

# Legislative Council

Tuesday, the 16th October, 1962

## CONTENTS

	Page
<b>AUDITOR-GENERAL'S REPORT—</b>	
Tabling .....	1703
<b>QUESTIONS ON NOTICE—</b>	
Bunbury Town Planning—	
Blair Street Extension: Road Construc- tion and Land Resumption .....	1703
Hennessy Road : Railway Bridge .....	1704
Town Planning Scheme No. 4 .....	1703
Police Court Actions : Number in Denmark and Place of Hearing .....	1704
<b>PARLIAMENT HOUSE—</b>	
Preservation of Documents under Founda- tion Stone .....	1704
<b>CITY OF PERTH BY-LAW No. 65—</b>	
Disallowance Motion : Ministerial State- ment .....	1706
<b>BILLS—</b>	
Administration Act Amendment Bill : 3r. ....	1708
Adoption of Children Act Amendment Bill : 3r. ....	1708
Charitable Trusts Bill : 3r. ....	1708
Law Reform (Property, Perpetuities, and Succession) Bill : 3r. ....	1708
Legal Practitioners Act Amendment Bill : Order Discharged .....	1708
Married Women's Property Act Amend- ment Bill : 3r. ....	1708
Painters' Registration Act Amendment Bill : Assembly's Message .....	1704
Simultaneous Deaths Act Amendment Bill : 3r. ....	1708
Testator's Family Maintenance Act Amend- ment Bill : 3r. ....	1708
Town Planning and Development Act Amendment Bill : Assembly's Message .....	1704
Trustees Bill : 3r. ....	1706

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

## AUDITOR-GENERAL'S REPORT

### Tabling

THE PRESIDENT (The Hon. L. C. Diver): I have received from the Auditor-General a copy of his report on the Treasurer's statement of the Public Accounts for the financial year ended the 30th June, 1962. It will be laid on the Table of the House.

## QUESTIONS ON NOTICE

### BUNBURY TOWN PLANNING

*Blair Street Extension: Road Construction and Land Resumption*

1. The Hon. N. E. BAXTER asked the Minister for Town Planning:

- (1) Will the Minister obtain from the Bunbury Council the estimated cost of land resumption, road construction, etc., for the proposed

Blair Street roadway from Wilkes Crossing to Bunbury Railway Station?

### Town Planning Scheme No. 4

- (2) How does the Minister arrive at his decision that the implementation of Town Planning Scheme No. 4 is in scale with the resources of the council when he has failed to obtain any estimate of costs of road construction and land resumption?

The Hon. L. A. LOGAN replied:

- (1) Part of the land required for the eventual road scheme will be obtained without cost to the council by securing that future subdivisional roads conform to the pattern of the projected road scheme. No estimate can be made of the cost of the future over-bridge at Hennessy Road without bridge designs being prepared. The need for such bridge is too far ahead for expenditure on design to be warranted. The road is likely to be developed progressively over many years as traffic and subdivision needs demand. No purpose would be served by estimating the cost of development to the final stage. For these reasons it is not proposed to ask the Bunbury Council to prepare full estimates of the cost of land and construction, etc., for the section of the road referred to.
- (2) The basis of Town Planning Scheme No. 4 and of the judgment of the Town Planning Board and Department of Main Roads in confirming the council's opinion on the need eventually for a road system in the form represented by the scheme is that Bunbury will continue to expand and probably at an accelerated rate, stimulated by important local industrial development.

The population of Bunbury was 9,870 at the 1954 census and 13,186 at the 1961 census, an increase of 33 per cent. over seven years. A simple projection indicates a hypothetical population of some 30,000 in twenty years' time.

The Council's revenue in 1954 was £83,552. In 1962 it was £138,062 on a rate of 6d. in the pound. The increase was 65 per cent. over eight years with the rate one-third of the permissible maximum. Whether or not this trend in increase of revenue continues on a similar line, it is clear that the council's resources will expand very considerably more or less in step with the growth of the town.

The council's loan raising capacity at the present time is £1,405,000 and outstanding loans £306,000. There is thus at present an unused loan-raising capacity of approximately £1,000,000 pounds. Its future loan raising capacity is directly related to its revenue.

In addition, the council has very extensive areas of endowment land which it is empowered to develop and sell. The value of this land is likely to appreciate in step with the growth of the town and it could eventually realise many thousands, or hundred of thousands, of pounds.

2. *This question was postponed.*

### BUNBURY TOWN PLANNING

*Hennessy Road: Railway Bridge*

3. The Hon. N. E. BAXTER asked the Minister for Mines:

- (1) Has the Public Works Department agreed to construct a bridge over the railway at Hennessy Road, Bunbury, as part of the Blair Street proposal?
- (2) If so, what is the estimated cost?

The Hon. A. F. GRIFFITH replied:

- (1) and (2) Neither the Public Works Department nor the Main Roads Department has agreed to construct a railway bridge over Hennessy Road, Bunbury.

### POLICE COURT ACTIONS

*Number in Denmark and Place of Hearing*

4. The Hon. J. M. THOMSON asked the Minister for Mines:

- (1) How many police court actions have been heard at Denmark for the years 1957-58, 1958-59, 1959-60, 1960-61, and 1961-62?
- (2) Have any of the above cases been conducted in any building other than the Denmark Police Station premises?
- (3) If the answer to No. (2) is "Yes"—
  - (a) how many cases were heard;
  - (b) in what years were the cases conducted; and
  - (c) where and before whom were the cases mentioned heard?
- (4) Have there been, in the history of Denmark, any other occasions when cases have been heard in any other place but the police station?
- (5) (a) Has any request ever been made for additional building to facilitate any court proceedings; and
  - (b) if so, when?

The Hon. A. F. GRIFFITH replied:

- (1) 1957-58 — 43  
 1958-59 — 62  
 1959-60 — 43  
 1960-61 — 39  
 1961-62 — 27  
 Since the 1st July, 1962 — 8.
- (2) Yes.
- (3) (a) 9.  
 (b) 1959 — 7  
 1961 — 2.  
 (c) All heard in the Denmark Civic Centre. The seven in 1959 were before Mr. H. G. Smith, S.M., and the two in 1961 before Mr. W. L. Hardwick, Acting S.M., and Mr. Carpenter, J.P.
- (4) Answered by Nos. (2) and (3).
- (5) (a) Yes.  
 (b) 1946.

### BILLS (2): ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills:—

1. Painters' Registration Act Amendment Bill.
2. Town Planning and Development Act Amendment Bill.

### PARLIAMENT HOUSE

*Preservation of Documents under Foundation Stone*

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [4.45 p.m.]: I move—

That this House place on record that on Wednesday, the 10th October, 1962, tradesmen working on the additions to Parliament House, when moving the foundation stone from the position where it was laid on the 31st July, 1902, to its location on the new eastern frontage, discovered a canister containing the following documents:—

*Government Gazette* dated the 25th July, 1902;  
*Western Australian Year Book* for 1898-99, vols. I and II;  
 Plans of the new Houses of Parliament;  
 Copy of *The Morning Herald* of the 30th July, 1902;  
 Copy of *The West Australian* of the 30th July, 1902;  
 Copy of the invitation card to the ceremony of the laying of the foundation stone;

and requests the Joint House Committee to determine whether these records should be replaced, together with other up-to-date documents, under the foundation stone when it is placed in its final position.

Members will recall that the foundation stone of this building stood apart from the main structure for over 60 years. It was laid in the north-east corner of the intended structure on what was to be the city frontage on the 31st July, 1902, by the then Governor, Captain Sir Arthur Lawley, K.C.M.G.; and evidently those responsible decided to preserve some records of the time.

They were unable to foresee that in the historically short span of 60 years the foundation stone would have to be moved to another location to conform with the new plan of the building. On moving the foundation stone, the cannister containing the documents was found underneath. Whilst the cannister containing the documents is not on the Table of the House—it is now in a very rotted condition—the documents to which I have referred are tabled.

I think it is very fitting that some mention should be made of this fact. The records were placed in the tin-plate cannister to which I have referred, but unfortunately they have been affected by moisture due to the corrosion of the metal; and one item which appears to be an envelope that could give some information concerning the incident to which I have referred is too badly damaged for any writing to be legible.

A search of the Public Works Department's records and the archives has failed to reveal any mention of the depositing of the documents, but it did bring to light the fact that the ceremony had to be postponed for about a month due to the death of the then Premier (The Hon. George Leake).

It is interesting to note also that in the booklet prepared by the Clerk of the Legislative Council and the Clerk of Parliaments (Mr. J. B. Roberts) entitled *The Parliament of Western Australia*, Mr. Roberts made some mention of the fact that as far back as 1897 a commission was appointed to report upon a site and suitable plans for a new Parliament House. In this booklet prepared by Mr. Roberts—and, of course, in the original document itself—there appears these words—

The site abutting on Harvest Terrace, at the back of the Pensioners' Barracks, is too far removed from the central position of Perth, being 1,400 yards from the General Post Office, and would not fulfil any of the conditions which the Commission deems to be necessary. Beyond being in an elevated position, and having an extensive view, it possesses no recommendations as a site for a new Houses of Parliament.

There was also a minority report, and the two dissenting members were Messrs. J. W. Hackett and George Leake. I have mentioned them by name, and I have not

mentioned any of the titles they subsequently achieved. They pressed for the site of the new Parliament House to be in Harvest Terrace, where it is today. All I can say in respect of those two gentlemen is that in my opinion they showed very great wisdom.

In 1901 a joint parliamentary committee was appointed to carry out the recommendations of the parliamentary commission to which I have just referred; and the report of the committee recommended that the suggestions made by the commission appointed in 1897 should, in fact, be given effect to. The foundation stone was laid, as we all know, where it has been for the last 60 years—in the north-east corner of this particular building.

I think members will agree that similar records should be deposited when the foundation stone is incorporated in the new building—that is, in the new frontage. This motion will authorise the Joint House Committee to act in this direction.

I would like to place on record that Messrs. Alex Fairfull and Kevin Weaver, employees of the contractors, were the tradesmen who located the cannister and reported the find to their employer; and I think we should be grateful to them for that fact. In accepting a motion of this nature we will place on record in our *Hansard* reports knowledge of the fact that the cannister containing the documents which are now lying on the Table of the House was discovered when the foundation stone was moved; and also that we, as members of Parliament in the year 1962, received knowledge of the discovery and agreed that we should do something about perpetuating our knowledge of this occurrence.

The Premier has agreed that I should move this motion in the Legislative Council first, and later the Premier himself will move a similar motion in the Legislative Assembly.

The Hon. G. Bennetts: Will you have it replaced in the same position in which it was found—the north-east corner—and will the documents be in a proper container which will ensure their preservation?

The Hon. A. F. GRIFFITH: The container will be placed in a portion of the frontage of the building. The President, in agreeing to the motion being moved in this order, has recognised the historical links which have been established by this House which, as we all know, was the first legislative body of this State. The Government regards this matter as sufficiently important to have a record of this occurrence; and in order that it will not go unnoticed and unreported, I have moved this motion and I trust that the members of this House will agree to its being passed.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [4.55 p.m.]: I have pleasure in seconding the motion. It

is unfortunate that the original documents were not wrapped in lead, perhaps, or something else which would have preserved them in good condition; but it does show how transitory foundation stones can be.

If we assume that the foundation stone which will take the place of the original, and which will contain these documents, and perhaps supplementary documents, will never be opened, we are attaching a very sentimental as well as a very serious interest in a very important matter; because if we lack sentimental as well as serious interest in historical and traditional things, we lack most things. Any nation which has not the sort of background that we as a House of Parliament are so ready to support and preserve, as evidenced by this motion, is not worthy of very many other things. Many other nations would care to have that sort of tradition, that sort of sentiment, and that sort of heritage. So I support the motion.

I hope that nothing in the dim and distant future will disturb the documents in their new repository; that there will be no removal by friend or foe of the foundation stone which is to contain these and the documents with which they will be supplemented.

**THE HON. A. L. LOTON** (South) [4.58 p.m.]: I would like to place on record my thoughts on this matter. My grandfather was a member of this Chamber when the original foundation stone was laid; and when I look at the photograph—I think it is now upstairs—showing the laying of the foundation stone, I can pick him out. He is standing there in his frock coat, in his hat, and all the rest of it—yes, and whiskers as well. They were customary in those days. The name Loton was associated with the Legislative Council at that time, 64 years ago, and when I say that next year it will be 100 years since he arrived in Western Australia, I take some pride in being able to rise and support the motion.

Question put and passed.

## **CITY OF PERTH BY-LAW No. 65**

*Disallowance Motion: Ministerial Statement*

**THE HON. L. A. LOGAN** (Midland—Minister for Local Government) [5 p.m.]: I hope that with your indulgence, Sir, I can report to the House that in conformity with the promise I made last Thursday when debating Mr. Wise's motion to disallow the City of Perth zoning by-law No. 65, I have this day despatched a letter to the City of Perth and to the Town Planning Commissioner.

## **TRUSTEES BILL**

*Third Reading*

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Justice) [5.1 p.m.] I move—

That the Bill be now read a third time.

**THE HON. F. J. S. WISE** (North—Leader of the Opposition) [5.2 p.m.]: I wish to make some observations on an aspect that was raised more than once during the second reading debate on this and the associated measures; namely, the importance of the work of the subcommittee of the Law Reform Committee, and the need, in the Minister's view, as expressed, for some permanent body to have authority to review old Statutes and to bring them up to date, in a manner somewhat similar to the way the laws associated with trusteeships have been dealt with.

While I support those thoughts, I think there is something almost equally as important, if not quite as important, to which the attention of the Minister for Justice should be drawn—and as the Minister for Justice is the Minister leading this House, I think this is an appropriate time to raise it—in connection with the revision of Statutes.

There are two aspects to this matter which, in my view, are extremely important. Those of us who are active in the study of all legislation that comes before both Houses—and that includes all of us—at times have a responsibility in respect of research, and the seeking for references, which is rendered difficult because of the lack of consolidation of our laws.

In the first place, I would refer to the old laws which were inherited. Something should be done, I think, in regard to the British law which was operating in 1829 and which automatically became our law; and as was mentioned in the second reading debate, British laws often, though they have not been accepted by the State—some have been—apply here; and I doubt very much whether we have copies of many of those Acts in this Parliament.

I have in my hand a copy of a volume of Statutes which belongs to the Public Library. It was borrowed at the time we were making a study of the trustee laws. This is a copy of the Statutes of the United Kingdom of Great Britain and Ireland, printed in 1837, and containing some of the Statutes under which we operate in this State. Those Acts have never been reprinted; and I also have here another volume belonging to the Public Library—the revised Statutes from 1714 to 1800.

I suggest that if we had a permanent committee, or one or two selected expert officers attached to the Crown Law Department, an examination could be made of such laws with a view to replacing the necessary ones with our own Statutes. That would fill a very important need. In this first volume which I have mentioned is the Wills Act and some age-old Acts of England which are the law, by adoption in 1829, of this State.

The next point I wish to raise in regard to revision work refers to more recent Statutes and the necessity for a plan to bring them up to date as consolidated laws in printed form. I acknowledge that the

Government Printer does an excellent job in that regard; I acknowledge, too, that if it were not for the fact that the clerks of this House were alert in keeping an up-to-date set in an office here, we would at times be at a loss to know just what were the last amendments affecting certain laws that were again being amended by Bills introduced here. We cannot find the previous amendments by having recourse to the normal books on the shelves.

I could mention such a Statute as the Electoral Act. Why, recently in the Court of Disputed Returns we had the example of two opposing counsel quoting from the law—a reprint of the Statute—and making different quotes from the same section; but one had been amended.

In the case of the Licensing Act, we have little bits and pieces; and we have other important Acts in connection with which our lawyers, I suggest, must at times, when handling cases before the court, be harassed in regard to knowing just what is the latest reprint available.

I find on inquiry that some other States have available for scrutiny an alphabetical set of up-to-date Statutes. In the case of Victoria those Statutes are contained in eight volumes; in South Australia in nine volumes; and in New South Wales in 12 volumes. Instead of us having 90 to 100 volumes of Statutes, as we have, currently in use, our Statutes could perhaps be consolidated into eight or nine volumes. Why, the Commonwealth itself has condensed its Statutes into half a dozen consolidated volumes in alphabetical order!

I think this is a very important matter, and I know that if we look at the Public Service List we will find there is provision for an officer designated "law revision officer." I think, however, the position is not filled; and I humbly suggest to the Minister that this would not merely be an important and effective contribution to our work in Parliament when we are dealing with current Bills, but to that of outside people who work with our laws in courts and in offices in all sorts of ways. It would be a terrific advantage.

So I commend to the Minister these somewhat random thoughts on something which I have been thinking of for quite a long time as being of great importance to the work of Parliament: references which we could have and which could be kept up to date, even every decade—consolidated bound volumes of our Statutes in alphabetical order.

**THE HON. H. K. WATSON** (Metropolitan) [5.11 p.m.]: I support the two points of view pressed by Mr. Wise. So far as the old English Statutes which are still applicable in Western Australia are concerned. I feel there should be some ready means of access to them in this State. I think that in the debate on the Statute of Frauds Bill I mentioned the Wills Act of 1837 which Mr. Wise has referred to this evening. I also referred to other

legislation—the Usages Act, and so on. I do feel the time has arrived when, instead of merely accepting the position that the United Kingdom Act—whatever it may be—automatically applies here, we should substitute a positive enactment of this Parliament for the particular law, even if it is a complete repetition of it.

I believe that the volume from which Mr. Wise quoted the Wills Act, for example, is not available in Parliament House. I understand he obtained his copy from the Public Library. So I support the plea in respect of those Acts; that they positively be enacted and reprinted in this State.

I think Mr. Wise's further remarks regarding the complete and ready consolidation of our existing Statutes is also well worthy of the attention of the Government. I am not sure whether it is the Government, the Printing Committee, or some other authority which is primarily charged with the duty of consolidating our Acts, but I agree entirely with Mr. Wise that the members of this House and the general public and their legal advisers are entitled to be able to pick up a document which shows the law as it is today, and not have to browse through, say, six sets of volumes and then do quite a mental exercise in piecing the six together in their appropriate and relative sense.

I realise that as we pass as many as 100 amending Acts per annum, the task of consolidation would be a big one. Nevertheless, I do feel that parliamentary printing, be it Statutes or any other parliamentary documents, is the prime task of the Government Printer. Therefore, I consider that the consolidation of our Statutes should be given the highest priority. With those remarks, I support the Bill.

**THE HON. J. G. HISLOP** (Metropolitan) [5.15 p.m.]: This is not the first time we have heard of a suggestion to appoint a committee of some sort to allow us to review Statutes that are in force and amending Bills that are placed before us. If I recall aright, last year a question arose on whether a Bill before the House conformed with the Constitution. We felt then that it should be the right of a committee, with some parliamentary representation, to overhaul, before it was brought to Parliament, the legislation which the Bill before us sought to amend.

At the last meeting of the Commonwealth Parliamentary Association, which was held in Perth, the Victorian members stressed the need for the appointment of a law reform committee in this State which could review legislation referred to the Assembly from the Council, or from the Council to the Assembly, with a view to ascertaining whether the Bill conformed with the Constitution or involved other Statutes. It was pointed out that such a committee operates in Victoria. It is a joint committee consisting of members of Parliament from both Houses, and some

of the committee members are appointed from outside Parliament. From time to time the Legislator seeks the advice of that committee in much the same way as Mr. Wise suggested in this House. If such a committee were appointed in this State it could, of its own volition, inaugurate an inquiry into existing Statutes which would be of tremendous value to this Parliament.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Justice) [5.17 p.m.]: Briefly, in reply, I thank Mr. Wise, Mr. Watson, and Dr. Hislop for their remarks on this Bill. This matter came to a head, I think, as a result of comments made by Mr. Wise during his second reading speech when he referred to the desirability of making the report of the Law Reform Committee of the Law Society available to members in an authoritative form. I pointed out, when replying to the second reading debate, that there was no opportunity to do this because the Law Reform Committee was not a statutorily-appointed committee but a voluntary committee appointed by the Law Society. I then conveyed to the House that I had done a certain amount of work with a view to creating, by legislation, a properly-constituted law reform committee.

I also said, and I say it again, that I hope to make some progress in regard to appointing such a committee next year. I further said during my reply to the second reading debate, and I reiterate it, that if this is done—and I feel sure Parliament will accept it—there is going to be a great necessity for the committee to continue its work. There will be no purpose in one Government appointing a committee of this nature if its work is not to be carried on. Incidentally, I have found the Law Reform Committee of the Law Society to be most helpful to me in performing the task I have to undertake as Minister for Justice. I do not know whether it is a record—although there is no need to mention it in those terms—but you know, Sir, that I have introduced and originated in this House, emanating from my portfolios, more Bills than any other Minister in this position has introduced before.

A large number of these measures have been introduced as a result of advice tendered by the Law Reform Committee of the Law Society. In that connection the Bill that was introduced earlier in the session; namely, the Amendments Incorporations Act Amendment Bill gave me more authority to reprint certain Acts. It has been my policy to authorise the reprinting of Acts as frequently as possible. However, Mr. Watson hit the nail on the head when he said it is a big job, because that is indeed what it is.

As each year goes by, irrespective of which government is in office, Parliament is asked to consider, amend, pass, or discharge, something in the order of 100 Bills; and I think, over the last three or four

years, the number of Bills that have been presented to Parliament has not diminished but has continued to reach that high level each year. The result is that there is a tremendous amount of work to be done in the revision and consolidation of existing Statutes.

Of course, it is not our responsibility if a solicitor in the performance of his duty for a client misses one of the amendments, as was envisaged by Mr. Wise.

The Hon. F. J. S. Wise: I suspect it could affect even the Law Reform Committee of the Law Society in some of its submissions.

The Hon. A. F. GRIFFITH: I suppose it could, but I think, without labouring these points, it is a question of what one may consider to be reasonable, having in mind all the difficulties one encounters in pursuing this sort of activity.

However, may I leave this subject on the note that I am anxious to make some progress in regard to establishing such a committee, because I think it would undoubtedly be a great help to us not only in the work we do in Parliament, but also in the revision and consolidation of old laws. Suggestions could emanate, either at the request of the Government, or from the committee itself, to improve existing laws or for that matter, for the introducing of new legislation as it becomes necessary.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

### BILLS (7): THIRD READING

1. Administration Act Amendment Bill.
2. Married Women's Property Act Amendment Bill.
3. Testator's Family Maintenance Act Amendment Bill.
4. Charitable Trusts Bill.
5. Law Reform (Property, Perpetuities, and Succession) Bill.

Bills read a third time, on motions by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

6. Adoption of Children Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and transmitted to the Assembly.

7. Simultaneous Deaths Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

### LEGAL PRACTITIONERS ACT AMENDMENT BILL

*Order Discharged*

Order discharged from the notice paper, on motion by The Hon. A. F. Griffith (Minister for Justice).

*House adjourned at 5.28 p.m.*