

# Legislative Council

Tuesday, the 6th September, 1977

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

## QUESTIONS

Questions were taken at this stage.

## LEAVE OF ABSENCE

On motion by the Hon. G. E. Masters, leave of absence for 12 consecutive sittings of the House granted to the Hon. N. McNeill (Lower West) due to parliamentary business overseas.

## CRIMINAL CODE AMENDMENT BILL (No. 2)

### *Introduction and First Reading*

Bill introduced, on motion by the Hon. Grace Vaughan, and read a first time.

## BILLS (4): ASSENT

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

1. Supply Bill.
2. Death Duty Assessment Act Amendment Bill.
3. Death Duty Act Amendment Bill.
4. Road Traffic Act Amendment Bill.

## STANDING ORDER No. 76

### *Statement by President*

**THE PRESIDENT** (the Hon. Clive Griffiths): Before proceeding to the Orders of the Day, I would like to refer to Standing Order No. 76 and its application with regard to explanations by members.

Although in practice we do permit a member to interrupt another on a point of order, the proper time for a member to explain himself in regard to some material part of his speech which had been misquoted or misunderstood is at the conclusion of the speech which calls for it. It is not within the scope of this Standing Order for a member to refer to speeches made by many members.

In making an explanation no new matter can be introduced, and this opportunity cannot be used to strengthen by new arguments, or even by reiterating previous statements, a member's opinion expressed during his speech.

The privilege of explanation must be exercised with caution. The Standing Orders are quite clear that the right of reply is held only by a member moving a substantive motion or a reading of a

Bill, and I cannot permit Standing Order No. 76 to be used as a medium for reply to opinions or views expressed during debate.

## RAILWAYS CLASSIFICATION BOARD ACT AMENDMENT BILL

### *Second Reading*

Debate resumed from the 4th August.

**THE HON. F. E. MCKENZIE** (East Metropolitan) [4.47 p.m.]: The Opposition supports the Bill, but I would like to advise members of the purpose of the Railways Classification Board which is, in effect, to set the wages, conditions, and classification of railway officers working for Westrail. The board therefore affects only one union—the Railway Officers Union—and one employer—Westrail.

It has some advantages over and above those applicable to unions which have recourse to the Industrial Commission in that the board comprises a stipendiary magistrate, an employees' representative, and an employers' representative. These two representatives can be of assistance to the stipendiary magistrate who is the independent authority on the board.

The situation is different in respect of the Industrial Commission with which I have had some experience. As an advocate for a union I have submitted a case to the Industrial Commission and the employer concerned has done likewise through his advocate, but the decision handed down on occasions has not been favourable to either party. I believe this is because the Industrial Commission comprises only one person who does not have the assistance of a representative of the employers and a representative of the employees.

Sometimes, perhaps because of the way in which the case is presented, he finds it difficult to arrive at a decision acceptable to either party. I do not say it happens often, but it does happen and where we have both employers and employees represented, there is less chance of unsatisfactory decisions being handed down.

I should like to make a few comments in respect of the amendments proposed to the Act. As the Minister said, the Railways Classification Board Act has not been amended for some time, and this legislation is necessary to bring the Act into line with amendments which have been made to the Industrial Arbitration Act and, at the same time, provide for other changes to the Railways Classification Board Act to make it more workable in the present industrial climate.

I do not wish to comment on the first four

amendments. The fifth amendment proposes to grant liberty to either party to apply for amendment of an award. Of course, that relates to the term of an award. At one time, under the Industrial Arbitration Act terms of awards generally extended for a period of 3 years. However, in these times of repeated change, quite often we will find awards delivered by the commission with terms of only one month. Therefore, I think it is very necessary to provide for the same type of term within the Act. This also applies to amendments No. (6) and No. (7).

Amendment No. (8) seeks to permit the board to make retrospective application of its awards and decisions. In recent years, this principle has been applied to the Industrial Arbitration Act and, although a formal provision has not been present in the Railways Classification Board Act, there have been some retrospective applications by agreement, without recourse to the board. However, I believe it is necessary for the board to have formal power to make retrospective decisions.

Amendment No. (9) will provide for the department to have the right to reclassify any vacant position, with the union having the right to approach the board if it does not agree with the classification so determined. This is also a reasonable amendment. Instead of putting an employee into a job, and then downgrading the position, the amendment will provide for an appeal to the Railways Classification Board. In other words, the position shall not be downgraded prior to the board making a decision on the department's decision to reclassify the position.

Amendment No. (10) provides for the appointment of a deputy chairman which, of course, is a desirable move. Such a provision obtains in the Government Employees (Promotions Appeal Board) Act and it also applies internally within Westrail in so far as the Railways Appeal Board is concerned, where provision exists for a deputy chairman to sit in when the chairman is not available.

Amendment No. (11) provides for the deletion of the present provision for assessors. In the past, assessors have been very rarely, if ever used and there is no point in cluttering up the Act with unnecessary provisions.

Amendment No. (12) provides for decisions of the board to be published in the Western Australian *Industrial Gazette* instead of in the *Government Gazette*. This is another very sound move; I believe the *Industrial Gazette* is the proper place to publish details of awards and variations of awards.

Amendment No. (13) provides for a report to be made to the Minister when the board finds the department is not complying with an award, instead of the report being made to the Governor as at present. I believe it is more appropriate for the Minister to make a decision on matters of this nature, and once again the Opposition agrees with this amendment.

Finally, amendment No. (14) seeks to give jurisdiction for the board to arbitrate on the provision of protective clothing. The WA Industrial Commission has such a right in respect of wages employees, and there is no reason that this provision should not be applied in respect of the Railway Officers Union; I believe this amendment is definitely needed.

Mr President, the Opposition supports the amendments proposed to the Railways Classification Board Act.

**THE HON. D. J. WORDSWORTH** (South—Minister for Transport) [4.56 p.m.]: I thank the Opposition members for their support and the Hon. F. E. McKenzie for his contribution. I think it is very satisfying indeed to see these sorts of relationships, particularly when one knows that the honourable member had such a close tie with the trade unions and the industry as a whole. When one sees people getting together like this and agreeing to changes, it augurs very well for the future.

We have had very little industrial trouble in our railways; in fact, one could almost say that this legislation was not necessary, because it would be hard to make the relationship much better than it is. Still, it is designed not only with industrial relations in mind but also to update the Act. I thank members for their support.

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.

## **WILDLIFE CONSERVATION ACT AMENDMENT BILL**

### *Second Reading*

Debate resumed from the 25th August.

**THE HON. Lyla ELLIOTT** (North-East Metropolitan) [5.02 p.m.]: Mr President, the members on this side of the House support the main principle of this Bill, and that is to clarify the definition of fauna to ensure that the State has power to control all species of wildlife in

Western Australia whether it be indigenous or introduced from another State. We think this is a very reasonable and desirable proposition. It could be said the definition in the existing Act already provides this; however, it is very wordy and I believe it is always desirable to have everything spelt out very clearly in an understandable form.

The Minister mentioned this amendment was the result of recommendations received from the House of Representatives Standing Committee on Environment and Conservation. One of the recommendations contained in the committee's second report "Trafficking in Fauna in Australia" was as follows—

That the Council of Nature Conservation Ministers consider uniformity and adequacy of legislation between States and Territories.

However, the Minister has not set out the position in the other States, or indicated whether any action has been taken there along the lines recommended by the Standing Committee.

There are several other matters to which I would like the Minister to provide answers. There is a new definition in the Bill under the heading of "class" and it reads—

Class in relation to animals means any group or grouping of animals.

As there is also a new definition of "animal" which is all-embracing, and in fact it embraces everything except human beings and plants, I wonder why it is necessary to have a further definition under "class". Surely if one refers to an animal or animals and there is such a wide definition, why should it be necessary to have a further definition for a class or group of animals?

Also in clause 3 on page 3 of the Bill there is a paragraph which reads—

but does not include any prescribed animal or prescribed class of animal;

I would like the Minister to explain what is meant by a "prescribed animal", and how such an animal becomes "prescribed" and for what purpose. Could the Minister give some examples of a "prescribed animal"?

The Hon. G. C. MacKinnon: Where is this reference?

The Hon. LYLA ELLIOTT: On page 3 of the Bill following subparagraph (iii) (f).

The Hon. G. C. MacKinnon: Yes, I have it.

The Hon. LYLA ELLIOTT: I also note in paragraph (b) the Bill seeks to repeal subsection (2) of the Act and to replace it with a new subsection which reads—

The Minister may by notice declare any animal or any class of animal . . .

The Act states that the declaration would have to be made in the *Government Gazette*, but this has been left out of the new subsection in the Bill. On page 4 proposed new subsection (3a) covers this and provides that every notice under proposed new subsection (2) or proposed new subsection (3) shall be published in the *Government Gazette*, but proposed new subsection (3) includes the words "*Government Gazette*". I am wondering why these words are left out of proposed new subsection (2) but are inserted in proposed new subsection (3). This could simply be untidy drafting, but I would like to know whether there is a reason for it.

Clause 4 seeks to amend the title of one of the members of the authority in accordance with legislation passed last session, and it changes the name of Chief Vermin Control Officer to Chief Agriculture Protection Officer. I realise this terminology was placed in the Act in 1975, which was probably the appropriate time to raise the matter. However, it seems rather incongruous to have as a member of this authority, whose role is to protect wildlife or the indigenous fauna in this State, a person whose primary function is to destroy it. This is the role of the Chief Vermin Control Officer, as he was, or the Chief Agriculture Protection Officer as he is now known.

If one considers what would be deemed vermin one would have to include almost every animal that is indigenous to this State; for example, kangaroos, emus, rabbits, dingoes and foxes. They are all indigenous wildlife, and the person who holds the position of Chief Agriculture Protection Officer has the job of exterminating this fauna. I really cannot see the justification for his inclusion as a member of this authority. As I said, I probably should have raised this matter in 1975 when the Act was being amended; however, the matter has been raised again and I would like some justification from the Minister. They are the only questions I wish to raise, Mr President. We support the Bill.

**THE HON. G. C. MacKINNON** (South-West—Leader of the House) [5.09 p.m.]: Mr President, I thank the honourable member for her very constructive comments. The first matter she raised dealt with the definition of "fauna." As she rightly says, this definition has been included in order to give us control over a wider range of animals, not only those in this State. Although this control probably did exist previously, it was a little wordy and difficult.

The additional definitions of "animal", "class", and "keep" have been added. The first two are consequential on the new definition of "fauna" because in some circumstances one simply wants to declare a class of animals so far as a regulation is concerned, therefore one must be able to frame a regulation for that class. So we have to define "class" as being the definition that applies to this Bill, rather than the definition which might be applied scientifically or in general terms. It has special reference and meaning to the Bill itself.

The definition of "keep" seems to imply what this word, which is widely used in the Act and regulations, means in the context in which the animal is kept, so that we avoid endless arguments if the matter happens to go to litigation to define the exact meaning of the word. It is defined in the Bill. This is standard procedure and our Interpretation Act defines a number of terms which are widely used. Incidentally, several States have already adopted this principle of overriding cover.

In answer to another question asked by the honourable member about the other States, I am not sure which States are in the process of introducing amending legislation in accordance with the suggestions made by the House of Representatives Standing Committee. The *Government Gazette* has been mentioned in one clause in order to cover both of the proposed new subsections. I do not know why it has been drafted in this manner. It is just a preference of the Parliamentary Draftsman.

The draftsman could have inserted the "*Government Gazette*" into each of the two proposed new subsections, but he saw fit to write it into one to have reference to both. I would say it is a personal preference of the draftsman.

The honourable member does herself an injustice because had she looked back she would not have needed to ask me for a reminder as to why the change of name from Chief Vermin Control officer to Chief Agriculture Protection Officer dealing with the vermin occurred. This happened when we stopped using the word "vermin" in several contexts. It was related to the banning of the import of kangaroo and kangaroo products into America on the grounds that kangaroos are an endangered species. The red kangaroo which we are harvesting in the pastoral areas does not fall into that category. It cannot be classed among the endangered species.

It was requested that the word "vermin" be removed, because it gave a wrong connotation. Indeed, this was supported by Mr Murphy who at that time had control of these matters in the

Whitlam Government. There are a number of reasons for this, but I will not dwell on them now. Nevertheless, we finally reached agreement between the Agriculture Protection Board officers and the wildlife officers that the word "vermin" be dropped. The concept, of course, is that all resources, such as kangaroos, should be cropped in a rational manner as members will recall when I introduced the measure for the cropping of kangaroos. This was made possible by the use of a very simple little plastic tag. However, that is all history now.

It became necessary in line with this different attitude to change the name, because in fact the Agriculture Protection Board is not really concerned with the total eradication of species of indigenous fauna. Whilst the board may be concerned with the total eradication of feral or introduced exotic fauna, it is not in agreement with the total eradication of indigenous fauna. The total eradication of feral fauna such as wild cats, rabbits and foxes is one thing, but with most other animals the board is concerned with control rather than eradication. Indeed, the board forms a partnership with the wildlife officers to achieve this. Therefore, it is reasonable that this change in attitude should be reflected in a change of name, and that has been done.

This principle of cropping applies not only to kangaroos, but also to lobsters, whales and practically every species of animal. I believe that has covered all of the honourable member's queries.

The Hon. Lyla Elliott: No. There was a reference to "prescribed animals" on page 3.

The Hon. G. C. MacKINNON: Yes; it reads—

and includes in relation to any such animal—

- (d) any class or individual member thereof;
  - (e) the eggs, larvae or semen;
  - (f) the carcass, skin, plumage or fur thereof,
- but does not include any prescribed animal or prescribed class of animal;

This mainly has reference to kangaroo cropping where one is dealing with the carcass, skin, plumage or fur and not the total animal. It is a situation where the animal is killed, but it does not include any prescribed animal or prescribed class of animal. If one kills an animal which can be handled and taken away, then the penalties applicable under the law have no reference to the animals which are prescribed.

There would be whole classes of animals; and there would be birds which are very rare and are not permitted to be taken by anyone. There are other species which are commonplace, and can be

shot as pests. They have to be prescribed, and indeed they are.

If one turns to the regulations one will find various groups mentioned. I hope that explanation is satisfactory to Miss Elliott, and I thank her again for her contribution to the debate.

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.

*Third Reading*

Bill read a third time, on motion by the Hon. G. C. MacKinnon (Leader of the House), and transmitted to the Assembly.

# ADMINISTRATION ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 4th August.

**THE HON. R. F. CLAUGHTON** (North Metropolitan) [5.18 p.m.]: The members on this side of the House support the legislation which seeks to increase the amount mentioned in section 55 of the Act from \$5 000 to \$10 000, in cases where people may apply direct to the Master of the Supreme Court, whatever the processes may be. I do not pretend to have a great deal of knowledge about probate law. I simply advise the Minister at this stage that the sum of \$10 000 is an arbitrary figure, and we on this side feel the amount could be raised to \$12 000. In that respect this matter will be argued further when the Bill is dealt with in the Legislative Assembly.

I repeat that we on this side support the Bill.

**THE HON. I. G. MEDCALF** (Metropolitan—Attorney-General) [5.19 p.m.]: I am glad the honourable member and the Opposition are supporting the Bill. I might remind him that the amount of \$5 000 was itself an arbitrary figure, so that the sum of \$10 000 is no more arbitrary than is the sum of \$12 000. This is a matter of closing one's eyes and plucking out a figure. It is considered reasonable to double the figure which has been in the Act since 1963.

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.

# CRIMINAL CODE AMENDMENT BILL

*Second Reading*

Debate resumed from the 4th August.

**THE HON. GRACE VAUGHAN** (South-East Metropolitan) [5.22 p.m.]: We on this side of the House support the Bill; in fact, any Bill which breaks down the barriers that exist between the States is acceptable to us. The Bill before us does this by including the publishing in good faith of proceedings that occur in any Parliament of Australia. Furthermore, the technical detail is remedied by changing the reference in respect of the court of session to the District Court.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*House adjourned at 5.25 p.m.*

# QUESTIONS ON NOTICE

## HEALTH

### *Handicapped People*

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

Can the Minister advise what legislation in this State specifically refers to the needs or rights of handicapped people, with particular reference to—

- (a) access to buildings and public areas;
- (b) education;
- (c) accommodation;
- (d) health;
- (e) employment; and
- (f) rehabilitation?

The Hon. **D. J. WORDSWORTH** replied:

(a) to (f) The information required by the honourable member is—

Commonwealth—  
Handicapped Persons  
Assistance Act  
Social Services Act.  
State—  
Community  
Welfare Act  
Criminal Code  
Education Act  
Health Act  
Local Government Act  
Mental Health Act

Public Trustee Act  
Road Traffic Act  
State Housing Act  
Town Planning Act  
Workers' Compensation Act

## GOVERNMENT BOARDS AND COMMITTEES

### *Membership*

124. The Hon. R. H. C. STUBBS, to the Leader of the House representing the Premier:

With reference to the membership of women on Government boards and committees—

- (a) what are the boards or committees on which women serve;
- (b) when were they appointed; and
- (c) when do their terms expire?

The Hon. G. C. MacKINNON replied:

- (a) to (c) The information requested in respect of membership of women on Government boards and committees is available in relation to current membership of boards and committees for which fees are payable. This is being extracted from the various records and will be sent to the honourable member as soon as it has been collated.

Similar information is not readily obtainable in relation to membership of women on the innumerable Government boards and committees for which no fees are payable. The cost which would be involved in providing this could not be justified.

## DRUG

### *Cannabis*

125. The Hon. R. F. CLAUGHTON, to the Attorney-General:

- (1) Has the Government given consideration to the introduction of legislation to allow the growing of cannabis for personal use?
- (2) (a) If "Yes"—what decision, if any, has been made by the Government;
- (b) if "No"—will the Minister undertake to have this proposal examined?

The Hon. I. G. MEDCALF replied:

- (1) No.
- (2) No.

## INDUSTRIAL DEVELOPMENT

### *Snowy Mountains Scheme*

126. The Hon. R. H. C. STUBBS, to the Attorney-General representing the Minister for Industrial Development:

- (1) (a) When did the work on the Snowy Mountains scheme commence;
- (b) when was it completed; and
- (c) what was the total cost?
- (2) (a) Is the Snowy Mountains Authority still in existence; and
- (b) if so, in what capacity?

The Hon. I. G. MEDCALF replied:

- (1) (a) 1949.
- (b) 1975.
- (c) Approximately \$800 million.
- (2) (a) Yes.
- (b) The main operating functions of the Snowy Mountains scheme have been taken over by the Snowy Mountains Council comprising Commonwealth and States' representation. The Snowy Mountains Authority continues in existence as a corporate entity to act as owner of the scheme's assets but has very limited functional responsibilities.

## CITY OF STIRLING

### *Historic Buildings*

127. The Hon. R. F. CLAUGHTON, to the Minister for Transport representing the Minister for Cultural Affairs:

As the City of Stirling failed to make a submission to the Interim Heritage Council for the preservation of historic buildings within its district, will the Minister take action to provide funds for the preservation of—

- (a) the Peninsula Hotel; and
- (b) a suitable site and cottage on the former group settlement scheme allotments on Herdsman's Lake?

The Hon. D. J. WORDSWORTH replied:

- (a) The future of the Peninsula Hotel is the subject of discussions currently being held between the Swan Brewery, the City of Stirling, and the Peninsula Association, and the Government is being kept informed of these discussions.
- (b) It is not intended to provide funds for this purpose at this stage.