.

The proposed amendments will still require the registrar to maintain a record of all brands, including transfers and cancellations and will

enable any person to request and obtain information contained in the register.

An amendment to section 57 also makes provision for a certificate signed by the registrar to be acceptable in court as *prima facie* proof of the brand registration, transfer, or cancellation.

For those people not involved in the agricultural field, the term "spayed" refers to an operation to sterilise a cow. A small incision is made in its side and once the wound heals, there is no way to tell that the animal has been spayed so that it would be possible for an unsuspecting person to buy such an animal and expect to be able to breed from it.

With that explanation I commend the Bill to the House.

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

### ZOOLOGICAL GARDENS 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) [7.47 p.m.]: I move—

That the Bill be now read a second time.

The second schedule to the Zoological Gardens Act, 1972, describes the area of land comprised in the Zoological Gardens at South Perth.

This Bill seeks to amend the second schedule to permit in one instance a small reduction in area for the purpose of providing a bus bay at the new entrance to the zoo in Labouchere Road. This will necessitate the excision of an area of 98 square metres from Class "A" Reserve No. 8581.

This proposal is supported strongly by the Main Roads Department and Metropolitan (Perth) Passenger Transport Trust from the point of view of both reducing restrictions to the movement of traffic and ensuring a high level of pedestrian safety.

The bay will be the disembarking point for some 28 000 children per year who come to the zoo in organised parties for school education. To this figure must be added large numbers of children who travel to the zoo privately. Another factor to be considered is the increasingly heavy traffic travelling to and from the Judd Street ramp via Labouchere Road.

In addition it has come to notice also that other

amendments to the second schedule are necessary and parliamentary approval is now sought for these other adjustments.

To further explain and to clarify the situation it is necessary to provide, firstly, for the excision of a bus bay at the old entrance, being land taken from Reserve No. 22503 in February, 1972. The Metropolitan (Perth) Passenger Transport Trust desires to retain this area for its use; secondly, to delete the purposes of Reserves Nos. 8581 and 22503 as these no longer apply, both areas now being reserves for "Zoological Gardens"; thirdly, to provide for the fact that Reserves Nos. 8581 and 22503 are now classified as class "A"; fourthly, to express in metric terms the areas of the land referred to in the second schedule; finally, to correct the impression by the wording in the Act that Reserve No. 22503 and Perth suburban lots 108, 121, 122, and 326 to 330 inclusive are separate portions of land. The Perth lots referred to, in fact, comprise Reserve No. 22503.

The proposed legislation is purely a machinery measure for regularising and portraying an accurate description of the land comprised in the zoo, and I commend the Bill to the House.

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

### LIMITATION ACT AMENDMENT BILL

#### *Receipt and First Reading*

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

#### *Second Reading*

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [7.50 p.m.]: I move—

That the Bill be now read a second time.

Under the current provisions of the Limitation Act, 1935-1972, the normal limitation period for the recovery action in relation to State imposts is six years.

This Bill proposes to reduce the limitation period to 12 months.

The purpose of the Bill is to protect the Consolidated Revenue Fund to the extent that, where an impost is held to be beyond the legislative competence of the State, all actions for recovery against the Crown will be limited to 12 months after payment of the impost.

In principle, the Bill follows similar legislation introduced by Victoria and New South Wales in the early 1960s as a guard against the

consequences of constitutional attacks on the fiscal laws of those States.

As our legislation now stands, successful constitutional challenges to the validity of many of the taxes, fees, or other charges imposed by the State Government would place the State's finances in a most vulnerable position.

A challenge of this nature, if upheld by the High Court or Privy Council, could leave the State facing huge payments by way of refunds in respect of imposts collected over a six-year period.

Refunds of the magnitude that would be called for in such circumstances could not be met from the ordinary revenue of the State, unless at the expense of the Government's ability to function at the level reasonably demanded by the people of Western Australia.

The result would be a lower level of services to cater for growth and the postponement of expenditure on many new urgent areas of need.

Reduction of expenditure in this regard would not be a "once off" occurrence. The effect would be felt over a number of years, at the end of which time the Government, having met its liability for refunds, would then face a serious backlog of demands.

This would be an untenable position for any Government and is seen as a serious responsibility to the people of this State to ensure that our financial resources are not exposed to so great a risk.

The measures proposed by this Bill will limit the potential impact of constitutional challenges on our revenue from imposts and enable the Government in the future to plan the provision of services with greater confidence in its fiscal capacity.

It is important to recognise another issue which would flow from successful challenges and the subsequent repayment of imposts collected previously.

Many of the State's major revenue yielding imposts are consumer oriented and, in the event of their being declared invalid, the ensuing refunds could not in practice be passed back to the consumer who paid the tax originally. Clear examples of this type are our tobacco and liquor taxes.

In these cases refunds would represent a windfall gain to persons other than the taxpayer; namely, the provider of the goods or service on which the impost was levied.

Apart from the obvious lack of merit on the side of those who might gain from the refunds, it

is important to consider the true position of the consumer/taxpayer in such circumstances.

Having paid the impost in the first place, the consumer is unable to benefit from refunds that are made. However, these same refunds can be made only from the revenue of the State; that is, at the expense of the taxpayer. In fact we would be calling on the consumer/taxpayer to pay twice. This situation is patently unfair and inequitable to the taxpayer.

It is therefore worth noting that the provisions of the Bill will ensure that the burden on taxpayers in these circumstances is greatly reduced.

The Bill provides for an amendment to the Limitation Act by the addition of a new section—section 37A.

It is not a lengthy addition, and in brief, provides that all actions to recover from the Crown imposts paid under the authority of any Act, shall be commenced within a prescribed date, which is related to the date the Bill becomes law.

In the case of imposts paid after the proposed legislation comes into operation, all actions for recovery would be limited to 12 months after payment.

In respect of imposts paid prior to the legislation coming into operation recovery action would be limited to either the period within which action would otherwise have been brought under the current provisions of the Limitation Act, or 12 months after the legislation comes into operation, whichever period expires first.

The amendment proposed by this Bill is a sound administrative measure, aimed to secure the revenue resources of the State, whether they be existing imposts or new collections which may need to be introduced in the future.

It is essential that the Government is able to plan with confidence, particularly when under pressure to provide the services demanded by growth.

To this end, income flows must be safeguarded to every extent possible and not subjected to the uncertainty engendered by the threat of challenges under constitutional law.

This Bill provides a measure of greater protection to the Consolidated Revenue Fund and, in doing so, allows for sounder financial management in the years ahead.

I commend the Bill to the House.

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

## AUCTION SALES ACT AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [7.57 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to make a minor amendment to the Auction Sales Act in respect of the statutory requirement for applicants for auctioneers licences to advertise such fact in the newspapers.

Section 11 of the Auction Sales Act requires an applicant for a licence to cause a copy of his application, together with a notice in the prescribed form, to be published in a newspaper circulating in the locality of the court appointed for the hearing of the application. This provision applies to applications in the first instance and to annual renewals.

This Bill simply removes the requirement to advertise in the case of applications for renewals.

The industry believes that the requirement at present represents an unnecessary expense and after proper examination of the position the Government concurs in this view.

It is considered that members of the public have sufficient recourse against allegedly delinquent licensees by report to the Police Department. Their position is not materially weakened by the provisions of this Bill and I commend the measure to the House.

Debate adjourned, on motion by the Hon. F. E. McKenzie.

## UNIVERSITY OF WESTERN AUSTRALIA ACT AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

**THE HON. D. J. WORDSWORTH** (South—Minister for Transport) [8.00 p.m.]: I move—

That the Bill be now read a second time.

This Bill results from problems being experienced by the University of Western Australia in adequately controlling vehicular traffic and

parking both at the Crawley site and other lands under the control of the university.

To overcome similar problems which were in existence at the Western Australian Institute of Technology an amending Act was passed in 1974 to clarify and strengthen the institute's authority over parking and discipline in general at the Bentley campus.

Discussions have taken place between the Government and the representatives of the university and the amendments contained in this Bill relate mainly to section 16 of the principal Act which provides the university with power to make by-laws for the purposes therein specified.

As indicated, the aim of these amendments is to enable the university to more adequately control vehicular traffic and parking on university lands, and by way of by-law to prescribe modified penalties for breaches of those by-laws relating to traffic and parking, which for some years have been controlled by regulations known as "traffic regulations".

The university has been advised that it has no power under the Act to impose monetary penalties and subsequently enforce payment of those penalties under these regulations. Consequently the university has been obliged to rely on the provisions contained in the Crawley site by-laws. These by-laws provide the university with certain general powers with regard to traffic and parking and the general conduct of persons on the Crawley grounds but do not extend to other areas under the university's control, such as playing fields away from the Crawley site.

Administratively, it has been very difficult for the university authorities to bring prosecutions for breaches of the by-laws and this together with generally unsatisfactory penalties has led to a situation where proper discipline is almost impossible.

The amendments contained in this Bill are intended to enable the university to overcome these difficulties simply and effectively.

On further consideration in respect of clause 2 it has been agreed to enlarge on that provision, and I will be moving an amendment in that regard during the Committee stage.

I commend the Bill to the House.

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

**EVIDENCE ACT AMENDMENT BILL***Returned*

Bill returned from the Assembly without amendment.

**ART GALLERY ACT AMENDMENT BILL***Second Reading*

Debate resumed from the 11th May.

**THE HON. R. F. CLAUGHTON** (North Metropolitan) [8.02 p.m.]: I can only support the amendments being made to the Act, because they deal with matters I have raised in this Parliament in relation to problems which arose at the Art Gallery last year. Three main changes are to be made. Firstly, the title is to be altered from the "Western Australian Art Gallery" to "The Art Gallery of Western Australia". It is a minor change, but we are told it will allow us to conform with the style of naming art galleries in other States. Secondly, two additional members will be appointed to the Art Gallery Board and, thirdly, there is to be a defining of the relationship of the director to the board.

Members will recall the very serious problems which arose at the Art Gallery, particularly in relation to the activities of some of the members of the board and the relationship between the board and the staff. Then, on the commencement of construction of the new Art Gallery, a very serious question arose—one which I do not think has been satisfactorily resolved—in that a board member was also the architect for the new Art Gallery. I can only restate my belief that the ethical course for that board member to have followed was to ask to be relieved of his duties on the board during the period of construction of the new Art Gallery.

To date, there have been only five members of the board, which has left the numbers low on occasions; this is one of the reasons for the number being increased to seven board members. If something similar occurs in the future it is better provided for with seven members than with five. Because people who are able to accept these positions are also very busy people in their ordinary lives, the larger number will ensure a quorum is more readily available for board meetings. In addition, where a conflict of interest occurs, it is more easily handled with a larger membership.

I also believe it was quite intolerable that the board members were pressing their claims as art experts in making acquisitions for the board, without the recommendation coming from the qualified professional staff; I hope these new

arrangements will ensure that circumstance does not occur again in the future.

In the light of what recently took place, I believe it is very necessary that the legislation should lay down quite clearly that the board must operate through the structure. Undoubtedly, the board must have responsibility for what happens at the gallery, and would be responsible for the setting of policies which are to be adopted by the gallery; that is the board's function, and it represents the public at large at that institution.

I express the support of the Australian Labor Party for these changes. I have only one last item on which I wish to comment. I remind the Minister that, when speaking previously about the new Art Gallery, I offered the co-operation of the Australian Labor Party in the gallery's fund-raising drive to acquire paintings to do justice to the new building. I only regret that our offer was not taken up, because I believe it would have been of benefit to the State to have a joint effort made along those lines. We all wish to be proud of the new gallery as a place where we can take visitors to show them what a marvellous acquisition it is to the cultural scene in this State. With that small voice of regret, I indicate that we support the legislation.

**THE HON. D. J. WORDSWORTH** (South—Minister for Transport) [8.08 p.m.]: I thank the Hon. Roy Cloughton for his support of the Bill; I know his interest in this facility. I am rather disappointed that he should feel put out that his offer has not been accepted. I have not personally participated in the administration of this Act, but I would have thought from the television and other fund-raising functions which have been held that there has been every opportunity for any organisation, whether it be associated with the Labor Party or otherwise, to participate.

We know the Art Gallery is looking for works of art. I feel this is a brilliant opportunity for the Labor Party to present the Art Gallery with a painting of Mr Whitlam or some other suitable subject, if it feels so disposed.

The Hon. D. K. Dans: They will get a couple of those in due course.

The Hon. D. J. WORDSWORTH: That should not be too much of a problem. I hope we will see a lot of participation in this direction. Already, we have seen some citizens financing the purchase of works of art which I hope will enhance the new gallery when it opens.

Mr Cloughton mentioned the benefits of having a larger board. We are very fortunate indeed in securing the services of the new director; he

certainly came with a very good reputation from the Queen Victoria Museum in Launceston, and I think we will see great things in the future.

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.

#### ADJOURNMENT OF THE HOUSE:

##### SPECIAL

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [8.13 p.m.]: I move—

That the House at its rising adjourn until Thursday, the 10th August.

Question put and passed.

*House adjourned at 8.14 p.m.*

#### QUESTION WITHOUT NOTICE

##### LAND

*Midland: Use for Car Park*

The Hon. **LYLA ELLIOTT**, to the Attorney-General representing the Minister for Local Government:

- (1) Has the Shire of Swan requested the Minister's consideration of a proposal to use for a car park, land in Midland bounded by Sampson Parade, The Crescent and Sayer Street, which had been selected for aged persons' homes?
- (2) What does the proposal involve?
- (3) What is the Minister's attitude to the proposal?

The Hon. **I. G. MEDCALF** replied:

In answer to the question asked by the Hon. Lyla Elliott, of which I acknowledge she was kind enough to give notice to the Minister—

- (1) No formal submission has been received regarding the future use of the subject land. However, informal discussion and an exchange of letters have taken place.
- (2) A possible future car park.
- (3) It is the responsibility of Swan Shire Council to initiate action for the determination of the subject land's future use.