

Legislative Council

Tuesday, 4 August 1981

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

BILLS (33): ASSENT

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

1. Liquefied Petroleum Gas Subsidy Amendment Bill.
2. Mining and Petroleum Research Bill.
3. Bulk Handling Amendment Bill.
4. Grain Marketing Amendment Bill.
5. Clean Air Amendment Bill.
6. Juries Amendment Bill.
7. City of Perth Endowment Lands Amendment Bill.
8. Transport Amendment Bill.
9. Superannuation and Family Benefits Amendment Bill.
10. Western Australian Greyhound Racing Association Bill.
11. Industrial Arbitration Amendment Bill.
12. Reserves Bill.
13. Acts Amendment (Electoral Provinces and Districts) Bill.
14. State Transport Co-ordination Bill.
15. Mining Amendment Bill.
16. Valuation of Land Amendment Bill.
17. General Insurance Brokers and Agents Bill.
18. Public Moneys Investment Amendment Bill.
19. Supply Bill.
20. City of Perth Parking Facilities Amendment Bill.
21. Marine and Harbours Bill.
22. Business Franchise (Tobacco) Amendment Bill.
23. Law Reporting Bill.
24. Local Government Amendment Bill (No. 2).
25. Rural and Industries Bank Amendment Bill.
26. Workers' Compensation Supplementation Fund Amendment Bill.
27. Local Government Amendment Bill.
28. Medical Amendment Bill.

29. Noise Abatement Amendment Bill.
30. Companies (Acquisition of Shares) (Application of Laws) Bill.
31. Securities Industry (Application of Laws) Bill.
32. Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill.
33. Settlement Agents Bill.

LEGISLATIVE REVIEW AND ADVISORY COMMITTEE

Local Government Superannuation Regulations: Tabling of Report

THE PRESIDENT (the Hon. Clive Giffiths): I wish to table paper No. 185. It is the Legislative Review and Advisory Committee subject report No. 1 of 1981, dealing with local government superannuation regulations, 1981.

The report was tabled (See paper No. 185).

QUESTIONS

Questions were taken at this stage.

BILLS OF SALE AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.12 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to increase fees payable under the Bills of Sale Act 1899-1971. The Bill is part of the ongoing review of the level of fees which are payable pursuant to the laws of the State.

The two principal fees, those payable for registration and renewal of bills of sale, were last fixed in 1971. Fees payable in relation to other miscellaneous matters have not increased since 1957.

It is proposed that fees for registration and renewal of bills of sale be increased from \$5 to \$7. Provision for the payment of a reduced fee on registration or renewal in a case where the sum secured by a bill of sale does not exceed \$100 has been omitted as documents for any such transactions now rarely appear.

Other miscellaneous fees payable under the Bills of Sale Act have been increased by approximately 150 per cent and a number of the more minor fees which it is no longer practicable to collect have been deleted.

At present the Bills of Sale Act includes references to a number of fees in the body of the

Act as well as in the thirteenth schedule. In addition to increasing the level of fees, the Bill transfers all fees to the thirteenth schedule. That schedule will now set out a comprehensive list of all fees payable under the Bills of Sale Act.

When considering the Bill, members should take into account the lapse of time since the last increases—10 years in relation to fees for registration and renewal of bills of sale, and 24 years in relation to other fees. Inflation over those periods has significantly reduced the real level of those fees.

It is estimated that, on present volume of business, additional revenue of \$160 000 will be produced on a yearly basis.

Although the State Government has participated in discussions with other States on the subject of uniform chattel securities legislation, which would have the effect of replacing parts of our Act, there have been some differences of view as to the best method of achieving a uniform situation.

South Australia embarked on a separate course a few years ago, introducing the principle of insurance in lieu of registration. Victoria introduced legislation involving the same principle, but it was allowed to lapse.

Since then, further action has been taken independently by New South Wales and Victoria. In the meantime further research appears to indicate that registration of securities may still be available if the register can be computerised.

The State Government is keeping a close watch on developments with a view to ensuring that whatever action is taken in this area will provide a practical, workable, and satisfactory solution.

In the meantime, it is considered desirable that fees under the existing legislation should be brought up to date and more in line with current expenses.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Berinson.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.15 p.m.]: I move—

That the House do now adjourn.

Bentley High School: Closure

THE HON. R. HETHERINGTON (East Metropolitan) [5.16 p.m.]: I will not delay the House for very long, but I want to make a brief reference to one of the issues which has arisen out of the closure of Bentley Senior High School.

I made a speech just before the House rose last, saying that I hoped the Minister would change his mind by now—but he has not. I will say various things about that again in the future. There is one particular issue I would like to raise and that is the issue of school uniforms which is upsetting the parents, who have not had any satisfactory reply from the department. The parents find themselves in the position where they have children with Bentley Senior High School uniforms which are not worn out. The children will now go to either Canning, Como, or Kent Street High Schools and the parents have approached the department to see whether, in fact, they might get some compensation to buy new uniforms.

As I understand the matter they have been given two or three different replies. One was that they had been given sufficient warning and that the uniforms would be worn out by then, anyway. That may be the case for the person who gave that reply to them and who is earning a middle-class salary, but he does not know that some people who are poor need to make uniforms last. Another reply was that the teachers at the new schools will not expect students to wear the appropriate school uniform. Of course they will not, but that is not the problem; and it makes me believe that people from the top echelons of the Education Department should be seconded back to school for a while to remember what children are like. The problem is whether they will be accepted by their peers, and the fact remains they will find themselves a minority of strangers in a strange uniform, which will make it more difficult for them to be assimilated into their new schools. I do hope the Minister and his departmental officers will review this problem. It may be a little one to them but it is not a small matter for the parents as far as finance is concerned. It is an important matter for the parents who did not want to see them leave the Bentley Senior High School, but who would like to see them assimilated into, and happy at, their new schools.

Therefore I hope the Government will take note of this plea and do something about it.

Question put and passed.

House adjourned at 5.19 p.m.

QUESTIONS ON NOTICE

SETTLEMENT AGENTS BILL

Effect on Legal Aid Commission

308. The Hon. PETER DOWDING, to the Minister representing the Chief Secretary:

- (1) Was concern expressed prior to the week commencing Monday, 11 May that the Settlement Agents Bill might cause a drop in the level of funds available for legal aid from the Legal Contribution Trust Fund?
- (2) If "Yes", who expressed this concern and when?
- (3) Has the Minister acted in any way to ensure that the level of funds available for legal aid does not fall as a result of the legislation coming into operation and, if so in what manner?
- (4) If not, why not?

The Hon. G. E. MASTERS replied:

- (1) and (2) The Chief Secretary advises that two letters were received from the Legal Aid Commission dated 21 July 1980 and 1 August 1980, asking that consideration be given to including a provision in the Settlement Agents Bill which would provide funds for legal aid from interest on the deposits trusts.
- (3) No.
- (4) It was considered that there was no evidence to suggest that the enactment of the Settlement Agents Bill would cause a reduction in the amount of funds available for legal aid from a legal contribution trust fund. However, the matter will remain under review and changes will be recommended if appropriate.

EDUCATION: PRIMARY SCHOOLS AND HIGH SCHOOLS

Students

309. The Hon. J. M. BERINSON, to the Minister representing the Minister for Education:

In each year since 1970, in respect of primary and secondary schools in Western Australia—

- (1) (a) What was the total expenditure on Government

schools, and what average expenditure per student did this represent; and

- (b) how much of the total was provided from—

(i) State allocations; and

(ii) specific Commonwealth grants?

- (2) (a) What was the total Government financial assistance to non-Government schools, and what average expenditure per student did this represent; and

- (b) how much of the total was provided from—

(i) State grants; and

(ii) Commonwealth grants?

- (3) What percentage of all students was enrolled in—

(a) Government schools; and

(b) non-Government schools?

- (4) What percentage of total State and Commonwealth expenditure was directed to—

(a) Government schools; and

(b) non-Government schools?

The Hon. D. J. WORDSWORTH replied:

- (1), (2), and (4) The substantial information requested by the member amounts to a full-scale research project. However, because of its importance this information will be obtained and conveyed to the member. The only reliable details readily available are from the recently completed schools resources study, which is a joint Schools Commission-State Education Department project. This report examines the funding of Government and non-Government schools from Government sources. Because of the complexities of such an undertaking the study concentrated on the 1978-79 financial year only. The following data for Western Australia is extracted from that report—

Government School Costs

	\$
Primary, special and secondary schools	289 790 000
Average cost per pupil	1 369

Non-Government Schools

	\$
Government funded costs	34 279 000
Average per pupil	745
Source per pupil:	
State	303
Commonwealth	442

(3) Enrolments 1978-79 (average of two years)

(a) Government schools	%
Primary	84.90
Secondary	76.56
(b) Non-Government Schools	
Primary	15.10
Secondary	23.44

MINING

Royalties

310. The Hon. J. M. BERINSON, to the Minister representing the Treasurer:

- (1) Has the Treasurer's notice been drawn to the proposal by the Northern Territory Government that mineral royalties in that State should be on the basis of 35 per cent of the net profits of companies involved?
- (2) What is the estimated difference in the amount of royalties payable if a similar system were adopted in this State?
- (3) Have the reported discussions between the Government and mineral companies in this State on the question of reviewing royalty payments considered the implementation of a percentage of profits scheme?

The Hon. I. G. MEDCALF replied:

- (1) Yes. It has also noted that it is only a proposal at this stage and that the Northern Territory Government is considering submissions from interested parties and what is finally adopted may well be different from that put forward.

- (2) No estimate has been made because the effort required to do so cannot be warranted. It has been noted that the Northern Territory Minister for Mines and Energy estimates that a 35 per cent royalty on profits would be approximately equivalent to a 10 per cent royalty on FOB revenue. Any estimate would have to take into account the decrease in mining activity in the State with the consequential detrimental effect on the State's economy which would undoubtedly follow introduction of royalties being contemplated by the Northern Territory Government.

- (3) A profit-based royalty system has been discussed with representatives of the mining industry. It is not favoured by all industry or the Government because its administration would require many more personnel than are presently employed in collecting royalties and there are considerable difficulties in arriving at "net profit" for each company involved. I am advised that the Northern Territory Government is still discussing the proposal with industry. There is another factor, and that is the less predictable amount of revenue available to the State if it were exposed to the hazards of world markets, costs of mining operations, etc., before its share of the income was determined.

COURT: SUPREME

Delays

311. The Hon. J. M. BERINSON, to the Attorney General:

- (1) After the most recent call over of civil actions in the Supreme Court, how many matters listed for trial had not been allocated a hearing date?
- (2) What were the comparable figures for the same date in 1979 and 1980?
- (3) When is it estimated that the most recent listings will be allocated a hearing date?

The Hon. I. G. MEDCALF replied:

- (1) 102 cases.
- (2) 1979—28 cases.
1980—51 cases.
- (3) It is anticipated that the most recent matters entered for trial should be heard by next March.

COURTS: SUPREME AND DISTRICT

Delays

312. The Hon. J. M. BERINSON, to the Attorney General:

- (1) How many persons are now held in custody awaiting trial in the District Court or the Supreme Court?
- (2) Of these persons, how many have been in custody for—
 - (a) less than one month;
 - (b) one to two months;
 - (c) two to three months;
 - (d) three to four months;
 - (e) four to five months;
 - (f) five to six months; and
 - (g) over six months?

The Hon. I. G. MEDCALF replied:

(1) 30.

Of that number—

10 are charged with murder or wilful murder;
 5 are charged with Commonwealth offences;
 1 is charged with attempted murder;
 7 with robbery or similar offences; and
 1 is in Heathcote Hospital.

Of the 30 in custody, 10 have been granted bail but have not complied with the conditions.

- (2) (a) Less than one month—1.
- (b) One to two months—9.
- (c) Two to three months—4.
- (d) Three to four months—2.
- (e) Four to five months—2.
- (f) Five to six months—6.
- (g) Over 6 months—6.

Of those in (e), (f), and (g) (a total of 14)—

10 are charged with murder or wilful murder;
 2 with Commonwealth offences;
 1 attempted armed robbery; and
 1 for breaking entering and stealing and unauthorised use of vehicles.

Of this 14, 12 are listed for trial this month. Of the other two, one has numerous related offences and made no application for bail, and one has been granted bail, but has not met the conditions.

ELECTORAL: DISTRICTS AND PROVINCES

Enrolments and Redistribution

313. The Hon. J. M. BERINSON, to the Minister representing the Chief Secretary:

- (1) As at the date from which enrolments are to be taken for purposes of the current redistribution process, what was the enrolment in each existing Legislative Assembly and Legislative Council electorate?
- (2) For purposes of the redistribution, what is the quota for metropolitan and non-metropolitan electorates in both Houses?

The Hon G. E. MASTERS replied:

- (1) The Chief Secretary advises that the figures supplied have been adjusted to reflect the changes in the boundaries of the metropolitan area and in the Pilbara made by the Acts Amendment (Electoral Provinces and Districts) Act 1981. Rockingham is shown as being within the Lower West Province for convenience as its future allocation has not been determined and is to be determined by the Electoral Commissioners.

Electoral Province	Metropolitan Area Electoral Districts	Number of Electors
East Metropolitan	Asco	14 995
	Canning	21 290
	Victoria Park	13 948
	Welshpool	15 571
	Total	65 804
Metropolitan	Cottesloe	14 616
	Floreat	15 825
	Nedlands	13 743
	Perth	12 515
	Subiaco	14 211
	Total	70 910
North Metropolitan	Balcatta	18 358
	Karrinyup	18 224
	Mt. Hawthorn	15 715
	Scarborough	14 322
	Whitford	35 900
	Total	102 519
North-East Metropolitan	Dianella	18 851
	Muylands	15 940
	Morley	17 888
	Mt. Lawley	15 628
	Swan	17 017
	Total	85 324
South Metropolitan	Cockburn	17 014
	East Melville	16 380
	Fremantle	16 235
	Melville	16 305
	Total	65 934

South-East Metropolitan	Clontarf Gosnells Murdoch South Perth	16 887 26 665 25 231 13 898
Total		82 681

Agricultural, Mining & Pastoral Area

Central	Avon	7 850
	Mt. Marshall	7 722
	Narrogin	7 748
Total		23 320
Lower Central	Collie	9 016
	Katanning	7 798
	Warren	9 183
Total		25 997
Lower West	Dale	5 719
	Murray	11 474
	Rockingham	13 553
Total		30 746
South	Albany	8 388
	Roe	9 192
	Stirling	9 608
Total		27 188
South-East	Kalgoorlie	7 315
	Merredin	7 948
	Yilgarn-Dundas	6 952
Total		22 215
South-West	Bunbury	9 380
	Vasse	10 385
	Wellington	9 382
Total		29 147
Upper West	Geraldton	8 803
	Greenough	9 356
	Moore	6 321
Total		24 480
West	Darling Range	9 002
	Kalamunda	9 849
	Mundaring	9 037
Total		27 888

North-west-Murchison-Eyre Area

Lower North	Gascoyne	3 762
	Murchison-Eyre	1 932
Total		5 694
North	Kimberley	11 596
	Pilbara	9 271
Total		20 867

(2) The quotas struck for the redistribution of Assembly districts are—

Metropolitan Area 16 224

Agricultural, Mining &
Pastoral Area 8 583

North-west-Murchison-Eyre
Area—Does not apply.

Quotas do not apply to provinces.

SHOPPING CENTRE

Utakarra, Geraldton

314. The Hon. TOM McNEIL, to the Minister representing the Minister for Town Planning:

With regard to the shopping complex development at Utakarra proposed by Northlake Investments, would the Minister confirm that if preliminary approval for the project is granted the usual three month objection period will not be reduced to 21 days?

The Hon. I. G. MEDCALF replied:

The proposed rezoning did not receive the Minister's preliminary approval.

SHOPPING CENTRES: DEVELOPMENT

Report

315. The Hon. TOM McNEIL, to the Minister representing the Minister for Town Planning:

(1) Would the Minister advise whether the report from the joint Government parties committee on shopping centre developments in Western Australia is now available for public scrutiny?

(2) Is the Minister prepared to—

(a) outline the findings of that committee; and

(b) advise what action the Government has taken on those findings?

(3) Has the Government taken any other steps to halt the proliferation of shopping centres in—

(a) country areas; and

(b) the metropolitan area?

The Hon. I. G. MEDCALF replied:

(1) No. The report is still being considered by the Government.

(2) (a) No, not until the report has been considered by the Government.

(b) This information will be made available if and when the Government decides to release the report.

(3) (a) There is no evidence to support the allegation that there is a proliferation of shopping centres in country areas. The Government is monitoring the situation.

(b) The member is referred to the answer to part (1) of his question 41 of 1 April, 1981.

RECREATION: FOOTBALL

Sunday Fixtures

316. The Hon. TOM McNEIL, to the Minister representing the Minister for Recreation:

- (1) Would the Minister advise if it is the intention of the West Australian Football League to play Sunday fixtures during the 1982 season?

- (2) If "Yes"—

(a) on which Sundays; and

(b) has that decision been taken after consultation with the country football leagues or the Sunday football associations?

The Hon. D. J. WORDSWORTH replied:

- (1) I am advised that the WAFL has set fixtures for the 1982 football season. These fixtures do not include provision for Sunday matches. However, the league reserves the right to alter fixtures at a later date.

- (2) (a) and (b) Discussions have taken place with country football associations, but not with Sunday leagues as they are not affiliated.

LOTTERIES COMMISSION

Tatts-Lotto

317. The Hon. N. E. BAXTER, to the Minister representing the Chief Secretary:

- (1) Is Lotto or Tatts-Lotto a lottery or game of chance?

- (2) Under what section of the Lotteries (Control) Act, 1954-1972, did the commission have the right to—

(a) introduce and conduct Lotto; and

(b) transfer the operation and drawing of Lotto to Tatts-Lotto?

- (3) Is Tatts-Lotto a foreign lottery according to the definition of foreign lottery in section (4) of the Act?

The Hon. G. E. MASTERS replied:

- (1) The Chief Secretary advises that both are lotteries as defined by law.

- (2) (a) Section 7.

- (b) There has been no transfer of operations to Tatts-Lotto. By agreement, Western Australia, South Australia, and Victoria joined together to form what is known as Australian Lotto Bloc. Each State retained its individual identity—for example South Australia retains Cross Lotto, Victoria retains Tatts-Lotto, and Western Australia retains Lotto—and they merely pool the prize money.

The agreement sets out that Victoria for the initial six month period telecasts the lotto draw. This matter is to be reconsidered at the expiration of that period.

- (3) Yes.

QUESTIONS WITHOUT NOTICE

MINISTER OF THE CROWN

Minister for Fisheries and Wildlife: Cricket Loyalties

115. The Hon. G. C. MacKINNON, to the Minister for Fisheries and Wildlife:

Could the Minister tell us whether on his recent trip to the United Kingdom he attended any of the test matches and, if so, whether his earlier familial associations led him to cheer for England or whether his more recent affiliations resulted in him supporting Australia?

The Hon. G. E. MASTERS replied:

No, I did not attend any of the test matches, although I followed the games with much interest. I did in fact back Australia at great cost.

RAILWAYS

Suburban Passenger Cars

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

- (1) Will the Minister advise whether the first of the new suburban passenger cars will be operating in service during September?

(2) If not will he—

(a) please advise the date on which it is expected the first set will be operating on the suburban system; and

(b) outline the reasons for the delayed schedule?

(3) Will he give approximate dates on which it is expected that each set will be brought into service?

The Hon. D. J. WORDSWORTH replied:

(1) The first of the new suburban passenger cars will not be operating in service during September.

(2) (a) In late October 1981;

(b) the delay has been caused through industrial disputation experienced by the contractor, A. Gonin and Co.

(3) Approximate dates are—

Second set in mid-November 1981

Third set in mid-December 1981

Fourth set in mid-January 1982

Fifth set in mid-February 1982.

COURTS: SUPREME AND DISTRICT

Delays

117. The Hon. J. M. BERINSON, to the Attorney General:

This question refers to the 14 accused persons who have been held in custody awaiting trial for more than four months and is as follows—

(1) Has the delay in these cases been due to the backlog in the courts or to other reasons?

(2) If the former is the case, what action has been taken or is contemplated to reduce these delays and, in particular, considering also the growing backlog in the civil list to which the Attorney General referred, what is the attitude of the Government to the appointment of additional judges on either a permanent or acting basis?

The Hon. I. G. MEDCALF replied:

(1) and (2) It is not possible to say that the delay of approximately six months in the particular cases referred to was in fact due to delays in the courts. Each case must be looked at on its own facts. In recent weeks statements have been made in the Press and, when examined in detail, the conclusions drawn frequently have proved to be quite incorrect.

My attention was drawn to one case which referred to an 11-month delay from the time the complaint was actually made by the victim in a rape trial. She complained she had been held up for approximately 11 months as a result of the delays in the particular case. I immediately initiated an inquiry into the matter, because I was concerned in that particular case for the victim who had not been able to give her evidence and who was held in a state of suspense throughout the 11 months.

Upon an examination of the case it was discovered that the actual delay which could be attributed partly to the lower courts and partly to the upper courts—in fact it could be attributed chiefly to the lower courts—was approximately three months.

The facts of the case were that the accused, who was a New Zealander, had been granted bail and he elected to be committed for trial. During the period of three or four months that the committal papers were being prepared, the man changed his mind and decided to have a paper committal—a handout brief—therefore, other arrangements had to be made.

The case was ready within a further month and when it came before the District Court in February this year the matter was set down for hearing two months later. The man concerned then requested the trial be deferred for an additional two months, because he wanted to return to New Zealand. The District Court agreed and the delay attributable to the courts in that case was very much less than the 11 months referred to in the Press. In fact the delay for which the courts could be held responsible was a period of three or four months and it was caused by shortages of magistrates in the lower courts. This situation has since been rectified.

Other cases have been referred to recently. Indeed, the honourable gentleman himself wrote to me about a case in which there had been a delay of approximately seven months from the time the person was charged and the day on which he was ultimately tried before the District Court. The main concern in that case was that the man had not been granted bail. Upon inquiry it was discovered bail had been offered to him, but it was in the terms of \$5 000 on his own recognisance plus a surety of the same amount. As a result of this man's shocking criminal record, nobody was prepared to come forward and act as surety, which is quite understandable.

A number of other cases have been referred to and I will not delay the House by repeating them now. However, I point out one must examine the facts of each case before arriving at the conclusion that the delays are caused by the courts.

Nevertheless I am aware problems have been experienced in relation to criminal trials. This is due partly to the lengthening of the time taken to conduct cases as a result of the granting of legal aid and also to the greater number of pleas of not guilty which are made these days as distinct from the number of guilty pleas which were anticipated in former years.

Of course, we have made a considerable advance by providing additional legal aid. However, in achieving this end, problems have arisen. Perhaps they may be described as teething problems associated with the granting of legal aid in this State and the more frequent use of the legal aid system.

We are aware of the situation and we are trying to do something about it. However, the position must be considered in toto and we must look at not only the Supreme Court, but also the District Court, and the Magistrates Courts; that is, the Courts of Petty Sessions. They cannot be separated, because, in many ways, they are interdependent. We have taken steps to rectify the situation which occurred in the lower courts. We have now filled two vacancies in the magistracy and an additional magistrate has been appointed on a temporary basis for six months.

I have been led to believe, and I confidently expect, that in two or three weeks the position in the lower courts will be much better and this will improve the situation in the other courts. There is evidence of pressure in the District Court, although I believe it is being coped with reasonably at the present time. There is no doubt pressure is being experienced in the Supreme Court, particularly in the criminal area and this has occurred for the reason I have mentioned and for other reasons. Steps are being taken to rectify the matter, but by giving priority to the criminal area the position of civil cases has suffered.

This is a matter of continuing concern to the Government and it is being monitored closely. I can assure the member I am aware of the situation. I cannot indicate that any decision has been made to adopt the solution he has suggested. Many factors must be taken into account, but we are aware of the position and we are trying to do something about it.
