Legislative Council

Tuesday, the 18th October, 1977

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

INDIAN STATE ASSEMBLY DEPUTY SECRETARY

Presence in Legislative Council: Statement by President

THE PRESIDENT (the Hon. Clive Griffiths): I wish to advise members that Mr E. S. Reddy, Deputy Secretary in the Andhra Pradesh State Assembly, India, is visiting Australia under the Colombo Plan to study legislative procedures.

Mr Reddy will be attached to the Legislative Council this week, and to the Legislative Assembly next week.

In order that he may observe our proceedings I have admitted Mr Reddy to the floor of the House pursuant to Standing Order No. 408.

QUESTIONS

Questions were taken at this stage.

BILLS (4): THIRD READING

1. Pharmacy Act Amendment Bill.

   Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Transport), and transmitted to the Assembly.

2. Mine Workers' Relief Act Amendment Bill.

   Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney-General), and returned to the Assembly with an amendment.

3. Clothes and Fabrics (Labelling) Act Amendment Bill.

   Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Transport), and returned to the Assembly with an amendment.

4. Legal Practitioners Act Amendment Bill.

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

BILLS (2): REPORT

1. Metropolitan Water Supply, Sewerage, and Drainage Board (Validation) Bill.
2. Veterinary Surgeons Act Amendment Bill.

Reports of Committees adopted.

CONSTITUTION ACTS AMENDMENT BILL

Second Reading

Debate resumed from the 11th October.

THE HON. R. F. CLAUGHTON (North Metropolitan) [4.51 p.m.]: I intend to approach this Bill in a manner different from that in which it was approached in the other Chamber—or at least I believe my approach will be different, because I have not actually read the debates that occurred in the other place. What we are considering now is a section of our Constitution which deals with one of the fundamental principles upon which our parliamentary system operates. Therefore, I think it is important that the members of this Chamber adopt a nonpartisan approach to the consideration of the Bill.

The Hon. G. C. MacKinnon: I am delighted to hear you are going to support the Bill.

The Hon. R. F. CLAUGHTON: The Leader of the House will learn about that in due course. I believe we should consider this matter objectively, and for that reason I intend to quote from some documents for the purpose of raising questions about the manner in which the Government is attempting to achieve its purpose.

I think it would be accepted that no State can operate with two heads. We cannot have two bosses in any sort of organisation. For that reason, within our style of Parliament, the matter of the control of the business of the State has been left very firmly in the hands of the lower House, or what may be termed the people's House. However, I do not want to become involved in any debate on semantics as far as that is concerned.

A further point I want to make is that if we are to change this particular aspect of our Constitution, it is important that we maintain the privileges of the Assembly in respect of financial or money Bills. I believe there is some doubt in respect of that matter in the amendments sought by the Government to section 46 of the Constitution Acts Amendment Act.

I will not comment on the procession of Bills we have had from this Government which validate actions of the past. We had a very intense debate on that matter last week, with many people present in the gallery; yet the Government is doing it again in this measure because it affects not only actions which may have been taken in the past, but also those which may be taken in the future. If we agree to that we really would be encouraging ineptitude or sloppiness in drafting,

because it would be known that if any mistakes are made they would automatically be validated by this Bill, if it is passed. We could in fact be making excuses for an inept Government—not necessarily the present Government, but some future Government.

I do not wish to accuse the Government of intending to force through measures which are unacceptable and which but for this amendment may be illegal, but it can be seen that that may be done when we examine the provisions of this measure. It can be seen that proposed new subsection (9) of section 46 will negate all preceding mistakes.

I am not convinced of the need to do what is proposed, and the Government's explanation was not given in depth. It simply stated that questions had been raised regarding the validity of legislation, without going into detail; and I do not think the manner in which the Government is seeking to achieve its purpose has been exposed to sufficient intellectual rigour.

It appears to me the Government has simply looked at the matter and said, "We have a problem; this is what we have before us; let us see if we can change it", without looking further afield to see what may be done elsewhere, or whether there may be better ways to achieve the required ends.

The Hon. R. Hetherington: The Government appears to be taking the easy way out.

The Hon. R. F. CLAUGHTON: That would appear to be so. I would like to quote first from a paper prepared by the Clerk of the Parliaments (Mr J. B. Roberts) following a disagreement which arose between the two Houses of Parliament. His report is headed "Money Bills—Proceedings between the Legislative Council and the Legislative Assembly", and it is dated the 17th January, 1967. In paragraph 42 of the report the following is stated—

> The question of "charges on the Crown" and "burden on the people" in relation to the introduction and amendment of legislation, needs to be more clearly defined. It is considered that this could be done by drawing up a set of conditions against which Bills or amendments could be compared and tested.

At that time Mr Roberts believed, I think along with members of the Government of the day, that there were problems in respect of determining what were money Bills and what were Bills which could be amended in this Chamber. This matter involved section 46 of the Constitution Acts Amendment Act. Mr Roberts made certain recommendations in paragraph 43, which I quote as follows—

> Disagreements will undoubtedly continue to occur between the two Houses until section 46 is further clarified, and with this object in view, it is recommended—
>
> (a) That the Standing Orders Committee of the Legislative Council meet during the present recess for preliminary discussions.

That could still be done now and I might add that the Standing Orders Committees have not been asked to examine any proposals from the Government. To continue—

> (b) That, if considered desirable after study, the Standing Orders Committee of the Legislative Council request discussions with the Standing Orders Committee of the Legislative Assembly.
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> (c) That, if acceptable to both Committees, the two Houses be requested to authorise the Joint Standing Orders Committee to frame amending legislation which may be considered desirable.
>
> (d) That, if the Standing Orders Committee so desires, a legal adviser be retained to assist the Committee in its deliberations.

What was proposed at that time was a very different process from that with which we are now dealing. In this case we have the initiative coming from the Government advising the Parliament what the changes shall be. It is not a matter of the members of Parliament themselves examining the Standing Orders and the legislation jointly in a nonpartisan way so that there may be common agreement on proposals that might be submitted to Parliament for consideration. I believe that would have been a far more appropriate way for the Government to act than the way it has acted.

The Hon. I. G. Medcalf: What are you actually complaining about?

The Hon. R. F. CLAUGHTON: Do not be impatient.

The Hon. I. G. Medcalf: I cannot help wondering what your complaint is.

The Hon. R. F. CLAUGHTON: I am sorry if the Minister did not follow what I was saying.

The Hon. I. G. Medcalf: What are you complaining about in this context?

The Hon. R. F. CLAUGHTON: The Minister will know if he will let me carry on.

The Hon. I. G. Medcalf: I was only hoping to accelerate the matter.

The Hon. R. F. CLAUGHTON: Mr Roberts suggested there should be a joint meeting of the Standing Orders Committees to consider the problems arising from section 46.

The Hon. I. G. Medcalf: Didn't the Minister say that Standing Orders would have to be amended?

The Hon. R. F. CLAUGHTON: Yes, but not as a result of any meeting of our Standing Orders Committee.

The Hon. I. G. Medcalf: It would have to be.

The Hon. R. F. CLAUGHTON: The Minister will get his chance to speak later on.

The Hon. G. C. MacKinnon: No, he will not.

The Hon. R. F. CLAUGHTON: In that case the appropriate Minister will be able to comment because I intend to raise this very question. To complete the answer to the question raised by the Attorney-General, the suggestion made in 1967 was for a joint meeting of the Standing Orders Committees to have an examination of the problem on a nonparty basis.

In this case the Government has brought a measure to Parliament without consulting this House at all.

The Hon. I. G. Medcalf: The Bill has not been passed yet.

The Hon. R. F. CLAUGHTON: The Attorney-General seems to be a little simple; every other member in this Chamber understands the point I am making. The Attorney-General seems to be having trouble understanding the proceedings of this Parliament although I thought he would be aware of them by now. I would not have believed he could make such a nonsensical statement. I regret that the Attorney-General is treating this matter so facetiously.

The Hon. I. G. Medcalf: I am trying to get information.

The Hon. R. F. CLAUGHTON: The Attorney-General is treating an important matter facetiously. The Bill deals with one of the fundamental principles on which our Parliament operates.

The Hon. I. G. Medcalf: Of course it is important.

The Hon. R. F. CLAUGHTON: I hope the Attorney-General ceases his interjections and listens to the remarks I have to make. I am prepared to stay on my feet for some considerable time.

The Hon. I. G. Medcalf: Is that a threat?

The Hon. R. F. CLAUGHTON: That time could be shortened if the Attorney-General would remain quite.

The Hon. I. G. Medcalf: In that case I will remain quite.

The Hon. R. F. CLAUGHTON: I shall mention now the proposed changes to section 46. It is intended to remove a comma after the word "revenue" in line 3 and there is nothing untoward about that. It was probably an error in the first place, and the deletion does not change the sense of what is intended. Subsection (2) will then read—

> The Legislative Council may not amend Loans Bills, or Bills imposing taxation, or Bills appropriating revenue or moneys for the ordinary annual services of the Government.

From subsection (7) it is intended to delete, "and any provision therein dealing with any other matter shall be of no effect". The subsection will then read—

> (7) Bills imposing taxation shall deal only with the imposition of taxation.

I think members would need to look carefully at the effect of that. It may be thought that the words to be deleted are redundant if it is accepted that Bills dealing with taxation shall deal only with taxation; obviously anything else that was included would be illegal or not within the power of the Parliament to include in the legislation.

By removing those words we can then say we believe such Bills may have some other matters included. I believe we need to take time before we agree to this move.

The third change to be made is to subsection (9) which presently reads as follows—

> No infringement or non-observance of any provision of this section shall be held to affect the validity of any Act assented to by the Governor at any time prior to the thirty-first day of January, 1951.

Quite clearly that subsection validated any errors that had occurred in the period up to the 31st January, 1951. Proposed new subsection (9) will read as follows—

> Any failure to observe any provision of this section shall not be taken to affect the validity of any Act whether enacted before or after the coming into operation of the Constitution Acts Amendment Act, 1977.

That would seem to render inoperative all that preceded it. We might as well dispense with all the preceding subsections, because the proposed subsection will legalise anything that is done in the context of money legislation. These changes are quite serious and far-reaching.

I shall indicate some of the changes that may occur. If we accept that money Bills can deal only with a taxation matter, and not any other matter, it could be that a Government might put other provisions in a taxing measure and the Parliament would be required to pass it.

The paper prepared in 1967 by Mr Roberts dealt with the problem of how the powers of this House were restricted with respect to money Bills. In the way that our Parliament is run a change in this present situation would not be a desirable extension of power. It may mean that a Government can bring about some form of action which a section of the community strongly disagrees with and then, because it is a money Bill, the powers of the Parliament to prevent that happening again will be extremely limited.

I should have liked more time to consider more fully all the implications of this Bill. It does not cover an area that we as members of Parliament generally delve into. We accept that things flow on according to accepted practice and we do not worry too much to what extent they conform to our Standing Orders of Constitution Acts. I believe if we examine in some depth all the implications of what is proposed we may find very strong objections. I would like to quote some extracts from *May's Parliamentary Practice*, first of all to show members the way in which the principle regarding financial Bills is regarded in the wider field rather than in our parochial area.

The extracts I am about to quote are taken from the 19th edition of *May's Parliamentary Practice*. The first appears at page 483 as follows—

> BILLS PRECEDED BY CERTAIN PRELIMINARY PROCEEDINGS
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> **Bills founded upon Financial Resolutions.**—The procedure for the introduction of bills upon financial resolutions is now most commonly exemplified by Consolidated Fund Bills, which are founded upon Supply resolutions, and by Finance Bills and other taxing bills, which are brought in upon Ways and Means resolutions.

Some of these terms refer only to procedures in the House of Commons and are not related directly to the procedures of our Parliament. However, the principles remain the same. To continue with the quote—

> Before 1938 any bill the main object of which was the creation of a public charge whether by way of taxation or expenditure was required to be founded upon a resolution; but since the passage of S. O. No. 91 in that year a bill of which the main object is to create by way of expenditure may, if presented by a Minister of the Crown, be proceeded with in the same manner as a bill which involves a charge subsidiary to its main purpose; and this procedure is almost invariably employed.

In our Parliament a message is received in the Legislative Assembly to cover the same point. A different procedure is adopted in the House of Commons, and it is worthy of examination and adoption in our own Parliament—not necessarily in this House, because we do not introduce money Bills. To continue with the quote—

> As a result of a further change made in 1972, under S. O. No. 58A a bill the main object of which is the imposition or alteration of a charge, other than a bill of aids and supplies, may be brought from the Lords and taken up by a Minister of the Crown in the House of Commons.

If I have read the reports in the Press correctly, the intention of the Government is to increase the number of Bills that can be initiated in this Chamber. Part of the reason I am reading these extracts at length is my desire to set out the procedure adopted in the House of Commons which may be relevant in this Parliament. If we have a chance to examine those procedures we might adopt them.

At page 490 the following appears—

> **Financial Provisions in Bills.**—As explained on p.483, some bills must be brought in upon financial resolutions. Consequently, if on examination a bill is found to be of this kind and has not been so brought in, it is not allowed to proceed. If, on the other hand, a bill is of the kind which does not require to be brought in on financial resolutions (see p.483), any financial provisions which it may contain must be authorized by a resolution of the House before they can be considered by the committee on the bill. Any clause or part of a clause, which on examination of the draft bill directly imposes a charge, must be printed in italics.

There is another part of the procedure that is adopted—the imposition of a charge that occurs in a Bill is printed in italics, so that that part can be separated easily from the rest of the Bill. To continue—

> Where, however, expenditure provisions are dispersed through a bill, and are authorised by an "expenses" clause, normally only the latter is italicized.

The expenses clause is a separate statement in the Bill which authorises the expenditure of funds for the purposes of the Bill. To continue with the quote—

> Similarly, in the case of a bill brought from the House of Lords, any words which have been left out by that House to avoid questions of privilege are underlined and placed in square brackets in the print of the bill circulated to the Commons or where words have been inserted for the same reason, those words are marked by a black line in the margin.

This deals with a procedure that operates in the House of Lords, which has no right to impose charges or taxation. In order that the House of Lords may deal with legislation of this nature, it has to mark the relevant portions in the Bill in that way I mentioned, by inserting square brackets or black lines. Before the Bill proceeds to the House of Commons these parts are omitted.

The Hon. G. C. MacKinnon: We have almost identical Standing Orders.

The Hon. R. F. CLAUGHTON: In this House we certainly do not place clauses in brackets in the way mentioned in the extract I have just read.

The Hon. G. C. MacKinnon: We could forward suggested amendments in italics. We do not print them that way, but we have almost identical Standing Orders.

The Hon. R. F. CLAUGHTON: What we are dealing with are Bills imposing taxation or charges, which originate in the House of Lords. That is not the procedure adopted in the Western Australian Parliament. Where that is done in the House of Lords, the sections of the Bill which deal with charges are omitted before the Bill is transmitted to the House of Commons.

If the Government desires to introduce methods for dealing with this sort of legislation, that is the way in which it can be done.

The Hon. G. C. MacKinnon: Are you sure that Bills imposing taxation can originate in the House of Lords?

The Hon. R. F. CLAUGHTON: I shall carry on with quoting the extracts from May's *Parliamentary Practice*. At page 937 dealing with the provisions in private Bills and other types of Bills that are not relevant to this Parliament, the following appears—

> **Bills other than those affecting rate support grant.**—It has already been explained that any clauses and provisions, incidentally contained in a public bill, which create a charge on the consolidated fund or on the national loans fund or on the public revenues, or which impose a tax on the people, have to be sanctioned by a resolution of the House, the recommendation of the crown being signified.

That simply restates what has already been stated; it is the House of Commons which has control of the finances of the country. It goes on to say that the same procedure can be used in the case of a private member's Bill. Recently in the Legislative Assembly a private member's Bill was ruled out of order, because it appeared to impose a charge. There are ways, which operate in other Parliaments and not only in the Parliament of the United Kingdom, in which such Bills can be dealt with.

The decision as to whether or not such a Bill should be proceeded with is often taken after the second reading, so that the member has a chance to explain the legislation and its scope, and so that the Government may have a chance to see what it is all about and what is proposed in that private member's Bill. That is another aspect of our Standing Orders relating to the application of section 46 which can be examined. This could be done at a joint meeting of the Standing Orders Committees. It may also require some legislative changes.

At page 938 of May's *Parliamentary Practice* the following appears—

> PEERS AND CHARGES UPON THE PEOPLE IN PRIVATE BILLS
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> The House of Commons will not allow peers to be concerned in the levy of any charge upon the people; but a considerable change in modern practice has resulted from the operation of S. O. 191, by which the commons do not insist on their privileges in regard to clauses referring to tolls . . .

It affirms the principle that the finances of the country are in the hands of the lower House, but there are ways in which the House of Lords may deal with the finances of the State. If I thought that the Leader of the House would ask the question which he did by interjection, as to whether I was sure the House of Lords was empowered to do this, I could have brought along certain material to confirm this.

The Hon. G. C. MacKinnon: I thought the quotation which you have read from May's *Parliamentary Practice* relate to Bills, which the House of Lords wants to amend and which originate in the House of Commons. It was some time ago since I read Erskine

May's *Parliamentary Practice* dealing with that point.

The Hon. R. F. CLAUGHTON: It requires a great deal of reading.

The Hon. G. C. MacKinnon: So I found.

The Hon. R. F. CLAUGHTON: I can assure the Leader of the House, without taking my word for it, that if he checks on the position he will find it to be as I have outlined.

I shall now quote from the House of Lords publication *Companion to the Standing Orders and Guide to the Procedures of the House of Lords.* At page 125 which deals with the third reading and the passing of Bills, there are differences in the procedures of the two Houses.

In our Parliament we used to have a motion "That the Bill do now pass". That still operates in the House of Lords, and debate often ensues on such motions. What surprises me is that amendments may still be proposed at the third reading stage. In our own Parliament such a procedure is not adopted.

In the Western Australian Parliament Bills are taken through the second reading stage, and amendments are made in the Committee stage. If further amendments are found to be necessary a Bill may be recommitted. However, in the United Kingdom, amendments can be proposed at the third reading stage. These are minor procedural differences.

At page 125 of the House of Lords publication I have mentioned there is a section dealing with privilege amendments. It states as follows—

> Any amendments necessary to conform with the Commons financial privilege are then made.

This takes place at the third reading stage. To continue—

> These amendments relate to the financial provisions of a Bill which originates in the House of Lords. Since charges on the Exchequer or on local rates should originate only in the House of Commons, it is the practice to insert the following subsection at the end of the last clause to provide that the Bill has no financial effect:—

I will quote the Standing Order, which is as follows—

> (" ( ) Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.")
>
> This subsection is left out of the Bill by amendment in the Commons.

So, a Bill originating in the House of Lords which contains financial matters causes a provision to be tacked onto it, and then it is passed on to the House of Commons where it is deleted, if agreed to. That is a second manner in which the Bill can be dealt with.

I think it is important that I should continue quoting for the benefit of members—which I have done at length—because not many of us would be aware of these provisions. At page 136 of the same handbook there is reference to "tacking". The provision reads—

> **"Tacking"**
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> In order that the Commons should not abuse their financial privilege, which debars the Lords from amending Supply Bills, by including in such Bills provisions unconnected with Supply, the Lords passed a resolution in 1702 condemning the abuse of "tacking". It is now embodied in S.O. 49.

That is one manner—the matter of tacking—which I believe could be combined with the proposals within the Bill. That is something which could be done, but I do not think it would be desirable. Certainly, since 1702, it has not been desirable in England.

The Hon. G. C. MacKinnon: It is considered to be highly desirable here, and amendments are framed to prevent it.

The Hon. R. F. CLAUGHTON: I know that during the Federal constitutional debates it was thought to be very undesirable. Under the headings, "Parliament Acts 1911 and 1949" and "Money Bills" is the following—

> A Money Bill is a Bill endorsed with the certificate of the Speaker, signed by him, that it is a Money Bill because in his opinion it contains only provisions dealing with national, but not local, taxation, public money or loans or their management. The certificate of the Speaker is conclusive for all purposes.

When dealing with section 46 of the Constitution, it is difficult to find out what precisely is meant by "a money Bill". I do not believe this Parliament has ever got down to defining what it is, and the House of Commons does not set it out in descriptive words. The House of Lords simply states that a money Bill is one that is said to be so by the Speaker.

Any question as to whether a Bill is infringing section 46 of the Constitution is covered—in respect of money Bills—because it must carry the

certificate of the Speaker. Bills which are not considered to be money Bills do not have that certificate, and need to be dealt with in a different manner. If we adopt the style of a certificate having to be supplied by the Speaker, there may be need for some amendment to section 46 of the Constitution Acts Amendment Act to lay down what should be done. I do not think that what the Government is doing in providing a process by which gross errors can be covered up for all time can be a satisfactory way to deal with the problem.

The House of Lords' Standing Orders contain provisions for dealing with money Bills.

The Hon. R. J. L. Williams: The member cannot compare this place with the House of Lords.

The Hon. R. F. CLAUGHTON: Have I not been saying that all through? I am suggesting there are other ways to deal with what is proposed; ways different from what the Government is proposing

The Hon. G. C. MacKinnon: What the member is saying is that there is more than one way to skin a cat!

The Hon. R. F. CLAUGHTON: That is right, if one likes to express it in those terms. I have quoted at length, and I am a little fearful about quoting further from the Standing Orders of the House of Commons. However, with your forbearance, Mr Deputy President, I will quote relevant Standing Orders so that at least they will be on record and members will be able to fit them into their study of what we are dealing with.

At page 64 of the 1969 Standing Orders of the House of Commons, under the heading of "Public Money", Standing Orders Nos. 82, 83, and 84 read—

> **82.** This House will receive no petition for any sum relating to public service or proceed upon any motion for a grant or charge upon the public revenue, whether payable out of the Consolidated Fund or out of money to be provided by Parliament or for releasing or compounding any sum of money owing to the Crown, unless recommended from the Crown.
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> **83.** Any charge upon the public revenue whether payable out of the Consolidated Fund or out of money to be provided by Parliament including any provision for releasing or compounding any sum of money owing to the Crown shall be authorised by resolution of the House.
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> **84.** A bill (other than a bill which is required to be brought in upon a Ways and Means resolution) the main object of which is the creation of a public charge may either be presented, or brought in upon an order of the House, by a Minister of the Crown, and, in the case of a bill so presented or brought in, the creation of the charge shall not require to be authorised by a resolution of the House until the bill has been read a second time, and after the charge has been so authorised the bill shall be proceeded with in the same manner as a bill which involves a charge that is subsidiary to its main purpose.

Going on to Standing Orders Nos. 90 and 91, they read—

> **90.**—(1) A Minister of the Crown may without notice make a motion for giving provisional statutory effect to any proposals in pursuance of section 5 of the Provisional Collection of Taxes Act 1968; and the question on such a motion shall be put forthwith.
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> (2) When the question has been decided on the first of several motions upon which a bill is to be brought in for imposing, renewing, varying or repealing any charge upon the people, the question on each such further motion shall be put forthwith.
>
> **91.** In relation to private bills, provisional order bills and bills introduced under the Private Legislation Procedure (Scotland) Act 1936, or the Statutory Orders (Special Procedure) Act 1945, the standing orders relating to public money shall have effect subject to any exceptions prescribed by the standing orders of this House relating to private business.

I have referred to Standing Order No. 91 previously. Without actually reading those Standing Orders it would be very difficult to understand them, and to work out the procedures relating to the manner in which financial Bills are dealt with in the House of Lords. I refer to the bracketing within the Standing Orders, and to the tacking on at the end a clause which removes any imposition of a charge on the Crown, that take place in the House of Lords.

That covers the main arguments I have with the legislation. I am sorry it has taken me a little time, and perhaps I have been a little tedious in quoting. However, it is a subject which is difficult to deal with in a more lively and, perhaps, theatrical fashion as to transfix members in their seats whilst I was speaking.

I do ask members to consider this matter seriously because it deals with one of the

fundamental principles on which Parliament conducts itself. We should not put ourselves in a position where we can be accused of doing damage to our system or our State Constitution. Were we to have the temerity to agree to this all-embracing provision, which the Government wishes to insert in the Constitution Acts Amendment Act, we would warrant criticism from the people of this State, and from those who succeed us in this Parliament.

I find it difficult to understand that this Government should want to put such a blanket pardon over all future sins which are contained in proposed new subsection (9). I hope the Minister will allow more time to consider this matter before we proceed through all stages of the Bill.

THE HON. R. HETHERINGTON (East Metropolitan) [5.43 p.m.]: I would like to support that part of the Bill which is found in clause 2(a); that is, the deletion of the comma. It seems to me the Government is to be congratulated on finding the need to make that amendment to the Constitution Acts Amendment Act.

The Hon. G. C. MacKinnon: We are to be congratultated on the fact that there is something the member can agree with.

The Hon. R. HETHERINGTON: That would be a little harsh, because I have agreed with quite a number of moves made by the Government so far, and I have said so at various times. However, the rest of the Bill is something I do not agree with, and it is something I would suggest members on this side of the House should take seriously. The role of this Chamber, as a House of Review, is to look very carefully at this measure. If members are to take this House seriously, then they have to look at it. I take this House seriously, but in a different way.

There are important provisions in this Bill we have to look at. There are difficult problems, I agree, because the Constitution was written in 1889 and it came into effect in 1890. Things have changed a great deal since then; the Government has become responsible for the provision of a great number of services for which it was not responsible previously. It is now very difficult to separate money Bills from nonmoney Bills. It is true many Bills, which are not predominantly money Bills, contain clauses which incidentally raise or propose charges. This makes it very difficult at times to work out what kind of a measure a Bill is.

Therefore, there is no doubt that we have to look at the procedures of Parliament in these modern times and we must try to bring them up to date. However, I do not think when we are doing this we should assume that the people who wrote the Constitution did not know what they were doing, and we should not throw out lightly what they put there. I think we should throw out a great number of things that they put there, but we should do this very carefully and seriously. It seems to me that this Bill is attempting to throw things out of the Constitution rather too lightly.

The Government's advisers have found that for various reasons there are problems in regard to some Acts of Parliament, and that some of these Acts may be of doubtful validity because they are not in accordance with section 46 of the Constitution. Therefore, the Government proposes to amend section 46 of the Constitution in such a way that we can now do things which the section says we cannot do, and get away with it. I gather by the interjections of the Attorney-General that it is then proposed to bring in Standing Orders to cover the situation.

As I said before about another Bill, I think the Government is going about this in a back-to-front way, and it should proceed differently. First of all the Government should hold an inquiry; it should set up a Select Committee on the Standing Orders and the Constitution. When the committee has brought down its recommendations, the Government could introduce a suitable Bill instead of bringing in a blanket Bill such as the one we are now considering. Let us look at this Bill for a moment. It will do all sorts of things that are directly against the intentions of the people who drew up our Constitution.

Our Constitution was drawn up in a period after there had been some centuries of conflict in Great Britain between the two Houses. For many centuries the House of Commons and the House of Lords had been at loggerheads in regard to their respective powers over finance and money matters. It was thought that finally this conflict had been more or less brought to an end, and it was accepted that by convention, the House of Lords would not amend money Bills and the House of Commons would originate all money matters. It was found that it was very difficult to rely on convention and gentlemanly behaviour in politics, and of course, in 1909, the House of Lords asserted its undoubted power, destroyed the so-called spirit of the Constitution that Walter Bagehot had written about, and rejected the Lloyd George Budget. In doing so it precipitated a major constitutional crisis. I may note in passing that when similar events occurred in this country not so very long ago the effects were different, but that does not necessarily mean that what was done was any better; it merely means that it has been passed over for the time being.

Our Constitution was introduced at a time when the Legislative Assembly and the Legislative Council in Victoria also had been in conflict for some years. It is quite obvious that the people who drew up the Constitution—the Western Australian Constitution Act—decided that some matters could not be left to Standing Orders and some matters should not be left for the two Houses to work out in a gentlemanly way. The people who drew up our Constitution realised that the members of the two Houses were very unlikely to be gentlemanly if the members of one House could gain an advantage over the members of the other because politics, as the Leader of the House well knows, is largely about power and who is to rule the country.

So section 46 was written into the Constitution in order to delineate, delimit, and make perfectly clear the relationship of the two Houses as far as money Bills are concerned. The Legislative Council in Western Australia may not be comparable with the House of Lords, but it was to be in some ways similar to the House of Lords in that it was to have no power to amend money Bills or to initiate money Bills. This is written into the Constitution.

It is quite clear, also, that the people who drew up our Constitution wanted to ensure that it would be impossible to do what some bright people tried to do; that is, to tack other clauses dealing with other things onto money Bills that the Legislative Council could not amend. This would be a very interesting device. If the Labor Party were in Government, perhaps we might try it, but I know what would happen with the Legislative Council here because, of course, it is not limited in power in regard to the Bills it can reject; it can in fact reject anything. However, it does mean that if this Bill is carried, if the Constitution is amended accordingly, and if a money Bill which does have other extraneous matter tacked onto it is passed—although this may be against the Standing Orders—it will no longer be in fact against the Constitution even if it is against the Constitution. Although the Constitution says quite clearly that taxation Bills will deal only with taxation, proposed new subsection (9) of section 46 reads—

> Any failure to observe any provision of this section shall not be taken to affect the validity of any Act whether enacted before or after the coming into operation of the Constitution Acts Amendment Act, 1977.

In other words, if the Government can get away with anything, it cannot be challenged in the courts; so, Parliament will then become the arbiter of what is and what is not valid as far as money Bills are concerned.

If Parliament sees fit—and I am not suggesting that this Parliament will see fit, but when one looks ahead one does not know what sort of Parliaments will be elected—to ignore the provisions of the Constitution, then any Acts which the Parliament passes and which ignore those provisions will then become valid.

This seems to me to be a terrible piece of legislation that the Government has introduced. It is against the spirit and the letter of our Constitution, and I cannot understand how the Government could be guilty of such a sloppy piece of drafting.

It may be that the Government suddenly realised that if another Bill which is before this House due to the Premier's "drum and trumpet" politics became an Act before this one, this could have resulted in the necessity for this measure to have gone to a referendum, because after all it deals with the powers of the two Houses. Of course, it may be that the Government will find in due course, if both measures are passed, that one day there is another piece of machinery legislation that it wishes to have passed and which may be delayed as it will be necessary to hold a referendum because of the Government's desire to gain a little bit of temporary political kudos. Be that as it may, I am more interested in the provisions of this Bill at present and in the fact that it will allow the Constitution to be overridden.

I know that members on the Government side of the House will assure me that this will not happen; that the President in this House and the Speaker in another place will not let it happen; and that the Standing Orders of the two Houses will not let it happen. However, if the Standing Orders do let it happen, or if the Standing Orders are overridden, we cannot then apply the checks and balances that our Constitution has always allowed to Acts of Parliament; we cannot apply to the courts of the land.

The Hon. R. J. L. Williams: Why not?

The Hon. R. HETHERINGTON: Because this proposed new subsection (9) says—

> Any failure to observe any provision of this section shall not be taken to affect the validity of any Act whether enacted before or after the coming into operation of the Constitution Acts Amendment Act, 1977.

I suggest to the honourable member that he should read the Bill and the Constitution.

If this Parliament cares to ignore the

Constitution then its acts will be validated by this Bill. I really do suggest that this is a very poor provision; as a matter of fact, it is quite outrageous. I do not know how the Leader of the House can bear to bring in such a Bill, or how he can bear to defend it. I have no doubt that in his usual skillful way he will make the best of a bad case, but I suggest that this is a very bad case.

The Hon. G. C. MacKinnon: I hope I make a better case than the one the honourable member is making. I think he is getting all worked up about practically nothing. Still, he is doing it very well.

The Hon. R. HETHERINGTON: Quite often a great deal is involved with things that appear to be practically nothing on the surface. A tiny little measure like this can be the thin edge of the wedge that gets rid of our Constitution.

A member interjected: Comma and all!

The Hon. R. HETHERINGTON: Yes, comma and all. I am very jealous of our parliamentary system, and I mean the system in principle, not this Parliament particularly in practice. However, it seems to me that we need the checks that are written into our Constitution, and if we are to have a Constitution, we should take it seriously. We should not pass legislation which says in effect, "Look, this is what it says in the Constitution, but if you fail to carry out what it says in the Constitution, then anything you do is still legal." It seems to me to be a funny way to have a Constitution. Why not get rid of section 46 altogether? Why not redefine the powers of the two Houses?

I do not intend to suggest, as I think someone has suggested already, that this measure is a sinister plot to give greater power to this Chamber, but in fact this is what could happen historically if this Chamber manages to initiate legislation that normally it could not initiate, or if it can amend legislation that it should not be able to amend. If such action is then validated, we might find, de facto, that we have quite a different Constitution; constitutional convention can change for the worse as well as for the better.

I feel we really should reject this Bill. I suggest to members sitting opposite that they should reject this Bill. I believe they should think about their own principles and reject this Bill. Here we have another example of prospective retrospective legislation.

The Hon. G. C. MacKinnon: Say that again?

The Hon. R. HETHERINGTON: Prospective retrospective legislation—we are looking into the future to validate anything we might do in the future.

The Hon. G. C. MacKinnon: I am glad you explained it.

The Hon. R. HETHERINGTON: It is quite simple.

The Hon. G. C. MacKinnon: It is, now that you have explained it.

The Hon. R. HETHERINGTON: It worries me, and I suggest to the Leader of the House that it should worry him also. I suggest to Mr Masters that it might worry him also, as he is one of the few people listening to me. Quite a few members should take this measure seriously.

A member interjected.

The Hon. R. HETHERINGTON: Is the honourable member suggesting he is a masochist or that that is his job? I am quite sure it only tends to show the advantage of what a member on this side referred to as English shop stewards; they do their job conscientiously and carefully.

I do not want to say much more about this measure. With due deference I suggest to the Leader of the House that he should take the adjournment and that he should then read Erskine May, or get someone else to read it for him as he is a busy man, to see whether he can come up with alternative suggestions to improve this Bill. As I said before, it is an appeal from Caesar to Caesar, but to a better-informed Caesar. On this side of the House we are very much aware that with the numbers here we have no recourse but to appeal to Caesar.

The Hon. G. C. MacKinnon: We have seen one or two examples lately of how efficacious such an appeal can be.

The Hon. R. HETHERINGTON: I realise that sometimes an appeal is efficacious, particularly when there are people in the public gallery supporting the appeal, and particularly where there are members of the Government who agree with us in the privacy of their party room. However, the fact remains that it is still an appeal to Caesar.

The Hon. G. C. MacKinnon: I cannot rise quickly enough to explain the Bill to you in simple terms.

The Hon. R. HETHERINGTON: I am sorry I am holding the Minister up; however, I am letting him have my full worries, because I think he should know about them. I really think the Minister would be wiser not to explain the Bill quickly—

The Hon. G. C. MacKinnon: I do not want to explain it quickly; I am in a hurry to get to the stage where I can explain it to you.

The Hon. R. HETHERINGTON: I

understand what the Minister is saying. However, I would prefer the Minister to be a little less quick getting to his feet to explain the Bill, to be a little slower, and to take some advice. The Hon. R. F. Claughton has referred to a number of different ways in which the problem is overcome in Great Britain. I am not saying they are necessarily the solutions here; but instead of passing this blanket Bill, which seeks to validate everything, and then saying, "Once we have done this we will inquire into the matter and see what Standing Orders we require", I would suggest once more—I cannot stress this too much—that the Government does not proceed with the second reading stage at this point, until it has had a chance to consider our objections.

The Hon. G. C. MacKinnon: I think you have misunderstood the Bill.

The Hon. R. HETHERINGTON: I do not think I have.

The Hon. G. C. MacKinnon: Anyhow, I will explain it to you later.

The Hon. R. HETHERINGTON: I will listen to that explanation with great interest; however, I am very doubtful whether I will be convinced. It seems to me that although there may be good intentions on the Government side, what might have happened is that dangerous powers have been included in the Bill which those good intentions may not have intended to put in the Bill in the first place. This Bill contains a very broad provision which will allow the Constitution to be ignored. I would rather see the Constitution amended to make more specific provision for the problems faced by the Government.

As I say, I object to the Government's use of validating legislation into the future for the sins it has yet to commit. It is bad enough to validate the sins it has already committed, and which we know about but goodness knows what sort of sins this Government or any other Government is yet to commit. To validate them prospectively is a very undesirable thing to do. Therefore, I strongly oppose the Bill as it stands, unless the Leader of the House can convince me otherwise.

Sitting suspended from 6.04 to 7.30 p.m.

THE HON. R. THOMPSON (South Metropolitan) [7.30 p.m.]: This legislation will be effective legislation if it is agreed to. In the third paragraph of the Premier's speech he said as follows—

> Over a period of a number of years, Crown Law officers have been concerned that notwithstanding that presiding officers have given rulings in relation to section 46, which rulings would have been accepted by Parliament, the resulting legislation may be open to challenge in the courts for possible failure to comply strictly with the section.

In paragraph 5 the Minister said—

> It has been considered necessary to follow such advice because there is a body of opinion to the effect that there is a real risk that legislation is examinable in the courts and that it may be declared invalid.

Further on he said—

> So, in presenting this Bill for consideration I also mention that the Government intends, as a complementary measure, to seek amendments to the Standing Orders of both Houses of Parliament to clarify, for example, the matters which cannot proceed without a message, and to detail the procedure to be followed when a ruling adverse to a particular Bill is given.

I have some questions that I would like answered.

The Hon. G. C. MacKinnon: Are you going to ask them now?

The Hon. R. THOMPSON: Yes. As mentioned by the Hon. Bob Hetherington the principal Act was drawn up in 1899. Section 46 was amended by Bill No. 34 of 1921 and amended further by Bill No. 63 of 1950. The first Bill referred to subsection (2) of clause 46 and the second Bill had quite an effect on this section because, from memory, it came about from a rewrite of the Federal Constitution in 1947 or 1948. The amendments to the Federal Act had quite a bearing on our Constitution Acts Amendment Act.

The Minister indicated in his speech that the Crown Law Department officers had been concerned at some of the rulings given by presiding officers. I believe this to be a purely hypothetical matter.

The Hon. G. C. MacKinnon: I can give you actual cases.

The Hon. R. THOMPSON: The Minister should have given actual cases when introducing the Bill.

The Hon. G. C. MacKinnon: I was explaining the Bill.

The Hon. R. THOMPSON: Everything has a reason behind it and the Leader of the House should have given us the reasons.

The Hon. G. C. MacKinnon: I told Mr Hetherington I would give him plenty of reasons.

The Hon. R. THOMPSON: I consider that we should know what is going to be the result of this move in regard to our Standing Orders. The

Government does not have the prerogative to institute Standing Orders. The Standing Orders are compiled by members of this Chamber in conjunction with members of the other Chamber at joint meetings of the two Standing Orders Committees.

The Hon. G. C. MacKinnon: That is why the Government has not said what they would be.

The Hon. R. THOMPSON: I therefore consider that the Government should be delaying this legislation.

The Hon. G. C. MacKinnon: No.

The Hon. R. Hetherington: Of course you should.

The Hon. R. THOMPSON: The Government is taking away the rights of individual members. The members have to work within the jurisdiction of the Standing Orders and those Standing Orders belong to the members of this Chamber and the presiding officer; not the Government.

The Hon. G. C. MacKinnon: That is why we have not said anything about them. The Government realises it is for the presiding officers and members.

The Hon. R. THOMPSON: Why was the Government not honest? The Government should have arranged for a joint meeting of the Standing Orders Committees and explained the legislation then. In introducing the legislation first the Government gives individual members no option once it is passed, if indeed it is passed; I hope it is not. Until we have a meeting of the Standing Orders Committees when consideration can be given to the proposed changes, we are pre-empting the whole situation. The Government is going about this the wrong way. There may be good reason, but I do not know of it.

The Hon. G. C. MacKinnon: Sit down and I will tell you.

The Hon. R. THOMPSON: Why should I vote for a Bill that would effect a serious change to the Constitution when I do not know what the changes to our Standing Orders will be? I would oppose it on the grounds I have stated previously.

I think there are good reasons why I should oppose the measure.

The Hon. G. C. MacKinnon: None at all.

The Hon. R. THOMPSON: The Minister could not get up and say what would happen at a joint meeting of the Standing Orders Committees.

The Hon. G. C. MacKinnon: I will explain why I do not need to.

The Hon. R. THOMPSON: In his speech the Minister said—

> It is possible that difficulties of interpretation have from time to time given rise to technical infringements of section 46 and this could well occur again in the future.

The Minister seems to have a crystal ball that shows him it will happen in the future. I have sat here with many members of different political persuasions, many of whom have now passed on, and I know they were very jealous of our Standing Orders. They did not vote on party lines if a Bill came down without a message, or there was something wrong with it.

We have all seen challenges from both sides of the House. The challenges were made not to get rid of the legislation, but in order to have the right thing done by our Standing Orders. I think that is what we have to take into consideration and I think that is where the Government has gone wrong. The Government is saying it will introduce this legislation and alter the Standing Orders to meet the situation.

I trust the Minister will use some common sense, take the legislation back to the Government, and indicate that a full examination of the changes to the Standing Orders is required by members of the Legislative Council. As members we have a right to know what those changes mean.

The Hon. G. C. MacKinnon: I will go further than you and say the members here will determine it.

The Hon. R. THOMPSON: We do determine it. I have heard the Minister say on numerous occasions that our Standing Orders have stood the test of time.

The Hon. D. K. Dans: A typical conservative reaction.

The Hon. G. E. Masters: You have obviously been paying a great deal of attention.

The Hon. G. C. MacKinnon: I am not a revolutionary.

The Hon. D. K. Dans: You are a resolutionary!

The Hon. R. THOMPSON: I believe I speak on behalf of all members when I say these explantions are needed. The new members in particular should require this information. We want to determine what our Standing Orders are, we want to know the challenges that have been made to the Presidents' rulings, and we want to determine the validity of legislation that has gone through this Chamber. We want to know why there should be any retrospectivity, because the parent Act was amended quite definitely in this regard. The relevant section reads as follows—

> No infringement or non-observance of any

provision of this section shall be held to affect the validity of any Act assented to by the Governor at any time prior to the thirty-first day of January, 1951.

That means anything done before 1951 was valid up to that time. There was no crystal-ball gazing as is proposed in this legislation, under which it seems this will go on forever and a day.

It should be remembered that members of Parliament do not have access to Crown Law Department opinions. The Government has access to these opinions, and I would be the last to denigrate the Crown Law Department officers, but by the same token they have been proven wrong on many occasions. That is merely a human frailty. Subsection (9) of section 46 is to be amended as follows—

Any failure to observe any provision of this section shall not be taken to affect the validity of any Act whether enacted before or after the coming into operation of the Constitution Acts Amendment Act, 1977.

I think that is completely unfair; it places a burden on memberes of Parliament. The Government is removing a responsibility from members which would make them less active and more disinterested in following the meaning of our Constitution Acts Amendment Act. It would go further inasmuch as in one fell swoop, intentionally or otherwise, the Government could introduce legislation and say that it was introduced in good faith, and it would be covered by section 46 (9) of the Constitution Acts Amendment Act. I think that is wrong in principle and in practice.

This is not something we should give up easily. I hope members, particularly Government members, will heed what I have said. Members should ask for this Bill to be returned to enable us to have a look at the proposed amendments to our Standing Orders, and to find out the reasons for them. Then we could debate the issue.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [7.45 p.m.]: I thank honourable members for their support of the Bill. It is pleasing to hear debate and note the very real interest.

First of all I will deal with the origin of the section we are proposing to amend. I have here a copy of the "Report of the Select Committees of the Legislative Council and Legislative Assembly, respectively, Appointed to Inquire into the Procedure on Money Bills." It was presented in the Legislative Council by the Hon. W. Kingsmill, on the 26th October, and in the Legislative Assembly by Mr Robinson, on the 28th October.

The Hon. R. F. Claughton: In what year?

The Hon. G. C. MacKINNON: In 1915. It says—

Both Committees are agreed on the following points:—

1. That the present position with regard to Money Bills has resulted in constant friction between the two Houses and urgently requires a remedy.
2. The cause of this friction is to be found in the wording of Section 46 of "The Constitution Acts Amendment Act, 1899," which is as follows:—

   In the case of a proposed Bill, which, according to law, must have originated in the Legislative Assembly, the Legislative Council may at any stage return it to the Legislative Assembly with a Message requesting the omission or amendment of any items or provisions therein; and the Legislative Assembly may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.
3. The faults in this section are two—
   (i.) It leaves uncertain whether requests made by the Council can be repeated.
   (ii.) It applies the same to all clauses in all Bills in which any financial provisions are found.

I think we should pay attention to the first paragraph: "It leaves uncertain whether requests made by the Council can be repeated." That is still uncertain. Over the years since then the Council has insisted it has a right to repeat and insist. It has always done so with success in that it has preserved that right but even with this amendment the situation is not clear.

To illustrate how members are quite right in agreeing to the deletion of the comma I will refer to the Bill as prepared by that Select Committee. It mentions the repeal and re-enactment of section 46, and clause 3.(1.) of the Bill reads—

3. (1.) Bills appropriating revenue or moneys, or imposing taxation, shall . . .

In other words the comma was after "moneys", and not after the word "revenue". It was

apparently a fault in the printing which led to that comma being put where it was in the first place. It has remained there for a long time. There is reason to believe that the comma was inserted by mistake and it has led to a lot of anguish over the years as a result of rulings handed down by Presidents in this Chamber.

I was a little amused by the request that we take this Bill away to examine it further, and I have no doubt that the Hon. N. E. Baxter was also amused. I know of no subject which has been more closely argued over the years than this one.

I will give an example. When I was Minister for Health some years ago I introduced a Bill for the establishment of the Perth Medical Centre, now The Queen Elizabeth II Medical Centre. In that Bill was a clause which stated that for the purpose of the Act moneys may be appropriated from the revenue of the State in the Appropriation Bill. In other words it was expected that the Government would allocate money in its budgetary proposals for the running of the Perth Medical Centre. In no way did the Bill itself appropriate revenue.

I have not gone back to research the matter in detail, but perhaps I should have. However, I am fairly certain that it was the Hon. Frank Wise who took a point of order. I am also fairly certain—although not absolutely positive—that the Hon. Les Diver was in the Chair. I have absolutely no doubt whatever in my own mind after very carefully examining the appropriate sections of Erskine May that it was not an Appropriation Bill—and in no way could it be regarded as a money Bill.

It was fairly late in the session, so imagine my consternation when the President handed down a ruling that it was, in fact, a money Bill and therefore was invalid. Members should bear in mind that I had to change the Bill because we cannot introduce the same Bill in the same session. I had to change the name of the Bill, to obtain a Message, and to have the Bill introduced in the Legislative Assembly.

This created quite a lot of argument at the time, but I am still as certain today as I was then that that Bill did not need a Message and that it was quite all right to introduce it in this Chamber. All officers of the Crown Law Department also believed it.

Similar cases have since arisen. I remember an instance in which Mr Medcalf was involved some time before he became a Minister. It was while we were in Opposition and when Mr J. T. Tonkin had made certain commitments. Again a ruling was given which at that time so confounded everyone that we agreed to the passage of the Bill provisional upon Mr Tonkin arranging for an inquiry into the matter.

The Hon. I. G. Medcalf: That was to do with fire brigades.

The Hon. G. C. MacKINNON: Yes; and Mr Williams moved for a reduction in the percentage.

The Hon. D. K. Dans: Not very successfully because it has gone up again since.

The Hon. G. C. MacKINNON: No-one is successful in that sort of move. I cite these examples to illustrate that over the 23 years I have been in this Chamber the question of what constitutes a money Bill has bedevilled whoever happened to be in the chair I now occupy. It worried the Hon. Gilbert Fraser, the Hon. Bert Simpson, the Hon. Arthur Griffith, the Hon. Harry Strickland, the Hon. Frank Wise, the Hon. Ron Thompson, and the Hon. Jerry Dolan.

The Hon. R. Thompson: It never worried me. We always did things properly.

The Hon. G. C. MacKINNON: That is rubbish.

There are times—now more so than ever before with three Ministers in this Chamber—when a Minister works on a Bill and obviously knows a great deal about it. He gets a little proprietorial about it, although perhaps that is wrong. Nevertheless, he gets to know a great deal more about the Bill than anyone to whom he can hand it. Therefore it is desirable that he should introduce it. However, the stage has now been reached where if there is the slightest shadow of doubt, or even a whisper of a suggestion that any money might be involved, the Parliamentary Counsel will recommend that the Bill be introduced in another place. This has reached a stage of total absurdity and it has become worse and worse over the years for a second reason which touches on the balance of the amendments to section 46(2).

There are two schools of thought with regard to the powers of the courts in relation to the type of legislation we are considering. There is a point of view which holds that the court has the power to consider a piece of legislation passed by both Houses of Parliament and signed by the Governor and if it fails to comply with every aspect of the requirements of Standing Orders and of the Constitution Acts Amendment Act, it can be disqualified. The other another point of view holds that the courts do not have that power.

All that we propose to do in the Bill is to clarify the situation by coming down on one side, and the

side we have chosen is that which says that the court does not have the power.

The Hon. Roy Claughton, the Hon. Robert Hetherington, and the Hon. Ron Thompson have made this sound like a major constitutional catechism which sounds almost as good as "prospective retrospectivity". It is nothing of the sort. It is making clear a situation which has been doubtful. It has been a matter of Tweedle Dum and Tweedle Dee.

The Hon. R. Hetherington: You are making nonsense of a written Constitution if you do this.

The Hon. G. C. MacKINNON: No, I am not because in no way will the powers of the President be abrogated. As you know, Sir, you will have power to rule whether a Bill can be introduced here and whether it is a proper money Bill. For instance, if any Government were foolish enough to introduce an Appropriation Bill in this House, you would rule it out of order immediately. Indeed if anyone were foolish enough to try it one would hope that the members of the House would not accept that that sort of Bill should be introduced because it is—

The Hon. R. Hetherington: You are extrapolating. It does not necessarily follow for the future.

The Hon. G. C. MacKINNON: I have had a lot of experience with extrapolation on this matter, and I find that historically it bears up under examination.

The Hon. R. Hetherington: We cannot always rely on history.

The Hon. G. C. MacKINNON: On occasions people behave in ways I find reprehensible but others may find them very satisfactory. That does not apply to the House as a whole. My extrapolation of their behaviour in the past and in the future makes me believe they will continue so to behave.

I was very interested in what Mr Claughton had to say. He has done some research and I think we are fortunate in that our members at different times have been overseas and have been able to bring back some reference books which can help us considerably.

As I mentioned by interjection, there is a considerable amount of similarity in regard to what can be done and what is in fact done in the United Kingdom and here, because the principle of not being allowed to amend a money Bill but being capable of amending a money Bill is as real here as it is there. Our Standing Orders say we cannot amend a true money Bill—that is, a Bill imposing taxation—but they say, if we feel strongly enough about it and wish to, we can send the Bill back to the Legislative Assembly suggesting an amendment, to which that House might agree. Indeed, that has been done in the past, and it is exactly the same principle as that applying in the United Kingdom.

Incidentally, Erskine May says—

> Stated generally, the responsibility to discharge by the Lords in regard to supplies for the service of the Crown and in the imposition of taxation is concurrence, not initiation or amendment.

That is contained in chapter 31, page 795, under the heading "The Financial Functions of the Lords".

The section to which the Hon. Roy Claughton was referring dealt in the main with private Bills. If my memory serves me correctly it gives one or two examples where in a private Bill the fees to be charged on registration of mortgages and the like were increased and the House of Commons, like our House of Assembly here, was so touchy about its rights that it promptly laid the Bill aside, despite the fact that it could quite properly deal with it if it so wished. It has almost always been our experience that when we suggest an amendment the Legislative Assembly disagrees and we must insist before it does agree. Historically, this House has in the past insisted and been successful in its insistence.

I am dealing with these matters because each of the three speakers took a perfectly lucid second reading speech which explained the Bill, and read into it all kinds of possibilities.

The Hon. R. Hetherington: We read the Bill, not the speech.

The Hon. G. C. MacKINNON: They then read into the Bill all kinds of possibilities—I think extrapolating, to use the Hon. Robert Hetherington's word, the worst possible behaviour representing examples of private individuals, and not the good character of the House as a whole.

The Hon. R. Hetherington: During its history they could do all sorts of interesting things.

The Hon. G. C. MacKINNON: I do not think we need to worry about that.

The Hon. R. Hetherington: I do not agree.

The Hon. G. C. MacKINNON: We have had a number of presiding officers while Mr Roberts has sat in the Clerk's chair. I can think of the Hon. A. L. Loton, the Hon. Sir Charles Latham, the Hon. Sir Leslie Diver, and the Hon. Sir Arthur Griffith. Over that period we have had variations in interpretation. There is nothing new. It has happened a couple of times previously. This

time, after years of consideration, the Government has brought forward something which it hopes will help to clarify the matter.

The Government has also said—and I think it is therefore reasonable to say—that as a complementary measure it intends to seek some amendments to the Standing Orders of both Houses giving further guidance to presiding officers in respect of technical problems arising out of section 46. There have been technical problems.

We have been faced with the problem here where a President of this House accepted a Bill which was carried after reasonable debate, and it then went to the Legislative Assembly where the Speaker promptly ruled us out of order. This occurred with the Fire Brigades Act, when a proposition of the Hon. John Williams was accepted here and the President's opposite number in the Assembly, the Speaker, ruled it out of order.

Of course, the Hon. Ron Thompson is quite right when he says the Government would be impertinent in the extreme if it suggested this was going to happen or even that it could happen until the Bill becomes law and the guidelines are set. It would be impertinent because it is for the Standing Orders Committee of each House to consider the matter, to take full advice, to read the Act as it will then be, and to bring back recommendations which it will place before each House of Parliament. The members of both Houses will debate the matter and agree or disagree; and such being the frailty of human nature in its ability to write as well as its ability to interpret, I suppose in years to come someone will be standing up here explaining yet another amendment in order to clarify the situation and make it easier.

The Hon. R. Thompson: I hope you are not closing the debate. You have given two examples of things that have happened. I want to know the things that could be challenged and have been challenged.

The Hon. G. C. MacKINNON: Of course I am closing the debate.

The Hon. R. Thompson: Explain to me the things that might be challengeable in a court.

The Hon. G. C. MacKINNON: I do not believe these things are challengeable in a court. I happen to be one of those who say they are not.

The Hon. R. Thompson: In your second reading speech you said they could be challenged.

The Hon. G. C. MacKINNON: I said that some people claimed that. I explained that. I said there were the two points of view, and the Hon. Robert Hetherington nodded his head to indicate he agreed there were two points of view on this.

The Hon. R. Thompson: Can you give us one example where they have been challenged?

The Hon. G. C. MacKINNON: I can give illustrations of Acts of Parliament which have been challenged, but not under this section.

The Hon. R. Thompson: You cannot give examples under this section.

The Hon. G. C. MacKINNON: I will deal with the argument of the Hon. Ron Thompson. I am sorry to take so long, but when I have to track down every red herring that is drawn across the path it takes time. Nevertheless, I would be doing less than my duty if I did not track them down.

The Hon. R. Hetherington: If the Crown Law officers are worried they must be worried about something specific.

The Hon. G. C. MacKINNON: The purport of the Hon. Ron Thompson's argument is that no court case has ever been taken on a Bill or Act of Parliament which has relevance to section 46 of the Constitution: therefore, as no case has ever been taken we have no need to amend the section. It is a perfectly valid argument. I would be almost inclined to accept it, except that some people whom I respect argue that the courts have the power to sit in judgment if someone wants to contest an Act of Parliament.

The Hon. R. Thompson: What is wrong with that?

The Hon. G. C. MacKINNON: Nothing at all. Let us stay with the argument. There is nothing wrong with that if the honourable member wants it to happen. This is the last time I will explain it. We have two points of view: one is that it can be done and the other is that it cannot be done. To make the matter clear, we have come down on the side that says it cannot be done.

The Hon. R. Hetherington: You are taking the example of the House of Commons, which is sovereign, instead of taking an example of a written Constitution. You have come down on the wrong side.

The Hon. G. C. MacKINNON: That is the opinion of the honourable member. He says the court should remain sovereign.

The Hon. R. Hetherington: Or change the Constitution by a simple majority—one or the other.

The Hon. G. C. MacKINNON: We could do it as the Americans do it, by a court judgment. They have done that a dozen and one times.

The Hon. R. Hetherington: Or follow the Commons.

The Hon. G. C. MacKINNON: I do not happen to approve of that.

The Hon. R. Hetherington: I do not either.

The Hon. G. C. MacKINNON: Perhaps it suited the Americans to do that. We have had a number of court cases on Acts on different grounds, of course.

I am trying to find out what other worries members have in their support of the Bill.

The Hon. N. E. Baxter: You could upset the intention of Parliament.

The Hon. G. C. MacKINNON: That is right. I have sat here worried at times when matters have not gone according to the rules. Perhaps something was not seconded at a time when someone was new to the Chair. I have been sitting on tenterhooks in case there was a slight deviation and someone would take the case to court and it would be ruled by the judge to be null and void because of some technicality.

This place should be the master of its own fate, and I think this is the place where these decisions should be made, not the courts. At other times and in other places I would argue for the supremacy of the courts, but not in this case. I know of no single subject that has been dealt with at greater length in this Chamber than this particular argument has, and there is no need to consider it any longer.

I mentioned the group of Standing Orders around Standing Order No. 300—those which deal with the way in which we can amend Bills which otherwise we are not allowed to amend; namely, money Bills on which we can make suggested amendments and the like.

The honourable member referred to the words "and any provision therein dealing with any other matter shall be of no effect". This is another matter relating to judicial interpretation. I believe that after those words are struck out the section will be perfectly adequate. Again, I agree with the way in which this has been argued and interpreted over the years and I believe the amendment will be an improvement.

The Hon. R. Thompson: You have not yet explained why this should go on in the future.

The Hon. G. C. MacKINNON: Yes I have. There are none so blind as those who will not see. I will explain it again for the fourth time.

The Hon. R. Hetherington: You should not bother. You have not convinced us.

The Hon. G. C. MacKINNON: The honourable members must understand—

The Hon. R. Hetherington: I understand quite well but I have not been convinced.

The Hon. G. C. MacKINNON: Then purely and simply for the benefit of the Hon. Ron Thompson, I will explain it for the fourth time. There are two opinions in regard to taking matters to court over technicalities.

The Hon. R. Thompson: I understand all that.

The Hon. G. C. MacKINNON: That is the whole point of it. We have come down on the side of saying that despite any breach of technicality the courts shall have no jurisdiction.

The Hon. R. Hetherington: You might as well tear up the written Constitution, and I have said that before.

The Hon. G. C. MacKINNON: I do not believe the honourable member.

The Hon. R. Hetherington: So it is mutual.

The Hon. G. C. MacKINNON: When the Hon. Roy Claughton was speaking I made a note of something he said.

The Hon. R. Hetherington: He spoke a great deal of common sense.

The Hon. G. C. MacKINNON: Yes, I have said before that he makes a very interesting speech. I can now follow him quite well, and I find he is a very good speaker who does his homework. I made a note of a question he asked: "What is a money Bill?" When he asked that question, he touched on the whole crux of the problem, because that is why the amendment is necessary. Mr President, your predecessors have made it difficult—nay, have made it impossible—

The Hon. D. K. Dans: They may have made it difficult, but whenever was it impossible?

The Hon. G. C. MacKINNON: I will tell Mr Dans. They have made it impossible for officers of the Crown Law Department to read a Bill and to say, "We believe this Bill can be introduced in the Legislative Council."

The Hon. D. K. Dans: Has the process of government of this State been impeded because Crown Law Department officers have had that opinion?

The Hon. G. C. MacKINNON: Yes.

The Hon. D. K. Dans: To what extent?

The Hon. G. C. MacKINNON: With a considerable amount of bad luck in this State, the day may come when Mr Dans will sit in my seat.

The Hon. D. K. Dans: Answer my question.

The Hon. G. C. MacKINNON: I am getting to

it. If that day comes, Mr Dans will have Bills which he wants to introduce in this House, but which look like they may impose a charge on the Crown, and he will be told to have them introduced in the Assembly.

The Hon. D. K. Dans: But has this impeded the process of government?

The Hon. G. C. MacKINNON: Yes, it has. It has overloaded the Assembly, and underloaded the Council; and that is a bad thing. It is what we are correcting with this Bill. Mr Claughton touched on the nerve centre when he asked, "What is a money Bill?" I have stood in this House and read Erskine May's definition of a money Bill, and I have read out previous rulings; but the then President in his wisdom has ruled against me and the Bill has had to be withdrawn and reprinted, along with all the paraphernalia that applied to it. This impeded the work of the Parliament at that time. This is what Mr Claughton touched on and it is the nub of the matter.

The Hon. R. Hetherington: It may have held up, but not impeded, the government of this State.

The Hon. G. C. MacKINNON: We even went so far as to extract a promise from the Hon. John Tonkin that the matter would be looked into, but for a variety of reasons it was never pursued. I am glad members opposite agree in respect of the comma.

The Hon. D. K. Dans: You gave some sort of explanation about that, and you could be right.

The Hon. G. C. MacKINNON: I feel confident I have explained the matter adequately to everyone, apart from the three members who spoke and Mr Dans.

The Hon. D. K. Dans: I did not speak to it. I said you gave some sort of explanation about the comma, and you could be right.

The Hon. G. C. MacKINNON: I know I am right.

The Hon. R. Hetherington: We all accept that.

The Hon. G. C. MacKINNON: Yes. This is a very serious matter—anything dealing with the Constitution or the procedure in this House is very serious and is something to which I pay great attention and concern—and I am sure when members opposite have thought about the matter they will be sorry they did not agree more wholeheartedly with us in our endeavours to make the position clearer.

The matter will not end here, because as has been mentioned the Joint Standing Orders Committee will be asked to consider it at an appropriate time. Hopefully that committee will be able to assist in the matter purely and simply to enable Bills which can be introduced in this Chamber to be introduced here in a freer manner than is the case at the moment. We must bear in mind the change in the pattern of this place and changes in the electoral system, the number of Ministers here, and other things which have changed and will continue to change in an evolutionary sort of way.

I thank members for their interest in the Bill and trust that my explanation has been satisfactory to everyone else, if not Mr Ron Thompson.

Question put.

The PRESIDENT: I remind honourable members that this Bill requires the concurrence of an absolute majority, and in accordance with Standing Order No. 308, a division must be taken.

Bells rung and the House divided.

Division resulted as follows—

Ayes 18

Hon. N. E. Baxter	Hon. N. F. Moore
Hon. G. W. Berry	Hon. O. N. B. Oliver
Hon. V. J. Ferry	Hon. W. M Piesse
Hon. T. Knight	Hon. R. G. Pike
Hon. A. A. Lewis	Hon. I. G. Pratt
Hon. G. C. MacKinnon	Hon. J. C. Tozer
Hon. M. McAleer	Hon. R. J. L. Williams
Hon. T. McNeil	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. G. E. Masters *(Teller)*

Noes 9

Hon. D. W. Cooley	Hon. R. H. C. Stubbs
Hon. D. K. Dans	Hon. R. Thompson
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
Hon. F. E. McKenzie	*(Teller)*

The PRESIDENT: I declare the motion carried with the concurrence of an absolute majority.

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. R. F. CLAUGHTON: I am sorry the Leader of the House did not indicate the Government would be prepared to delay the passage of this legislation so that changes to the Standing Orders could be considered in conjunction with it, which is what the Government wants. If in the course of its deliberations the Joint Standing Orders Committee finds there are other ways to achieve the purposes the Government seeks to achieve by this Bill, I think that would be far more desirable,

and we would not see the partisan politics that we have seen applied to this Bill. This should not have occurred.

As I said in my speech in the second reading debate, I believe this is a matter in respect of which it should be possible to reach consensus between all parties, and if the Government had set about achieving its purpose in a different manner I believe it could still have achieved it. When the Leader of the House replied to the debate, even though he contested my views I believe he actually supported the arguments I had put forward.

As I indicated, a number of arrangements are made in the House of Commons which are capable of being adapted to our needs. Some areas in our proceedings need to be improved. These areas are not directly affected by this legislation, but are still concerned with the same sort of principle. One of those areas I mentioned is the matter of private members' Bills. We had a case recently in which a private member's Bill was ruled out of order in the other House because it was thought to impose a charge on the Crown.

There are ways of overcoming that sort of problem, and this is one of the things that could be considered by the Joint Standing Orders Committee, along with the matters contained in this Bill.

The Leader of the House indicated that our Standing Orders cover the procedure by which we may amend money Bills. I did not say we could not amend such Bills. I referred to the paper prepared by the Clerk of the Parliaments in 1967. Some of the matters to which he referred were covered by Mr MacKinnon in his reply.

On a number of occasions serious disagreement has occurred between the Houses, but there is much more involved in this Bill than has been involved in legislation which was the subject of such disagreement. The committee that met in 1915 dealt with matters that were the cause of argument about five years before that.

I think it is still uncertain whether the Government will achieve by this Bill all that the Minister says it seeks to achieve. The question of what are money Bills still remains, as does the question of what sort of legislation should or should not be initiated in this Chamber. We have not resolved that question contained in the measure before us, and Mr MacKinnon has admitted that.

I would have thought it would be reasonable for Mr MacKinnon to say, "We can see your point of view that this is something which needs to be discussed by a joint committee on which all parties are represented so that we can reach consensus; and we will not proceed with the legislation until that is done." There is nothing to be lost by doing that. Very few Bills the Government proposes would be affected if we decided not to proceed with this Bill now. Shortly this Chamber will go into recess, and during that period the Joint Standing Orders Committee could meet and resolve these matters, and present its report in the next session of Parliament. I think that is a reasonable case, and I am disappointed the Minister has not taken it up or that we have not heard from the back-bench members of the Government as to their points of view in regard to this legislation.

This is an important matter which touches on one of the linchpins in our system; if we do damage to it, quite serious consequences may result in the future. I am not trying to foretell disasters; I do not think that has been the tone of my remarks on this Bill. However, I am certainly saying there are implications in what the Government has set down which go far beyond what the Minister states the Government is seeking to achieve; namely, a simple decision of whether or not we allow the courts to adjudicate.

Rather than simply confining itself to that proposition, the Bill provides an open book to all sorts of opportunities of which we may be unable to conceive at this time. The Government seeks to provide for a blanket pardon on all future transgressions by people of whom we have no knowledge, people who will follow us into this Parliament. I believe we should act a little more responsibly, and take more time to look at what is being proposed.

The Hon. R. HETHERINGTON: The Minister's explanation at the end of the second reading stage has not convinced me. It seems to me that if we do what apparently is going to be done—because the Government has the numbers—we shall enter a new period of uncertainty because although we can validate anything, we are not quite sure how we are going to define—

Point of Order

The Hon. N. E. BAXTER: Mr Chairman, Standing Order No. 87 states that no member shall digress from the subject matter of any question under discussion. The question under discussion is clause 1, which is the short title and citation. However, members of the Opposition are dealing with other aspects of the Bill and in my opinion are entirely out of order.

The CHAIRMAN: For the guidance of Mr Hetherington, I ask him to confine his remarks to

the short title and citation, rather than range widely over the terms of the Bill. I suggest that clause 2 would give members a little more scope for debate. I thank Mr Baxter for drawing this matter to my attention, and request members to restrict debate to the clause under discussion.

Committee Resumed

The Hon. R. HETHERINGTON: I accept your guidance, Mr Chairman.

The Hon. G. C. MacKINNON: I agree with much of what Mr Claughton said and proposed as a solution; however, it just does not happen to be the solution which this Chamber has decided upon. As I said earlier, there is more than one way to skin a cat, and this is the particular way which has been decided upon. The matter has been discussed at very great length over the years, and I believe this solution is a perfectly reasonable and valid one.

Clause put and passed.

Clause 2: Section 46 amended—

The Hon. R. F. CLAUGHTON: While the Opposition agrees with paragraph (a), we are not so happy with the remainder of the clause. Of course, we would not oppose correcting a typographical error.

The Hon. I. G. Medcalf: That is a major concession on your part; you must have had a Caucus meeting about it.

The Hon. R. F. CLAUGHTON: Mr Medcalf is back, is he? We have had an interesting and intelligent discussion in his absence.

The Hon. I. G. Medcalf: I have not been absent; I have been sitting at the back of the Chamber.

The Hon. R. F. CLAUGHTON: I am glad the Leader of the House recognised that I was being reasonable in my approach. However, I repeat that the Government, representing the Liberal and National Country Party coalition, has decided this is what shall be done, and Her Majesty's loyal Opposition has not taken part in any of the discussions on this subject.

The Hon. G. C. MacKinnon: If we did that, we would never get home. You have had plenty of opportunities.

The Hon. R. F. CLAUGHTON: The Minister said there has been a lot of discussion on this matter; however, in my time in Parliament, this matter has not been under discussion. We have never had a joint meeting to discuss the matter.

The Hon. G. C. MacKinnon: Perhaps I should have said, "There has been a lot of examination of these points."

The Hon. R. F. CLAUGHTON: I cannot think of one meeting of the Standing Orders Committee which has examined these matters.

The Hon. G. C. MacKinnon: There are other ways; I have examined them.

The Hon. R. F. CLAUGHTON: The Minister may have examined them as an individual, but he cannot say that members of Parliament collectively have examined the matters. They have not been debated at length in either Chamber, apart from the brief debate which has taken place on this Bill. Certainly, there has been no canvassing of other ways in which the matters the Government seeks to cover can be catered for.

Some conferences have been held which have been attended by individual members, but it should be noted that some of the members who did attend those conferences were people retiring from Parliament, and we no longer have their services. I refer, for instance, to Sir Leslie Diver, who attended a conference in London almost in his last year in Parliament. We no longer have the benefit of his experience and knowledge. There are very few opportunities for members to get away to these conferences, and they are relatively infrequent.

It is incorrect to say there has been discussion. The new members of Parliament have not had the opportunity to discuss these matters. Certainly, all the various ways in which this matter could be satisfactorily resolved have not been discussed, nor are they embodied in this legislation. The point is that the Bill opens up areas which could provide future unsatisfactory consequences.

I do not think it is a sensible way to go about the business of legislation; we should not try to plug one hole by taking a plug from somewhere else, leaving another leak in the system, and I had hoped the Government would concede this point.

The Hon. R. HETHERINGTON: I move an amendment—

> Page 2, lines 4 to 9—Delete paragraphs (b) and (c).

I believe the Government is proceeding with this matter in the wrong way.

The Hon. I. G. Medcalf: Do you think we should leave the comma in?

The Hon. R. HETHERINGTON: I suggest the Government would do much better, while removing the comma, also to get rid of the rest of the Bill—which I hope we will do—and examine the whole question again. One of the problems mentioned by the Leader of the House is that we have to work out what a money Bill is. I would not like to try to define what is a money Bill,

because I do not think I have the competence; I believe this is a very difficult task. It would be a good thing if the Government grasped the nettle and endeavoured to write a definition of a money Bill into the Constitution, and then see how it would stand up. If this fails, we might have to take further action.

The Hon. R. Thompson: It is already written into the Constitution.

The Hon. R. HETHERINGTON: It would help if we redefined "money Bill" by amending the Constitution. We must face the fact that by passing this Bill we will be limiting the two Chambers of Parliament. It is all very well to say the Chambers are masters of their own destinies. I would feel happier about that, had a Select Committee examined the whole question first, and made recommendations to the Government on the need to amend both the Constitution and the Standing Orders of both Chambers, so that all parties could go away and take the requested action. As it is, the Government has decided to limit the two Chambers, because they will have to amend their Standing Orders in accordance with the Government's amendments to the Act.

This whole argument about whether or not Parliament should be master of its own destiny has taken up a great deal of debate in Great Britain, and I would argue that we should not adopt a limited Constitution, with strictures on the way we can amend that Constitution.

Whatever may happen in the House of Commons, which does not have a written Constitution, to amend a whole series of Acts which may amend the British Constitution by a normal process of Parliament is not necessarily what we should do. Therefore, I do not accept the Minister's explanation. I think the Government is going about it in the wrong way, and I think we should delete these paragraphs in the hope that we can perhaps have a properly constituted inquiry and start again, taking the whole thing very carefully into consideration.

The Hon. R. THOMPSON: I am going to support the move, particularly the deletion of paragraph (c).

The Hon. G. C. MacKinnon: Be more explicit. Whose move?

The Hon. I. G. Medcalf: Which party are you supporting?

The Hon. R. THOMPSON: I am speaking to the Bill.

The Hon. G. C. MacKinnon: We are trying to work out whom you are supporting.

The Hon. R. THOMPSON: I am supporting the amendment moved by Mr Hetherington, particularly the proposed deletion of paragraph (c).

The Hon. R. F. Claughton: The Government has not moved any amendments.

The Hon. G. C. MacKinnon: We are amending the parent Act.

The Hon. R. THOMPSON: That is the Bill.

The Hon. G. C. MacKinnon: Do not take any notice of our conversation. You go on with your speech.

The Hon. R. THOMPSON: After listening to the reply by the Leader of the House to the second reading debate, I have come to the conclusion that he is in the wrong game. He should be in the crop-dusting game. He would make a million dollars a year by fertilising crops with bull dust. We have reached a situation where he does not answer any of the arguments put up. He is still crystal-ball gazing. He could not give one illustration since 1899 of an Act of Parliament being challenged or invalidated in the courts. He gave no reason why this amending Bill should be before us. As bad as validation Bills are, if he had given an example of one such case he would have had an argument.

Let us consider another thing which the Leader of the House said in the last paragraph of his second reading speech as follows—

> I think I can explain in a more simple way that the measure will facilitate the business of both Houses of Parliament and remove some of the present inhibitions. It is hoped it will allow for a better balance of business between the two Houses. In recent times we have seen the imbalance in respect of the work load that can be generated between the two Houses. With the passage of this Bill it should be much easier sensibly to plan the work between the two Houses.

Currently 46 Bills have passed through our notice paper. Fourteen of those were introduced in the Legislative Council and 32 in the Legislative Assembly. But on my rough reckoning at least 20 of those Bills which were introduced in the Assembly could have been introduced in this Chamber, so that 34 Bills could have been introduced in this Chamber and 12 could have been introduced in the other Chamber. So the Leader of the House does not have an argument.

The next matter is that I think the Government is so short of legislation that soon we will be considering a Bill to prevent people seeing unidentified flying objects, because that would be no more ridiculous than the Bill before us. There

is no rhyme or reason for it. Not one example has been illustrated to us and the Minister is at a loss for words. He has rambled on and put up all sorts of hypothetical arguments which have no foundation. He has not even convinced his own members in regard to this measure.

The Hon. N. E. Baxter: How can you make that statement?

The Hon. R. THOMPSON: Not one of his own members has got up to support it.

The Hon. G. C. MacKinnon: What is the point? They agree with what I say and you have said you will not listen to reason.

The Hon. R. THOMPSON: Some people will fall for anything but, in all honesty, the Leader of the House knows that he has not put forward one illustration.

The Hon. G. C. MacKinnon: You and the Hon. Bob Hetherington have not said much in about the last half-hour. You read your speech tomorrow.

The Hon. R. THOMPSON: When it comes to Standing Orders, how will people determine what a Standing Order is going to be with regard to anything that may happen in the Parliament when all the rules of Parliament as contained in Erskine May have been governed by experience in Parliament and not by the hypothetical cases which the Leader of the House illustrated? All the Leader of the House has done is put up hypothetical cases that this could happen, that could happen, this doubt might arise, or that doubt might arise. He has said that the department thinks this could happen and the Crown Law Department thinks something else could happen. But in 78 years not one of these things has happened, and the Leader of the House wants us to foresee the future. It is just not on as far as I am concerned.

The Hon. N. E. BAXTER: The Hon. Ronald Thompson raised the question of a certain type of dust. I am of the opinion that he is fairly good at throwing that sort of dust in our eyes. I instance one Bill which I believe could still be challenged in courts; that is, the right of this Chamber to pass the Fluoridation of Public Water Supplies Act. When that issue was raised the President at the time ruled that because it was the responsibility of the Minister to allocate funds for that purpose the Bill was constitutionally passed by this Chamber. But we do not know what the courts might have done with it or whether they might have declared the Bill out of order. These are the things we have to look at in the future.

If such a Bill were to come before us and the President were to rule it in order, somebody might be shrewd enough to challenge it in the courts. In the past people have not done so but nowadays there are those who will go to the courts because they think they have found a loophole in the law and they will not care what the result is. I believe that other cases could also be quoted where this situation could exist.

The amendment to the Act contained in paragraph (b) of clause 2 will mean that in future such legislation shall deal only with the imposition of taxation. That is clear enough. But I think the rest of the wording in this clause is really not necessary and is only filling. I cannot understand why it is necessary to repeal subsection (9) and then re-enact it, unless the Parliamentary Counsel has some reason for doing it this way. I do not understand why we do not delete from subsection (9) the words "prior to the 31st day of January, 1951", because this would have had the same effect. This would leave subsection (9) to read—

> No infringement or nonobservance of any provision of this subsection shall be held to affect the validity of any Act assented to by the Governor at any time.

That would encompass the periods prior to 1951, since 1951 and from today onwards. I wonder whether the Leader of the House can explain why the Parliamentary Counsel saw fit to word the amendment in this way rather than deleting the words I have mentioned.

The Hon. G. C. MacKINNON: I cannot explain why. I do not know how one explains such things. We give instructions to the Parliamentary Counsel and he carries out those instructions to the best of his ability. He believes this is the clearer expression. The mistake which has been made is obvious. The Hon. Bob Hetherington has said this is retrospective validation. Of course, it is not and I have explained often that this Bill is not to validate but to clarify. We have said the courts will not do this and we have brought down this Bill to clarify the situation.

Nevertheless, like any good Opposition, the Opposition has opposed this measure in some ways so that we should think hard about it. We have done that and I thank members of the Opposition for enabling us to do so.

The Hon. T. KNIGHT: I should like to comment on a statement made earlier by the Hon. Ron Thompson that the Leader of the House has not convinced his own members. I make it clear that members on this side of the Chamber are convinced; we see the need for this Bill.

I also refer to Standing Order No. 89 which reads in part—

> The President or the Chairman of

> Committees may call the attention of the Council or the Committee, as the case may be, to continued irrelevance or tedious repetition on the part of any Member, and may direct such Member to discontinue his speech.

We on this side of the House do not wish to hold up the proceedings with repetitive discussion and our support for our leader will be shown in the vote on this Bill.

The Hon. G. W. BERRY: I think it would be interesting to quote from a similar debate which took place in 1950 as reported at page 2510 of *Hansard*, Vol. 127, for the 24th October to the 7th December. The then Attorney-General said—

> The Solicitor General has informed me that should any court of law agree with the view of the Constitution Act in regard to Messages accepted by the Speaker then in all probability quite a number of the Acts of Western Australia could be attacked as having had no Messages from the Governor to Parliament as provided for by the Constitution Act, and at my request he has named a few of such Acts—e.g., the State Transport Co-ordination Act Amendment Act, 1946, the Plant Diseases Act Amendment Act, 1946, the Industries Assistance Act Continuance Act, 1946, and the Farmers' Debts Adjustment Act Amendment Act, 1946. There is no doubt there are many Acts passed before and after the ones I have mentioned in respect of which no Messages were received, at the time of their passing.

So I think there has been doubt previously. I quote from the same page some comments made by the Hon. J. T. Tonkin as follows—

> That does not say that its effect will finish on the 31st day of January, 1951. Its effect will be felt for all time unless the Act is repealed or amended subsequently.

I think that is a statement of fact.

Amendment put and a division taken with the following result—

Ayes 9

Hon. D. W. Cooley	Hon. R. H. C. Stubbs
Hon. D. K. Dans	Hon. R. Thompson
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
Hon. F. E. McKenzie	

(Teller)

Noes 16

Hon. N. E. Baxter	Hon. N. F. Moore
Hon. G. W. Berry	Hon. O. N. B. Oliver
Hon. T. Knight	Hon. W. M. Piesse
Hon. A. A. Lewis	Hon. R. G. Pike
Hon. G. C. MacKinnon	Hon. J. C. Tozer
Hon. M. McAleer	Hon. R. J. L. Williams
Hon. T. McNeil	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. G. E. Masters

(Teller)

Amendment thus negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

PHARMACY ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

RURAL RECONSTRUCTION SCHEME 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) [9.06 p.m.]: I move—

That the Bill be now read a second time.

The rural reconstruction scheme was implemented in 1971 as a result of recognition by the Commonwealth and the States of the particular financial requirements of persons engaged in rural industries.

It was followed by a supplemental agreement extending the term of the scheme to the 30th June, 1976.

Over the period of years the scheme has been in existence it has provided very worth-while assistance to the rural sector in debt reconstruction, farm build-up, and rehabilitation on favourable terms and low interest rates, but has not extended to the whole of the farming community.

Although other forms of assistance were provided under separate legislation to dairy farmers and beef producers, such help was somewhat restrictive and further consideration in 1976 resulted in an extension of the measures of assistance under the scheme.

Experience has shown that greater progress would be gained by drawing together the assistance measures provided under the rural reconstruction scheme, the Australian dairy adjustment programme and the beef producers carry-on finance scheme. It is, therefore, appropriate that these separate provisions have been brought under one scheme by an agreement dated the 1st January, 1977, between the Commonwealth and the States of Australia.

The main purpose of this Bill is to give effect to the requirements of the rural adjustment scheme, 1977, and provide necessary amendments to the Rural Reconstruction Scheme Act, 1971-1973, to encompass those broader measures contained in the agreement.

The primary objectives of the rural adjustment scheme can be described under three main headings—

1. To help to restore to economic viability those farms and farmers with the capacity to maintain viability once achieved;
2. to regularly review the progress of assisted farmers with the objective of encouraging them to transfer to commercial credit as soon as circumstances permit; and.
3. to assist in the rehabilitation of farmers obliged to leave farming and to alleviate situations of personal hardship where no other assistance is available from normal sources of credit.

Essentially, assistance to farmers, horticulturists and pastoralists for debt reconstruction, farm build-up, farm improvement, and carry-on finance purposes is available only to such applicants who—

> are actually engaged in and dependent upon agriculture;
>
> can demonstrate that, given the assistance requested, they have sound long-term prospects for success;
>
> are unable to obtain the required finance from within their own resources or from normal sources of credit, and
>
> exhibit a reasonable level of management.

From the foregoing it is clear that over the years the emphasis of the rural scene has changed from one of reconstruction to long-term adjustment, and it is of importance to more clearly identify the authority by amending the Act to cover the broader aspects embodied in the rural adjustment scheme of 1977. Because of these changes, it is appropriate that the authority be known as the rural adjustment authority.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. H. C. Stubbs.

EDUCATION ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

APPROPRIATION BILL (CONSOLIDATED REVENUE FUND) (No. 2)

Consideration of Tabled Paper

Debate resumed, from the 12th October, on the following motion by the Hon. G. C. MacKinnon (Leader of the House)—

> That, pursuant to Standing Order No. 151, the Council take note of tabled paper No. 245 (Estimates of Revenue and Expenditure and related papers), laid upon the Table of the House on 21st September, 1977.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [9.10 p.m.]: In speaking to the motion moved by the Leader of the House, I want to say we cannot consider the Estimates of Revenue and Expenditure without worrying about the state of the economy. We all have our own theories as to what is wrong with it, and how it can be rectified. There are probably just as many theories as, unfortunately, there are unemployed in this State.

I want to put forward some thoughts which will, perhaps, inspire or stimulate people to think a little more about what we are doing with the type of economic system we have. It seems to me we are making an awful mess of capitalism. I do not want to argue tonight as to whether or not capitalism is a sound economic system, whether it should be perpetuated or remedied in some way, or whether it should be restructured or altered in order to last a little longer. I will not go into my own opinion of what will eventually happen to it.

Given that we do have a capitalist economic system, we ought to be playing it by the rules. However, we are not; we are allowing the proliferation of monopolies and oligopolies and we are not playing according to the rules.

I remember back in the early 1960s when Mr Menzies' bright new boy, Mr Barwick, became the Attorney-General. He was going to play

merry hell with a big stick, and Menzies expected big things of him in controlling the people within the society who were accused of trying to wreck the economy. That is what the people were saying in those days; there is nothing new in the world, as Noel Coward once said. The idea of union bashing, and blaming the unions for our economic ills, is not new either.

When Barwick introduced his first crimes Bill the conservatives rubbed their hands in joy and said it would remedy all economic ills. However, he then did something terrible which caused Menzies quickly to kick him upstairs into the High Court. Barwick brought in the Restrictive Trade Practices Act, which was nothing new to other advanced industrial societies. Those societies already had restrictive trade practices legislation and anti-trust legislation to help control capitalism, so that the rules could be applied and capitalism could last a little longer. As I said, Barwick was smartly pushed up into the High Court, and nothing was ever done about the Restrictive Trade Practices Act.

When the Labor Government went into office alterations were made to the legislation; but, in fact it never used its teeth, really, and it was never able even to bite anyone.

We must look around for other reasons for our economic worries. We need to examine the business of pulling what I might call "ego nuts" into line; Lang Hancock refers to people who are concerned about our natural and social environment as "eco nuts". I refer to people such as Lang Hancock as "ego nuts" because they are concerned with economic growth only and themselves.

If we take those initials we get "ego nuts". It also says a bit more about their personalities and how they are thinking only of themselves and not of society. So those people need to look around for some other excuse for the fact that they are engaged in restrictive trade practices and enter in collusion with other firms in what is euphemistically termed "orderly marketing". In fact it is another name for "ripping off" consumers and of getting rid of small businesses. If we get rid of competition, and prices are pushed up in a way that is not consistent with the rules of capitalism, we are getting away from the idea of free and fair competion.

People look around and think that presumably there must be some reason for our troubles and it must be the trade unionists. They feel that the trade unionists are conspiring to bring about industrial disputation in order to frighten everyone into giving them better conditions. Of course that is absolute nonsense. If people looked at the rules of capitalism they would see that trade unions have developed out of the capitalist society and that they are strongest in a capitalist society; they are important to the system.

Anyone who understands our society or has a slight knowledge of how it works knows that one cannot interfere with one section without affecting the whole. If we bash the trade union movement we injure the whole system. What has happened within the trade union movement in regard to the allegations of these "ego nuts" is that we have seen an effective reduction in the number of man-hours lost. In fact the last figures I have from the latest year book show there were 2 432 disputes in the year 1975-76. Seventy per cent of those disputes involved breaks of up to three days or less; most were only one day.

Immediately we see that the statistics are refuting the arguments of the "ego nuts". They then turn to the old conspiracy argument and say that trade unions are working out which industries can be hit with the most effectiveness with the smallest number of people being absent. Instead of looking at the way in which capitalism is being affected as an economic system these "ego nuts" complain about the trade unions. They should be saying to themselves, "These are the things we are doing wrong; our management is terrible by world standards and our collusion between firms is ruining capitalism." Instead of looking at the whole spectrum and being honest they are looking at the short-term prospects and wondering how they can "rip off" more profits.

The Hon. O. N. B. Oliver: I have had people from overseas visiting me. They have found things quite strange and wonder what has happened to Australia.

The Hon. GRACE VAUGHAN: They should have a look at some of the things I have just spoken about and I might add one could possibly call the member an "ego nut". If the rules of capitalism are followed our present society may last a little longer; it may totter along for a little while yet. If we ignore the warnings and do not realise we have to follow the rules then we will founder very quickly. People concerned about short-term profits will go down in history as the ruination of our economic system.

I want to emphasise again the need for an understanding of the trade union movement and its workers. When we are talking about trade unions we are effectively talking about the work force, because those not registered as blue collar workers are registered with professional organisations. We find they also are part of the

trade union movement when we think of it in terms of organised labour.

If we are going to have some of them sticking to the rules we must have this section of the community, this subsystem of our economic system, reasonably contented. If we look at the incomes of these people we understand why they are continually looking for better conditions and wages. They do so because they wish to keep up with the inflated prices caused by people who are not engaged in free and fair competition—people who are concerned only with "rip offs" and getting rich quickly.

If a fair wage were put into the workers' pockets more money would flow in the community and we would have investment and entrepreneurial exercises which would see us back on the slow road to affluence again.

If anyone wonders why the trade unions are trying to get more money for their workers he should look at the incomes listed in the Year Book compiled from the latest Taxation Office and Bureau of Census and Statistics figures. Seventy per cent of the people in this society who are earning incomes are receiving less than the average weekly earnings. This means there is a great number of people earning less than $190 a week. If some parliamentarians think they cannot manage on their present salaries they should put themselves in the position of those earning less than $190 a week!

It does not mean that they are all earning $189 a week; it means that something like 50 per cent are earning less than $150 a week. Many people are existing on what can be only just below the poverty line. Those people who have taken the care and concern to read Professor Henderson's treatise on matters of poverty will understand we are talking about a large proportion of our society.

We must try to meet the needs of these people. We will not do it by bashing them when they ask for money which would enable them to live a more comfortable life that the advertisers tell us we have to live. We must attempt to meet the needs and wants of the people in our society.

I am concerned about the lack of sticking to the rules of capitalism because I believe our society is one which has developed a sort of economic system that suits most people here. It should be pointed out to these "ego nuts" that if they do not stick to the rules we will be forced to have a different sort of economic system—one that will not be comfortable for all people.

We should look at the matters that are crying out for resolution. The petrol industry was the subject of a long inquiry. It was given a great deal of thought by people with much expertise. The inquiry offered a tremendous number of suggestions about the marketing of petrol. However, absolutely no notice was taken of these people, and their suggestions have been shelved. We even had our own Minister for Labour and Industry very upset when there was a bit of free and fair competition from ACTU Solo.

The Federal Government said there had to be orderly marketing; everyone had to charge the same amount. There was to be no fair and free competition. Everyone had to run his business in the same way and no one should make more profit than anyone else. We had to have the same prices throughout the nation.

We have seen what happens with a bit of free and fair competition, and we need that now. If we do not encourage it we do not deserve the sort of society we have now. The "ego nuts" do not care about the future; they just want to get rich quickly.

I want to say more about the trade union bashing and about this great blowing up of what is happening in regard to the time lost through industrial disputes. The number of days lost in a year amounts to about three million. When Her Majesty arrived in Western Australia a holiday was declared, and I refer to this only as a means of putting the argument into perspective, overall Australia lost 5.25 million working days because that is the size of the work force. We lost them by declaring a holiday, yet in the whole year we lost only three million working days. Remember that most of them were day-long disputes.

The matter of prisons interests me. I have done quite a deal of research, as has the Hon. Lyla Elliott, and the current situation appalls me. When I came to Western Australia nine years ago I was quite alarmed at the punitive attitude shown towards people who had transgressed the law. The prison figures are quite horrifying, as Western Australia has the largest number of convicted people in prison, *vis a vis* the rest of Australia.

The overall figure last year was 5.7 convicted and sent to prison for every 10 000 people in Australia. In Western Australia it was around nine for every 10 000 people. That is an enormous number; almost twice as large. Even a place like Queensland, which is becoming something of a police State, has a figure in the vicinity of only six per 10 000 people.

The Hon. O. N. B. Oliver: A lot of people are moving there.

The Hon. GRACE VAUGHAN: I would not like to think that Western Australian's were

greater transgressors of the law. We have developed a very punitive attitude; we seem to want to hit out at people and this is evident in our courts. If we are going to be punitive then for goodness sake let us get a decent place to put these people.

Anyone who saw the television show on the Fremantle Prison would have been appalled at the conditions there. In my job as a social worker I have been there many times and I can assure members that television is not like Aldous Huxley's *Brave New World* where citizens had television with the "feelies" and the "smellies". We only get the talkies and the movies. In reality the prison makes one ashamed to be part of a society that allows punitiveness to be carried to the stage of torture by having people in that place. Anyone with a sensitive nose would be appalled to find that the bucket system of toilets is still in existence. The smell is quite obvious and perhaps it would be sufficient to stop most people from transgressing the law. The present situation is an indictment upon us; we should not be putting people into a prison that is so archaic.

I support the motion. The Opposition always supports the tabling of the paper. This is part of the business of Parliament, and I earnestly draw the attention of members to the fact that we are not following the rules of capitalism. Unless we do we are going to get into an even worse mess, and I can assure members that my anticipation of what will happen to capitalism is not one that accords with their opinion. Western Australia and Australia have an economy that depends on agriculture and its extractive industries.

We must not ignore the fact that we have very little in the way of secondary industries which are mainly for domestic use; and particularly in Western Australia we have to import so much from overseas and the Eastern States in the way of manufactured goods for our comfort. So we really only have our primary and tertiary industries, and we are in the position of having to watch out to see that we especially observe the rules of the economic system and do not allow the "ego nuts" to take over and exploit the system to such a degree that the rest of us will suffer.

THE HON. R. G. PIKE (North Metropolitan) [9.31 p.m.]: I rise to speak on the Estimates, and in so doing I wish to advise the House that my subject will be the continuing emasculation of the right-wing of the Parliamentary Labor Party. To do this, I felt it would be best to mention very briefly the players in this subject. The subtitle is to be called, "Putting Together the Evidence of the Split in the Labor Party" and in act 1 we have Jack Egerton's statement on communist infiltration into the party.

The Hon. D. W. Cooley: Sir John Egerton.

The Hon. R. G. PIKE: In the second act we have the selection committee structure of the Labor Party. The characters and the places are quite interesting. The first are Don May and the Hon. Robert Hetherington in the East Metropolitan Province. Secondly we have Joe Berinson and Pat Fowkes in the contest for the Swan seat. The third comprise Kim Beazley Senior, Kim Beazley Junior, and Bill Latter, and the seat of Fremantle. Next are the Hon. Ron Thompson and the Hon. Des Dans, and the scene is Parliament House. Then we finish with Jack Egerton and Bill Latter.

The Hon. D. W. Cooley: Sir John.

The Hon. R. G. PIKE: I thank the honourable member very much. I would like first of all to quote from *The Bulletin*. I wish to quote Sir John Egerton, and I point out to the House that he is the immediate past President of the ALP. Inter alia in an article in *The Bulletin* he said—and I quote—

> WHAT HAS happened is that a few years ago the communist parties realised they couldn't progress under their own steam. A number of people, many of them I think legitimately and in a bona fide fashion, some of them I think to be plants, left the communist parties and joined the ALP. The glorious plan now is that this unification of the left, the socialist left, the communist left, and the ALP left, will all finally get together and take over the Australian system.

The Hon. D. W. Cooley: What is the date of that?

The Hon. R. G. PIKE: It is *The Bulletin* of the 20th August, page 16. Also, in the same article at page 17 he said—

> The socialist left in Victoria has very close connections with the communist parties. They have very close connection with people who I know to have been communists for many, many years. They are people who opposed the ALP for many years. In fact, one prominent member of the socialist left, Jim Roulston, who for all his official positions and affability was for a long number of years a very, very strict and rigid member of the communist party, has now been elected to the federal executive of the ALP as a result of a deal made inside the Victorian ALP.

I go on to point out that as far as the Parliament

of Western Australia is concerned, the following are the details of communist candidates: In 1959 we had Patrick Laurence Troy standing as the communist candidate for the seat of Fremantle. In the same year we had John Rivo Gandini standing as the communist candidate for the seat of Guildford-Midland, and we also had Edward Aaron Zeffertt standing for the seat of Mt. Hawthorn. Then in 1962 we had George William Kendrick standing as the Communist Party candidate for the seat of Fremantle, and in the same year we again had John Rivo Gandini standing for the Greenough electorate. In 1965 Gordon Leonard Murray stood as the Communist Party candidate for Swan Districts. Victor Robert Williams was the Communist Party candidate for the seat of East Melville in 1968. Then in 1971 Victor Robert Williams stood for the seat of Cockburn, and Paul James Marsh stood for the seat of Nedlands. In respect of the Legislative Council, Annette Aarons was the Communist Party candidate for the Metropolitan Province in 1965.

What is interesting here, of course, is that we had a continual run of communist candidates from 1959 until the 1971 election, and then there was an absolute break-off, a finality, a cessation of candidates from the Communist Party as far as State Parliament elections are concerned, right up to the present time. All I am saying is that having quoted what Sir John Egerton has said is happening, this is a remarkable coincidence. I refer here to the ex-communist President of the Coal Miners' Union in this State (Mr William Latter) now President of the Trades and Labor Council. He is a quiet, courteous, and apparently very considerate man with whom I had dealings years ago in regard to many matters. In my opinion he personifies the type of infiltration to which Sir John Egerton referred. Having illustrated the retreading—if I can call it that—of Mr Latter from a communist to the President of the Trades and Labor Council, I go on to refer to the selection committee structure of the Australian Labor Party.

Members of the Opposition who have been around for some time will know that in years of yore the strength of the pre-selection system of the Labor Party resided in the rank and file members. This has now been reversed, and I quote from *The Bulletin* dated the 8th October. I quote no less an authority than Mr Kim Beazley Senior who said, amongst other things—

> Since then the rules have been changed. Now a panel which consists of 26 executive members and six representatives from the local electorate decided who shall be banner-bearer for the ALP in the particular electorate.
>
> Beazley has decided to retire from public life at the next Federal elections after 32 years in the Federal parliament. He told friends that he would have much more difficulty in preserving his ALP pre-selection under the present rules than he had back in the days when he was in conflict with Chamberlain but could still rely upon the loyalty, backing, and support of rank-and-file members.

If we look at the figures we find that 77 per cent of the voting strength for Australian Labor Party endorsement rests in the hands of the executive, and only 23 per cent rests in the hands of the local yokels from the branches; and therein, of course, we have the nub of the problem.

The Hon. R. F. Claughton: What is your authority for those percentages?

The Hon. R. G. PIKE: I can divide, Mr Claughton.

The Hon. R. F. Claughton: I am not sure that you understand the system.

The Hon. R. G. PIKE: The greatest compliment I can pay Mr Claughton is to say that it seems to me he thinks with his mouth.

The Hon. R. F. Claughton: You were never noted for your compliments.

The Hon. R. G. PIKE: I point out that in the Liberal Party the reverse is the fact. The greatest strength, like 80 per cent of the local people in the Liberal Party, have the voting authority, compared with only 20 per cent of the voting authority which resides in the State council appointments. Thus, of course, we have the transfer of safe Labor seats with very strong voting patterns, by way of endorsement to the Australian Labor Party, directly into the tough hands of the left-wing infiltrated Trades Hall. We have a control, if one likes, of the Parliamentary Labor Party by Trades Hall.

I now go on to talk about the characters and the places. Let us refer here to Mr Don May. Without doubt it can be said that Don May was one of the better right-wing Ministers in the Tonkin Government. He had a record of achievement and a record of long association with the Labor Party, going back through his father and, indeed, his grandfather. What did we see? We saw the boundaries of his seat altered so that it became unwinnable for the Labor Party. Of course, the Liberal Party won the seat at the subsequent election. We saw Don May seeking

endorsement for the safe Labor Legislative Council seat of East Metropolitan Province.

The consequence of that was a very interesting operation. The Hon. Robert Hetherington, who unfortunately is absent from the Chamber at the moment, was the successful candidate.

The Hon. G. C. MacKinnon: He is out on parliamentary business.

The Hon. R. F. Claughton: He has spent hours in the Chamber.

The Hon. R. G. PIKE: Here we saw the imposition of the will of the Labor Party machine controlling endorsements upon the candidates; and particularly in regard to the selection of candidates.

It is interesting to look at the figures for that election, because the Hon. Fred McKenzie who lives in the province which embraces the electorates of Canning, Victoria Park, Welshpool, and Ascot, polled a majority of 7 761. The Hon. Robert Hetherington won by only 3 126 votes. This is a tangible expression of the electors' displeasure regarding the candidates. As I said by way of interjection to the Hon. Robert Hetherington some time ago—and I say it again—even the street trees in the East Metropolitan Province vote Labor; and yet we had this tangible expression of disappointment in regard to the candidate.

It is significant to note that the Hon. Robert Hetherington lives in Claremont and has no direct domicile connected with the province, nor did he have one at that time. So there we have a situation in which Don May, who has a tremendous record of achievement, and performance, and was a right-wing man, was cast onto the scrap heap.

Now we pass to the Federal seat of Swan.

The Hon. Lyla Elliott: What do you think you will achieve by smearing members of this Chamber? That is exactly what you are doing.

The Hon. R. G. PIKE: I find generally in regard to—

The Hon. R. F. Claughton: I think he is having nightmares.

The Hon. R. G. PIKE: May I continue, Mr President?

The PRESIDENT: Please do.

The Hon. R. G. PIKE: All I can say, Sir, is that in the short period I have been in this House I have noted that when the political debate becomes more controversial, the people of low intelligence become rude.

The Hon. Grace Vaughan: You would know.

The Hon. R. G. PIKE: I pass on now to deal with the Federal seat of Swan. We saw Joe Berinson, a man of the ilk of Don May—in fact an ex-Minister of the Whitlam Government—and a man of proven record, performance, capacity, and competence—

The Hon. Grace Vaughan: In your opinion.

The Hon. R. G. PIKE: —suddenly cast onto the scrap heap by the iniquitous, ruthless, executive parliamentary selection committee system of the ALP.

The Hon. R. F. Claughton: *Hansard* does not record laughter.

The Hon. R. G. PIKE: I think that particular result speaks for itself.

I pass, therefore, to Fremantle, where we had Mr Beazley Senior, one of the better right-wing, long term serving members of the Labor Party with, I think, 32 years service in the Federal Parliament, in doubt of his re-endorsement if he stood. It is significant that no less an authority than Mr Bill Latter was quoted in the Press as saying that Mr Beazley Junior was an unacceptable candidate to the ALP. That was said prior to the time when the endorsements took place.

Perhaps I should pass on now to the Legislative Council, and deal with the Hon. Ron Thompson and the Hon. Des Dans.

The Hon. R. F. Claughton: I think they are well equipped to speak for themselves.

The Hon. R. G. PIKE: In this House last week I thought we had a most tangible, practical example of the ruthless control that is imposed by the Labor Party upon its parliamentary members.

It had been determined, on a Bill which we called a morality Bill, that the party in a very ruthless fashion imposed its will on its members, contrary to the tradional Liberal Party concept of a free vote on matters of morality. The long history of the Liberal Party has always indicated that we give our members a free vote on this subject.

The Hon. R. F. Claughton: Come off it!

The Hon. Grace Vaughan: You also do some weird things we do not like.

The Hon. R. G. PIKE: In this particular instance a member, clearly with a conscience—I add here that I also was opposed to the Bill, but nevertheless I defended the right of Liberal Party members to vote according to their conscience—was directed as to how to vote. By absenting himself from the House—by taking the most charitable way out—he was literally hauled over the coals and sent to Coventry; and now we

find he is no longer a member of the Labor Party. The party makes its members obey its directions, and if they do not obey, the penalties apply, and the penalty for the honourable member is no more Labor Party endorsement. The penalty for all present right-wing members of the Parliamentary Labor Party in this House will be that if they do not do as directed by Trades Hall, wherein resides the strength for their endorsement, they will be political history.

One of the members by way of interjection earlier asked, "Why bring this up?" I said, in the first instance, that the time had arrived when the division within the ranks of the Labor Party in this State, when the left-wing union communist control of that organisation, needed to be highlighted.

The Hon. R. F. Claughton: Why not speak about the splits in the Liberal Pary?

The Hon. R. G. PIKE: I think the evidence I have presented speaks for itself. We have Don May and Robert Hetherington—

Several members interjected.

The Hon. R. G. PIKE: If members want to interject I request that they do so one at a time, because I like to answer interjections.

Several members interjected.

The PRESIDENT: Order! The honourable member will direct his remarks to the Chair.

The Hon. R. G. PIKE: Certainly. We have the situation in the East Metropolitan Province, by way of summary, where Don May was downed by Bob Hetherington by the same clique which controls the Labor Party endorsement machine. In the Federal seat of Swan we have Joe Berinson downed by Pat Fowkes. In Fremantle we have Bill Latter making comment on Beazley Junior; and in this House we have the debacle of the Hon. Ron Thompson who endeavoured to exercise his conscience and was sent to Coventry as a consequence.

The Hon. R. F. Claughton: That is a lie.

The Hon. R. G. PIKE: I say that Mr Bill Latter and his left-wing mates with their doctrinaire determination are deracinating the right-wing base of the Labor Party.

In conclusion I say it is clear that the communists—left-wingers and doctrinaire Fabian socialists—regard their symbiotic relationship with the ALP as irreversible.

THE HON. TOM McNEIL (Upper West) [9.49 p.m.]: I notice with some interest that State Transport Ministers deferred for one year, until January 1980, the introduction of the third and final stage of the motor vehicle emission controls.

I feel very strongly about the situation at the moment, as do most people in the country, and as we did in 1973 when the fuel crisis raised its head and the vehicle emission control system began to operate. It is quite obvious that there is a need to revaluate the effect of emissions and that controls must go a stage further. The system was operational in July, 1976. However, the critical state of the world petroleum reserves, the high cost of fuel, and the certainty that all these costs will rise dramatically in the next 12 months have placed the country people at a great disadvantage.

I have not heard anyone with any authority say that the emission control system as it works on any vehicle is of any use at all. The system is hard to maintain and is tremendously heavy on fuel. We are told that the weight of the vehicle is a dominant factor in this system, and the figure of 8 per cent to 10 per cent is mooted.

The RAC has stated quite strongly that we must have further tests conducted in this matter. My only concern is that if we continue this system, taking into consideration the fact that we do not have fuel price equalisation—that was knocked out several years ago at a time when it was considered favourably in the country—it will have a terrific impact on the price of fuel. When fuel price equalisation was knocked out it was possible in the country to obtain a gallon of fuel for within 4c of the cost applying in the metropolitan area. The situation as it exists at the moment is that it is possible in Perth to buy a litre of fuel for between 15.5c to 16.4c. At some places it is even higher, but the average is 16.4c.

In the country the cost is 19.7c to 21.5c a litre. With 4½ litres to the gallon, there is now approximately 20c difference per gallon between the cost in the metropolitan area and the cost in the country. This will knock the poor old country cousin again.

I notice with interest that smog exists in Sydney and Melbourne, which are the two major cities about which we speak, and that the smog is in a two to three-kilometre area, but not all vehicles forced to install emission controls actually go into that part of the city. Nevertheless, they are subjected to the same rules and conditions.

When we consider that the cost of emission control is between $80 and $100, it seems we have not done our homework, especially in view of the fuel crisis which is hanging over our heads at the moment. It seems that we spend far too much time stopping and starting our vehicles and that our whole rural and suburban road situation must be improved. It has been proved that by the time

a vehicle stops and starts at corners it uses up to 50 per cent of the fuel that it would use on a smooth run through. That is one situation which must be improved.

The Hon. G. C. MacKinnon: You mean 50 per cent more fuel?

The Hon. TOM McNEIL: Yes. Other aspects to be considered are diesel engines, lighter materials, and smaller cars, along the European style.

Returning to the smog situation, and assuming by smog we mean carbon-monoxide, although the situation in Perth is not as serious as it is in Melbourne and Sydney, it is still higher than the accepted world standard. On that score we must show some concern. Again the people in the country will be greatly disadvantaged, especially in view of the fact that in country areas the smog does not exist.

Let us summarise all the things we can do to improve fuel consumption. We can improve public transport; we can use steel-belted radial tyres; we can use diesel engines, lighter materials, and smaller cars. We can also consider the stop-start traffic flows. The fact that by January, 1980, the third and final stage of the system will be implemented means that we have not done our homework and country people are again disadvantaged.

Although the legislation will serve some useful purpose for environmental control in certain parts of the States, it certainly will not in country areas, and once again the country residents will be inconvenienced because they have the greatest number of miles to travel. Consideration has not been given to the fact that they must travel long distances to get from point A to point B. Emission control is an unnecessary burden on country people.

Other means of policing the Act must be gone into and I wholeheartedly suggest at this juncture that the 14 months between now and 1980 is not sufficient time in which to go into the matter, although by that time we will have a far better idea of what a litre of fuel will cost in Geraldton, Esperance, and so on. Obviously we must give the matter a great deal more consideration.

I support the motion.

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

House adjourned at 9.56 p.m.

QUESTIONS ON NOTICE

FISHERIES

Patrol Boats

180. The Hon. R. F. CLAUGHTON, to the Leader of the House:

How many patrol boats are in use with the Fisheries Department?

The Hon. G. C. MacKINNON replied:

Four (4) ocean-going patrol vessels. Two (2) mobile trailer units.

For estuarine and coastal inshore waters and other restricted uses ten (10) small units allocated to districts from Carnarvon to Albany.

HOSPITALS

Staff Levels

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

With reference to the letter to Administrators of the Royal Perth Hospital, Princess Margaret Hospital, Sir Charles Gairdner Hospital, King Edward Memorial Hospital, and the Fremantle Hospital, from the Acting Director of Administration, Medical and Health Services, dated the 15th July, 1974, regarding staff levels, and tabled in the Legislative Assembly on the 30th October, 1974—

(1) Have any further communications been sent to Hospital Administrators at the direction of the Premier or Minister for Health since that time concerning staff levels at the hospitals concerned?

(2) If so, will the Minister table the correspondence concerned?

The Hon. D. J. WORDSWORTH replied:

(1) and (2) Since the 15th July, 1974, there has been considerable correspondence in the normal course between the Administrators of the metropolitan hospitals and the Director of Administration relating to levels of subsidy which have included reference to staff levels.

One letter dated the 22nd April, 1977, was sent at the specific

direction of the Minister for Health and a copy of this letter is tabled.

Should the Honourable Member wish to have further information concerning the other correspondence with individual hospitals this would be available if she contacts the Director of Administration.

The letter was tabled (see paper No. 301).

WATER SUPPLIES

Bauxite Mining and Woodchipping

182. The Hon. R. F. CLAUGHTON, to the Attorney-General representing the Minister for Forests:

(1) In view of the serious shortage of water supplies in the South-west region due to the current drought conditions, is the Government reviewing the commitment of forest resources to bauxite and woodchip production?

(2) (a) Is continuing study being undertaken on areas cleared for bauxite mining and woodchipping;
(b) has this study confirmed a serious soil nutrient loss with the above clearing; and
(c) have the studies confirmed increases in salinity?

(3) Has the quality and quantity of water in rivers and streams in areas subject to bauxite mining and woodchipping been affected by these uses?

(4) Since the commencement of—
(a) bauxite mining; and
(b) woodchipping;
what area of land in forest areas has been cleared for each of these purposes?

The Hon. I. G. MEDCALF replied:

(1) No. There are, however, ongoing studies in both the bauxite and woodchip areas by the Hunt and Kelsall Committees respectively.

(2) (a) Answered by (1);
(b) no;
(c) no.

(3) No significant change has been recorded.

(4) (a) Bauxite—area cleared 1 610 ha (to March, 1977); area rehabilitated 930 ha (approximately);
(b) woodchipping—no clearing has been undertaken in State forest for woodchipping.
To June, 1977, chipwood material has been extracted from 3 296 ha of forest cut over for sawmilling.

PRISON

Canning Vale

183. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Chief Secretary:

(1) In what year was the proposal to build the new Canning Vale prison first announced?

(2) What was the estimated cost of the project at that time?

(3) How much progress has been made in respect to construction to date?

(4) Is work in progress on the site at the moment, and—
(a) if so, what is the work;
(b) if not, why not?

(5) When is it estimated the project will be completed?

(6) What is now the estimated cost of the project?

(7) Is it a fact that the section already constructed is badly damaged due to vandalism?

The Hon. G. C. MacKINNON replied:

(1) 1971.

(2) Costs were not estimated when this project was first announced. An estimate of $5 982 520 was made in 1973 but did not include contingency or provision for "rise and fall".

(3) Earthworks and construction of Gatehouse.

(4) (a) and (b) Earthworks are in progress.

(5) Until tenders are called it is not possible to give an estimated completion date.

(6) An estimate of cost given earlier this year indicated $20 000 000 to build the long-term maximum security unit for 250 prisoners. For this reason a committee was appointed to consider whether it may be of greater advantage to provide facilities for the mentally disturbed and trial and remand class prisoners.

(7) Some vandalism has occurred but the damage is not substantial.

TRANSPORT

Freezer Trucks

184. The Hon. G. W. BERRY, to the Minister for Transport:

(1) What is the temperature required for freezer goods to be successfully carried by road?

(2) Are all freezer trucks capable of attaining and maintaining this temperature?

(3) If not, how many are unsuitable?

The Hon. D. J. WORDSWORTH replied:

(1) The Public Health Department Code of Practice covering the Processing, Transport, Handling, Storage and Sale of Frozen Foods provides for goods to be carried by road at temperatures not above 15 degrees Celsius.

(2) Prior to granting franchises the Transport Commission ascertains that the company concerned has sufficient vehicles capable of meeting the necessary temperature ranges to run the service.

(3) None that I know of.