Legislative Council

Thursday, 14 October 1982

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 3.30 p.m., and read prayers.

LEGISLATIVE COUNCIL: CHAMBER

Reading of Newspapers: Statement by President

THE PRESIDENT (the Hon. Clive Griffiths): For the benefit of honourable members I wish to draw their attention to the fact that it has always been, and is still, unparliamentary to read newspapers in this Chamber. The situation has not been altered and I recommend that honourable members observe that.

QUESTIONS

Postponement

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [3.38 p.m.]: In view of the short time available I am obliged to ask that questions and answers be deferred until the next day of sitting.

INDUSTRIAL ARBITRATION AMENDMENT BILL (No. 2)

Report

Report of Committee adopted.

JUSTICES AMENDMENT BILL (No. 2)

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [3.41 p.m.]: I move—

That the Bill be now read a second time.

Earlier this year the Government announced that it had set up an advisory committee to consider amendments to deal with the question of domestic violence and other family law matters. The work of the committee was, amongst other things, directed towards providing some immediate protection for members of a family who may be trapped in violent or threatening situations with limited legal redress.

At present the legal proceedings open to persons in such situations are fairly cumbersome. One method is for the person to obtain an order under the Justices Act that the offender should be bound over to keep the peace, but this is a fairly complicated and even rather ancient procedure involving a formal complaint being sworn out and subsequently a time being fixed for a hearing.

Another alternative is for a person to obtain a non-molestation order under the Family Court Act, but once again this means going to the Family Court and getting an order. In both cases there are inevitable delays.

For various reasons many people are reluctant to go through these procedures and involve themselves with solicitors and unknown legal costs. The principal objection, however, has been that such orders were not effective so as to offer any real protection for the victims of domestic violence.

The advisory committee has been awaiting the outcome of proposed amendments to the Family Law Act in the Commonwealth Parliament and has not been able to complete its work. It may therefore be some time before the stage is reached where its recommendations can be considered.

In view of this, and the desirability to provide some immediate legal redress for those who find themselves in situations of domestic violence, the Government has decided to introduce this Bill.

The PRESIDENT: Order! I ask honourable members to cease their audible conversations while the Minister is introducing the Bill.

The Hon. I. G. MEDCALF: The Bill is based largely on a 1981 amendment to the Justices Act in South Australia, which resulted from a report to that Government by its domestic violence committee. Although the South Australian legislation has been in force for a relatively short time, the indications from that State are that the provisions have worked satisfactorily.

The legislation will apply generally to all domestic violence—even to violence which may not strictly be classed as domestic—and is not limited to violence between spouses. In order that the provisions will apply generally, it has been considered necessary to include the amendments in the Justices Act to be administered in the Courts of Petty Sessions.

This Bill will provide for a new part VII of the Justices Act, to be entitled "Orders to Keep the Peace". A complaint may be made under this part where a person has caused personal injury or damage to property and is likely to do so again unless restrained, or where a person has threatened to cause personal injury or damage to property and may, in fact, carry out that threat unless restrained, or where a person's behaviour is such as is likely to lead to a breach of the peace, unless that person is restrained.

A complaint under this part may be made by either a police officer or a person against whom or against whose property a threat is directed.

The amendment will permit justices to make orders imposing such restraints on a person as are necessary or desirable to prevent him from acting in the apprehended manner.

A provision has been added that orders are to be served personally on defendants by the Clerk of Petty Sessions. Breach of a court order will itself be an offence for which the police can arrest the offender if appropriate. The Bill provides also that where a suspected offender is arrested, he shall be brought before a court as soon as practicable, but no later than 24 hours after the time of arrest.

This Bill also makes provision for parties to these proceedings to apply at any time to justices to vary or revoke an order after having heard submissions from the parties to the case.

By tightening procedures, the Bill will provide some immediate relief for victims of domestic violence.

I might add that although these amendments are being brought into Parliament prior to receipt of the advisory committee's report, the committee has been informed of the Government's action. It has been requested to continue with its study and, if it is found necessary, further amendments may be made to this aspect of the law at another time.

The committee's deliberations on other items included in its terms of reference relating to the co-ordination of Commonwealth and State Acts will be awaited with interest.

The main point, however, in bringing this Bill into Parliament at this stage is to provide a speedy and uncomplicated method of dealing with breaches of the peace involving violence or threatened violence and to give the unfortunate victims a more immediate and effective avenue of legal redress.

I commend the Bill to the House.

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

STAMP AMENDMENT BILL (No. 4)

Second Reading

Order of the day read for the resumption of debate from 22 September.

Debate adjourned to a later stage of the sitting; on motion by the Hon. J. M. Berinson.

BUILDING SOCIETIES AMENDMENT BILL

Second Reading

Debate resumed from 22 September.

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [3.47 p.m.]: When this Bill was debated a number of questions were asked by the Hon. Fred McKenzie and the Hon. Joe Berinson. The Hon. Fred McKenzie asked the following question—

> Why didn't the Government seek the advice of the Permanent Building Societies Association?

The answer is that the need to provide a wider field for cash stand-by facilities must be looked at with more importance by the managements of larger building societies, and this applies particularly to the Perth Building Society, which has assets approximating $1 000 million. At a liquidity seminar held on 7 July 1982, at which all but one member of the association was represented, the Registrar of Building Societies made mention of the proposed change.

A further point made by the Hon. Fred McKenzie reads as follows—

> If a certain building society requires this additional facility, the Minister should make it clear just where the request should come from?

The answer is that the matter of stand-by facilities is one for the various managements of our nine permanent building societies to arrange. Up to date the Government has not seen the necessity for it to legislate for stand-by requirements, but over the years encouragement has been given to the societies to provide for adequate stand-by arrangements. With this view there was no reason to differ from the Perth Building Society's request for the amendment when financial conditions in the past 12 months have changed considerably with greater competition from the recently created cash management trusts and the deregulation of bank deposit rates resulting from the recommendation of the Campbell report.

In the financial environment based on a volatile interest rate market structure, the Perth Building Society is to be complimented for its decision to prepare itself for heavy withdrawals in extreme circumstances under abnormal conditions.

The following question was asked by the Hon. Joe Berinson—

> Why does the Government propose to limit the use of funds in such a way as to preclude their use for ordinary Housing loans?

The answer is: The purpose of allowing offshore borrowing is for it to be used during times of extremely tight liquidity. The cost of a satisfactory currency hedge facility is comparatively high when made at the time a stand-by facility is activated, but this high cost for which a society would

budget is acceptable when the only alternative is that no liquidity would be available.

This high cost would be only for a short while during which time a society would make adjusting arrangements to obtain other liquids. These other arrangements could be the sale of some of a society's assets, no further loans to be made, and the encouragement of borrowers to repay loans, or portion of loans in advance.

Even though a hedging arrangement takes away any currency exposure, the high cost of hedging does not make it a satisfactory method of raising funds for ordinary housing loans. The hedging cost for a short period would be far less than for a 25-30 year period over which loans are usually written the average life of a housing loan.

The Hon. J. M. Berinson asked—

> Why are the three specific conditions for allowing offshore borrowing not specified in the Act?

The answer is: The Government in recognition of its concern to overseas borrowings by building societies required that the Treasurer should give his approval. The Government did not see the necessity to have the specific conditions imposed to be incorporated in the Act, but required that the Treasurer be empowered to impose conditions.

Had tight specific conditions been made in legislation in this instance they could have defeated the purpose of the amendments of allowing for immediate access to additional liquidity in times of frequent changes in the financial environment which could take place in the remainder of the 1980's.

To illustrate that point, the conditions contained in the Bill could be so tight, or so limited, that they could restrict the hedging arrangement. To write such a condition into a Bill or Act for an operation which may take place at some time in the future is unnecessarily restrictive. The tendency throughout the Commonwealth these days is to leave the negotiating terms to the Treasury.

The Hon. J. M. Berinson: I was not advocating a comprehensive list of conditions, but only two or three items which the Minister said would apply.

The Hon. R. G. PIKE: That is true, but a degree of flexibility is needed within the definition of the two or three items. Had we been negotiating a loan 10 years ago, we would have been paying five per cent to eight per cent, and everyone would have thought that eight per cent was high. Today it might be 20 per cent and everyone would say, "That is the cost of money."

As this degree of flexibility is recognised and needs to be contained in legislation, the approval must be given by the Treasury.

The Hon. J. M. Berinson asked a further question as to whether the Minister would be prepared to table the recommendation and supporting arguments by the advisory committee. On behalf of the Minister, I answer "No." The reason is that with my comments given today, and replies to the various questions asked by the Opposition, I can see that the tabling of the recommendations of the advisory committee would add no more to the debate on this one amendment.

In any case, these recommendations were discussed, and as a matter of policy are always discussed by Cabinet, and it is not policy for this information to be made available publicly.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. R. G. Pike (Chief Secretary), and passed.

ACTS AMENDMENT (METROPOLITAN REGION TOWN PLANNING SCHEME) BILL

Second Reading

Debate resumed from 21 September.

THE HON. FRED McKENZIE (East Metropolitan) [3.55 p.m.]: The Opposition does not oppose this Bill. It provides for a description of the metropolitan area and I want to make one or two remarks on that point. I have not seen the map of the metropolitan area, but I have had a look at the description contained in the legislation, and it seems to be a quite reasonable description of the metropolitan area. It is a great pity that we do not have a standard description of the metropolitan area, particularly in relation to the Electoral Districts Act. If we had a description similar to that contained in the Bill we would not have the arguments that we do about descriptions contained in other Acts, in particular the Electoral Districts Act. As you know, Mr President, the description contained in that Act is not really a description of the metropolitan area as far as we are concerned; it works against us.

The Hon. A. A. Lewis interjected.

The Hon. FRED McKENZIE: The Government makes it up and we cannot do anything about it. The Government would do well to take a cue from this Bill because it is an accurate description.

The Bill also contains a provision for the maintenance and management of land reserves for parks and recreation. We are happy to support that, and in doing so I refer to the Minister's second reading speech where he said—

> The functions of the authority are enlarged to include the maintenance and management of land reserved for parks and recreation and, with ministerial approval, the carrying out of such works as may be incidental to such maintenance or management or otherwise conducive to the planned use of the land for recreational purposes.
>
> Furthermore, to facilitate management and maintenance, the authority may, with ministerial approval, enter into an agreement with any person under which that person may acquire a lease or licence or other estate or interest in any such land.
>
> Also, the authority is authorised to apply metropolitan region improvement fund moneys to payment of expenditure incurred in the maintenance and management of land reserved under the scheme for parks and recreation or works incidental thereto.

We support the provision that the Metropolitan Region Planning Authority should carry out maintenance and management of the land in its care. Some of the areas in its care really need cleaning up. We hope that giving it this authority in the short term will result in the better care of particular areas.

The Bill provides also for an increase in penalties and allows the authority to make regulations for the carrying out of the general objectives of the metropolitan region scheme. The regulations empower wardens to take action to prevent vandalism, the dumping of rubbish, and damage to fences, and the existing maximum penalties are inadequate as a deterrent. It is proposed the penalties be increased from $100 to $500, with the daily penalty for a continuing offence to be increased from $10 to $50. The Opposition does not argue with an increase in penalties because, clearly, at their current level they do not provide sufficient deterrent.

The Bill also provides for a renaming of the groups operating within the Metropolitan Region Planning Authority. Formerly they were known as groups A, B, C, and D and now are to be known as the south-west group, the north-west group, the south-east group, and the eastern group. This appears to be a sensible move because it will enable one to identify the area represented by the individual groups.

Sitting suspended from 4.02 to 4.15 p.m.

The Hon. FRED McKENZIE: The Bill contains a new provision relating to compensation. Previously the authority was not able to take action to claim damages. In his second reading speech, the Minister said—

> In recent prosecutions, the Crown Law Department has advised that it has been unable to move to obtain damages in the absence of statutory powers.
>
> Instances include damage to fences and gates and dumping of car bodies. Repairs and removals are a heavy charge on public funds.
>
> These in effect provide that a court may order a person convicted to pay compensation to the authority for the costs of repairs and loss of property incurred by means of the offence.

We agree with the insertion of this provision in the legislation, because if damage of this nature occurs, the person responsible for causing it should be required to pay compensation.

I turn now to the delegation of routine functions and I ask the Minister to comment on that matter in more detail, because although the proposed amendment may result in more efficient administration, I point out that when the Act was amended in 1979 provision was included for the appointment of a full-time chairman. At that time a provision which this Bill seeks to repeal was inserted, and it reads as follows—

> (4) A Committee shall not enter into a contract or other commitment or undertaking without first having the express authorization of the Authority to do so and any contract, commitment, or undertaking entered into without that authorization is of no effect.

It is acknowledged that by removing the bar contained in section 18A (4) the process will be speeded up, and that is desirable.

We cannot help but wonder why this provision was inserted in the first place not so long ago in 1979. It has not been there long, yet now we are taking it out.

If I were the chairman of the authority I would want to know what was happening with these committees. I do not know whether a provision exists to provide that the chairman be informed of the activities of these committees when they enter into contracts for other sorts of commitments.

That appears to be the intention of the removal of this provision. We are concerned about this point and the Minister should offer an explanation because, if the committees enter into undertakings that the chairman will be required to defend, we should have a provision whereby he is fully aware of what the committees are undertaking.

Another amendment entails the insertion of the words "a copy of" in section 33 of the Act so that in future it will be satisfactory to have tabled in both Houses of Parliament a copy of an amendment to the scheme. It would appear from the Minister's second reading speech that we have been acting illegally, because copies of amendments have been tabled in both Houses of Parliament when the originals should have been tabled. I do not know how we stand now in respect of any challenge that might be launched in the courts questioning the validity of past amendments to the scheme. We are not opposed to the insertion of the words "a copy of" but we would like the Minister to comment on the validity of our previous actions.

Although we have had made many amendments to the Metropolitan Region Town Planning Scheme Act it is unfortunate that none of them has enhanced the reputation of the MRPA. That body is continually under attack in the public arena and a lot of the criticism of it has been brought on itself; in fact, the great majority of criticisms have been of its own making.

Recently the MRPA sacked from one of its committees the Mayor of Stirling, Mr Graham Burkett, because he had the temerity to disagree with other members of the authority. In doing so he publicly expressed his disagreement.

The Hon. N. F. Moore: Do you think to do that in the public arena is the right thing?

The Hon. FRED McKENZIE: It concerned a very topical matter and I believe he quite rightly spoke out in the way he did. He was entitled to do so. What is the good of having people on the authority if they are to be just puppets to carry out the Government's wishes.

The Hon. N. F. Moore: That is not true.

The Hon. FRED McKENZIE: That appears to be what happens. The authority could not accept the criticism levelled at it by a properly elected member of one of its planning committees.

The MRPA does not have a good track record and is disliked in many quarters. I know that its tasks are sometimes very onerous but one would think it would endeavour to improve its image in some way.

The Government appointed a full-time chairman to the authority, but since then the authority seems to have been in more trouble than in the past. We have had the Servetus Street problem, and Mr Moore knows that in his own party room his colleagues rejected the Spencer-Chapman Road link.

The Hon. P. G. Pendal: A good job.

The Hon. FRED McKENZIE: I take the opposite stance. Mr Pendal does not want the traffic going through his area, but now other people will have to suffer.

The Hon. P. G. Pendal: We did put an alternative so that other people would not suffer.

The Hon. FRED McKENZIE: It was not a satisfactory alternative. The member shovelled all the problems to my side of the river. If ever I get the opportunity I will shovel those problems back to his area.

We support the measure but would like to hear from the Minister on the points I have raised.

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [4.26 p.m.]: I shall deal with the Hon. Fred McKenzie's last question first. He mentioned clause 6, which deletes reference to the amendment and inserts the words "a copy of". When I was being advised on this Bill by the appropriate officer I raised with him precisely the same query. The answer is that there is no provision for an original copy but rather a provision for four copies of the amended documents. The reference has been always to four copies of the amended documents, so the parliamentary draftsman altered what is a grammatical thing to read "a copy of". In no way does it affect the legality of what we have done; it is merely a grammatical correction.

The member referred also to the amendment to section 18A in which subsection (4) is deleted. I have made comment *vide* section 19, which gives the MRPA power to delegate power to committees. What is relevant is that section 19 gives the power for referral of that power and I am advised—because I requested detailed explanation of this section—that the Crown Solicitor had recommended this amendment advising that there appears to be a major impediment at present in the Act.

The effect of section 18A(4) could well create a limitation upon the extent to which the functions of the authority can be delegated to a committee under section 19. It seems a committee can enter into a contract only if it has the express authorisation of the authority.

The Crown Solicitor's advice was that section 18A(4) defeated the purpose of section 19. The reason for this amendment is very simple. The authority may only delegate power from time to time as it determines, and it cannot delegate the power to delegate. But the authority, which meets only monthly, has found that it can better provide a benefit for owners of land who have dealings with the authority if the contracts can be entered into and money paid on a fortnightly basis instead of a monthly basis. That is a great advantage to the citizens of this State.

The committees will be restricted by specific terms of the delegation as gazetted and as approved. In other words, it was always envisaged under section 19 that the authority would have the power to delegate. However, as often happens in Acts of Parliament, the authority found in practice that it was prevented from doing so. Therefore this is a machinery measure designed to expedite the payment of moneys dealing with contracts to which the MRPA has already agreed. It is a machinery measure further in that it enables these committees to process the payments.

The Hon. Fred McKenzie: That means we will see settlements more quickly?

The Hon. R. G. PIKE: That is right. That is the reason for the delegation. It was done on the advice of the Crown Solicitor.

The Hon. Fred McKenzie: There will be no excuses in the future.

The Hon. R. G. PIKE: I cannot speak in defence of the general structure of the MRPA because I am not the Minister responsible for it. I associate my comments with those made by the Hon. Fred McKenzie. Certainly the situation must be improved.

I will now deal with what is probably the most important comment made by the honourable member and which refers to the Mayor of the City of Stirling. I will deal with the comment in this way: The Government never has, nor would it ever, challenge the right of the Mayor of the City of Stirling to express a view on any matter whatsoever; indeed, it does not have the authority to do so. The real problem with the Mayor of the City of Stirling is illustrated in these words; it is well known in Government circles that if a person is a member of a Parliamentary Select Committee or a Standing Committee of the Parliament he is authorised by the law for the time being to have access to information, opinions and submissions which are at that time either (a) a confidential statement or (b) made within the totality of a submission. With regard to the Mayor of the City of Stirling, there is no challenge to his right to speak. The challenge is as to when he spoke.

The Hon. Fred McKenzie: Weren't the hearings in public?

The Hon. R. G. PIKE: On my understanding, they were not in public, but I could be wrong on that. Whether I am right or wrong on that matter, it does not detract from the point that if one belongs to an organisation or to a local authority which is going into committee to decide on a tender, a contract or a delicate negotiation, or a committee of a House of Parliament, until the time the determination or the decision is made by that body, a member does not enter into public debate until the organisation to which he belongs makes the decision and is usually bound to confidentiality in regard to the determination.

I put it to the Hon. Fred McKenzie and to the House that if a person is a party to those negotiations and somebody makes a statement to him before the time the committee of which he is a member has made a determination on the evidence before it, and he makes public statements about one part of it with which he disagrees, he is not meeting the standard of integrity that is required of him as a member. At some subsequent occasion when an authority, a Select Committee, a Standing Committee, or a committee of a local authority of which he is a member has made a decision with which he disagrees, by all means he may say, "Look, this was submitted to me. At the time it was submitted to me it was part of an overall submission or a negotiation." I do not know what was the matter to which the Mayor of Stirling was privy, but I judge that it was a determination by the MRPA at the time and that it was part of an overall submission dealing with a controversial and difficult issue.

The Hon. Fred McKenzie: Was there anything in the Act or regulations that prevented him from saying what he said?

The Hon. R. G. PIKE: I do not know the answer to the member's question. I do not know if it is a requirement of the MRPA. I know there is a requirement for confidentiality in regard to committee submissions made to the MRPA. The member should be asking the question: Was the subject information given to him a result of a confidential statement by people to the MRPA or was it the result of a public submission?

The Hon. Fred McKenzie: What is the answer to that?

The Hon. R. G. PIKE: Just a moment, please. Irrespective of the point that is made in that regard, I return to the simple issue that the Government does not challenge the right to speak of the

Mayor of the City of Stirling. Obviously the MRPA challenged his right as to when to speak. He made a decision to go public on a submission that had been made to him as a member of the MRPA prior to the time the MRPA subcommittee or indeed the MRPA itself considered the submission.

I repeat that every honourable member should have the right to do so. Where, is the question? Let us reverse the proposition and look at whether or not it may have been done for political advantage.

The Hon. Fred McKenzie: I am sure it was because he was an endorsed Labor candidate!

The Hon. R. G. PIKE: I thank the member; he said there was only political advantage for Mr Burkett to have made that statement because subsequently the MRPA committee would have considered it anyway and made a decision, so the timing of the announcement by the Mayor is of concern; and that is relevant to the decision the MRPA would have made. The only advantage in the announcement would have been to Mr Burkett, which it has been admitted, is a party political advantage: that is another question.

I conclude by saying the Government does not challenge the right to speak of a person who is a member of boards or authorities for the time being; the honourable member would know this as he is a member of a Select Committee of this House. It would not challenge his right when to speak, just as when a Select Committee brings down a recommendation, a member of that Committee is entitled to give an opinion to the contrary. It is a question of the processing of information in regard to a decision which might be made by a statutory authority.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. R. G. Pike (Chief Secretary), and passed.

GAS UNDERTAKINGS AMENDMENT BILL

Second Reading

Debate resumed from 28 September.

THE HON. J. M. BERINSON (North-East Metropolitan) [4.38 p.m.]: The object of this Bill is to secure the continuity of gas supply to consumers within the franchise area of the Fremantle Gas and Coke Co. Ltd. It will counter any possibility that speculation in the company shares could lead to stripping of its assets or any other development which could disturb that supply.

On behalf of the Opposition I indicate that both the purpose and method of this Bill are regarded as proper and the Opposition supports it.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.39 p.m.]: I thank the Opposition for its indication of support for this Bill. The Government hopes it will achieve its object. I assure the member that the people of Fremantle will have their gas supply assured in the event of unforeseen happenings in respect of the Fremantle Gas and Coke Co. Ltd.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

STAMP AMENDMENT BILL (No. 4)

Second Reading

Debate resumed from an earlier stage of the sitting.

THE HON. FRED McKENZIE (East Metropolitan) [4.42 p.m.]: The Opposition supports this Bill, which will enable revenue to be obtained which previously has not been paid. This will overcome any avoidance practice which may have existed in the past. We have no argument with this amending Bill and support it.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 7 put and passed.

Clause 8: Second Schedule amended—

The Hon. I. G. MEDCALF: The requested amendment in my name on the notice paper appears because this amendment was to have been moved in the other place but for some reason unknown to me, was not. I have been asked to move the amendment in this Chamber.

I am in favour of the amendment because it is not as if we are requesting an amendment which we are not otherwise empowered to make. The amendment is being made for the convenience of people to understand the legislation and in order to put the present wording of item 19 in the schedule into better shape. At present that item is extremely badly phrased and there are suggestions of ambiguity in it.

It is now better phrased, but without any change in the actual sense of the amendment and is in line with the practice which has been followed by the Stamp Office for many years and is indeed well understood by those who have dealings with matters of this nature. I ask members, in order to delete the clause, to vote against it.

The Hon. I. G. MEDCALF: I move—

That the Assembly be requested to make the following amendment—

Page 4—Delete clause 8 and substitute a new clause as follows—

Second Schedule amended.

8. The Second Schedule to the principal Act is amended by deleting item 19 and substituting the following item—

"The settlor or donor.	19. SETTLEMENT, DEED OF, OR DEED OF GIFT	See item 4 of this Schedule: References to consideration in item 4 of this Schedule being construed as references to the amount or value of the property concerned.

(1) Any instrument, whether voluntary or upon any good or valuable consideration other than a *bona fide* pecuniary consideration whereby any property is settled or agreed to to be settled in any manner whatsoever, or is given or agreed to be given in any manner whatsoever.

(2) Any instrument declaring that the property vested in the person executing the same shall be held in trust for the person or persons mentioned therein. ".

Question put and passed.

Clause put and passed.

Clause 9 put and passed.

Title put and passed.

Report

Bill reported, with a requested amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and returned to the Assembly with a requested amendment.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.49 p.m.]: I move—

That the House do now adjourn.

Legislative Council: Sitting Hours

THE HON. J. M. BERINSON (North-East Metropolitan) [4.50 p.m.]: Before the lunacy of our last two days' proceedings fades from our minds I think it is worth spending a moment to try to learn some lessons from it.

We sat until 3.30 Wednesday morning and we sat until 6.30 this morning. I do not want to reflect on the capacity of any other member to function adequately under those circumstances, but speaking for myself I am quite happy to confess that in the condition to which I was reduced normally I would not trust myself to buy a shirt. What we did in fact, was make a decision on a very far-reaching and important piece of legislation.

The heroes of the last couple of days have been the *Hansard* staff. I am referring not only to the extent of their physical endurance but as well to their capacity to produce transcripts of speeches which read coherently in spite of what was actually said. Again, I am quite happy to confess that I am referring to myself as much as anyone else.

I think it ought to be said that this is simply not a sensible way of proceeding, nor is it a necessary way of proceeding. The House has ample facility to arrange its affairs in such a way as to avoid such situations and ought to make sure this occurs.

While I rise on the particular problem we experienced this week, the occasion might be appropriate to consider also the general question of our sitting hours. It has never made sense to me that on two days of the week we should start sitting only at 4.30 in the afternoon. That is the hour when most people are knocking off from work.

I do not pretend to be a student of the history of the State Parliament, but I do not think I would be far wrong in suggesting that the reason for our starting to sit at 4.30 p.m. follows from the fact that in the early days Parliament was regarded as a place to which a member came when his real work had finished. That might have been reasonable in those days, but it is not reasonable now.

In earlier days the duty of being a member of Parliament was not regarded as a full-time occupation. It probably was not a paid job, and again I say that I have not looked into the history of this Parliament; but I suspect members once were not paid or they were paid a nominal sum. We are not in that position. We are in the position of being able to provide our constituents with full-time representation. I believe that most members do provide full-time representation and that, in that sense, parliamentary work does not commence at 4.30 p.m. However, that does not change the argument I am trying to put forward. All it means is that we are continuing with a system whereby we are beginning work in this Parliament after we have done the equivalent of a full day's work elsewhere. As far as I can see there is not the slightest justification for sitting the hours we sit.

The very least we ought to do is look towards a 2.00 p.m. or a 2.15 p.m. starting time on every day of the week, and preferably a morning starting time on one or two days. Apart from any other consideration, though this is not the main point I want to stress, there is a capacity for substantial economy. If a sitting of this House was from 2.15 p.m. to 6.15 p.m., we would have the capacity to do as much work as would now be done in a sitting extending to about 10.00 p.m. The existing procedure does not make sense to me and I have not found anyone with whom I have discussed this question privately who disagrees with that.

In drawing to the attention of the House the absurdity of the proceedings this week, I have taken this opportunity to suggest that consideration be given to the more general question of our sitting hours, because it is time to look to a sensible variation of the present arrangements to enable our work to be done better and more efficiently.

THE HON. G. C. MacKINNON (South-West) [4.57 p.m.]: I think we owe the Hon. Joe Berinson our gratitude for bringing this matter before the House. I agree with him in regard to the Bill with which we have just dealt, but it would have been helpful to us if Mr Berinson had gone a little further and said in unequivocal terms that the strategy of handling legislation of that type would have been preferable had we adopted a planned approach and used the guillotine.

Had he said that, and had someone from the Government side agreed with him, then forever and a day when a similar situation arose one would have a benchmark to which to refer. I am one of the few members in this place who has been in Opposition several times and in Government on more than one occasion. Therefore, I understand the differences, and many members do not. Very frequently when a member is opposing a Bill he finds himself in a situation where he has to speak because of necessity; not so much as a sensible approach to the Bill; not so much in duty to the Opposition; not so much as to ensure the Bill is a good Bill; but in order to satisfy his supporters.

I can recall a similar situation which arose when dealing with the unfair trade practices legislation. I was unsuccessful in my attempts to have it stopped when other members of the Opposition then, including the Hon. L. C. Diver, voted for it. We did not have the numbers and were defeated. Normally we had the numbers and we should have won. The debate on this legislation took much longer than it should have taken—to be crude about it, it was just to put on an "act".

I am not suggesting for one moment that any of the speeches delivered during the last two nights have been "put on" purely for an "act". I am sure no member in this House would stoop to that practice. I am suggesting as a follow-on from Mr Berinson's remarks that both sides should accept this. During the time of most of the young members here it is at least possible they might be both in and out of Government.

Maybe the time has come, because things are becoming more polarised, when we should use a planned approach to the Bill such as that which occasionally is used in the Assembly, and frequently used in Federal Parliament. I guess some members are not aware that it means that the Leader of the House allocates a period of time for a second reading debate. At the end of that time the President stops the debate and puts the question. The same applies for the Committee stage—a certain amount of time is set aside for the first 10 clauses, the second 10 clauses, and so on. As soon as the time set down for the debate expires the Chairman stops the proceedings and puts the question.

In other words, the Opposition can claim legitimately to its supporters that its members were not allowed to speak any longer. Enough time is given for reasonable debate because once three people have spoken on a subject generally it has

been covered. I agree with Mr Berinson that the time has come to look at that. However I would urge a great deal of caution in relation to the second point he made about changing the hours of sitting. Some country members have wide-flung electorates. The nature of the House has changed; in some ways the changes support Mr Berinson's contention and in others, they oppose it. One aspect which would tend to make us think carefully is that this House is much more political now than it was in times gone by.

The Hon. Garry Kelly: Oh, come on!

The Hon. G. C. MacKINNON: Do not argue on that point, Mr Kelly; you have been here two minutes. It is much more political than when I came into this House 25 years ago. That has occurred because in 1965 it became a House of adult franchise, and members now fight campaigns, not on a voluntary enrolment basis, but on a compulsory enrolment arrangement, as is the case in the Assembly. The House has become more political in that sense.

The Hon. Peter Dowding: It is unenforced compulsion.

The Hon. G. C. MacKINNON: Mr Dowding has lost me. When I first came into this House we had to enrol people; they had to agree to be enrolled; and they had to agree to be taken in to vote. I admit that was before some of the younger boys here were born.

If we changed our sitting hours, a number of other aspects would have to change as well. We would have to accept limitations on the length of speeches because the time would be filled in with extra speeches. When we had one session of Parliament each year we used to pass 110 Bills; now we have two sessions and we still pass 110 Bills. In short, Parkinson's law applies, and the time allotted to the situation is taken up by hard work.

A country member who is in Opposition is in a vastly different situation from a country member who is in Government. When one is in Opposition and one wants to achieve the ordinary things for one's electorate, it involves going downtown and seeing Government officers. One has to walk around the streets to look after the affairs of the constituency. When it is a large constituency, and diverse and complicated, as is Mr Gayfer's—

The Hon. H. W. Gayfer: I went to a funeral yesterday.

The Hon. G. C. MacKINNON: I should have been at a funeral in Bunbury this morning with Mr Ferry. We did not get there, but all the notables in the south-west would have been there. As I had known Monsignor Cunningham for 30 years I felt I should have been there to pay my respects. All I could do was to ring the Bishop and apologise for not being there. These things happen to a country member, and we have to bear in mind that we have little enough time to do the necessary research on Bills, and questions have to be prepared. That situation would have to change if Mr Berinson's proposals were adopted. It might not be a bad thing if questions were asked one week and answered the next.

When we talk about changing the sitting hours, we are dealing with a very complicated formula—a total package deal. Despite the fact that we are all a little tired, and I have had no time to prepare my remarks, I wanted to make these points.

The Hon. V. J. Ferry: There are problems also with Select Committees.

The Hon. G. C. MacKINNON: I wanted to mention one or two aspects to indicate there are serious problems involved in these proposals. I agree wholeheartedly with Mr Berinson's first proposition, and I would go further. I think this might be an admirable occasion for someone from the current Opposition to indicate that there are some circumstances in which the planned approach to a Bill might be an acceptable proposition.

The Hon. Garry Kelly: The guillotine.

The Hon. G. C. MacKINNON: Yes, that is right. We could use this conversation as a benchmark so that we do not get too hammered by the media, and so that whoever happens to be the Leader of the House is not referred to as an arbitrary—

The Hon. I. G. Medcalf: Genghis Khan.

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

The Hon. Fred McKenzie: Has it been used in this House?

The Hon. G. C. MacKINNON: Yes, and it has been used several times in the Assembly. Of course, the Opposition's natural reaction is to say that it is a dreadful thing, that brutal tactics are being adopted and that the Opposition is being dictated to and domineered by the majority. Then, of course, members all get on with the business of the debate. With the sort of acceptance I am suggesting might be given, the Press could ring up a member and ask about a particular matter, and a member would be able to refer them to the debate of Thursday, 14 October. The Press would be able to look up the debate and accept what was said then. I am reminded that the Standing Orders had to be knocked out in preparation for the last big debate on industrial legislation so that the initial speakers in the Assembly

could not talk for 24 hours and repeat Mr Graham's heroic effort of speaking for about nine hours on one day. There are many gaps in what I have said because I am dredging up thoughts I have had over a period of time. We owe Mr Berinson our thanks for demonstrating that he thinks beyond the immediate and that he has given serious consideration to the well being of the House in the future. We might well make this an occasion on which to build a basis for examination of his proposals. I reiterate my serious warning about changing the days and hours of sitting. We can look at what might suit us in the immediate situation and then find ourselves in difficulties during periods of far greater political turmoil than we have now. I can recall times being grim and when we had worries which took us all day to fix. Those days will come again.

The Hon. D. K. Dans: They are here now.

The Hon. G. C. MacKINNON: They are here in a different sense, but I agree they are coming now and will bring all sorts of problems.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.09 p.m.]: I support the remarks made by Mr Berinson. The debates which took place on the amendments to the Industrial Arbitration Act were, in the main, most unnecessary. The Government introduced the Bill with undue haste and then pressed forward for one reason only—to avoid the embarrassment accruing to it while the debate took place in this House. As events have unfolded, it appears there was no great need to push on to the extent that we did last night.

In the first instance, today the Legislative Assembly sat for eight minutes, after which it adjourned because the *Hansard* reporters had to be relieved. Because we had gone into another day, and because of the provisions of our Standing Orders, we could not proceed with the third reading debate today. However, I was assured the reason we were pushing on with the Bill was so that it could be presented to the Assembly today. Obviously, it simply was not necessary to sit such long hours. Apart from the physical strain placed on members, we must consider also the question of the people who put us here. No-one could ever convince me that to sit until 4.00 a.m. on Wednesday, after all members had attended committee meetings on the Tuesday, and then to return to the Parliament on Wednesday morning and sit from 4.30 p.m. until 6.30 a.m. the following day is doing the right thing by our constituents. It simply is not on.

Another important element in this issue relates to one of the things Mr MacKinnon said. Every day we hear less and less from the Government about this place being a House of Review. No better illustration that this place is not a House of Review can be found than in the performance on this Bill.

The Hon. Garry Kelly: It never has been a House of Review.

The Hon. D. K. DANS: Perhaps so. Some time ago, during another adjournment debate, I said this was simply a two-ended Parliament. We introduce Bills at each end. How can anyone seriously claim that this is a House of Review, with three Ministers sitting on the Government side introducing Bills in their own right? Does anyone seriously suggest we were not actually debating the Industrial Arbitration Amendment Bill (No. 2), but that we were reviewing it? Or are we to review it when it returns from the other place? It would be simply farcical to make such a suggestion, and it completely destroys any argument that that is the role of this Chamber.

Since changes have been made to the Standing Orders, a check of *Hansard* will reveal more and more Bills being introduced in this Chamber, and given a second reading in this place.

Mr Berinson's suggestion that we should commence sitting at 2.30 p.m. is quite valid. I reject the suggestions of the Hon. Graham MacKinnon. Members know the sitting hours of the Assembly have been changed dramatically.

The Hon. P. H. Wells: It has not stopped the Assembly from sitting after midnight.

The Hon. D. K. DANS: There is no reason we should not adopt similar hours. The sitting hours of the Federal Parliament and other Parliaments of the Commonwealth are completely different from ours; they have moved with the times. This place no longer is full of the landed gentry who finish work of an afternoon and then come up here to fill in their evenings. It is absolutely ridiculous to adhere to anachronistic sitting times in this day and age, and this has been aptly demonstrated over the last couple of days.

I know Ministers in this Chamber must introduce Bills. However, as I have said before—this applies equally when Labor is in office—that exercise completely destroys the illusion that this is a House of Review. As I said last night, this place is simply a playpen. The Bill will go to the Legislative Assembly and be debated there and then will be returned to this place; however, it will not be debated in this place again. So, where is the Bill to be reviewed? It will not be reviewed by this place. This is a political House, and that is as far as it goes.

On the question of the guillotine motion, I suppose I could agree with a restriction of hours in this place. I certainly could never agree with a restriction on speaking time.

The Hon. G. C. MacKinnon: I think there would have to be machinery whereby a minority Government could operate in this place.

The Hon. D. K. DANS: I do not know why we do not move in that direction. We have already established, if not in the mind of the Government, then certainly in the mind of the Opposition and the people we represent that this place no longer is a House of Review. I do not know why we do not throw these Standing Orders out the door and adopt the Standing Orders of the Legislative Assembly and in that way, operate as a two-headed dog. I agree with the proposition put forward by Mr MacKinnon, because we would be moving closer to the concept I have mentioned. We would operate under exactly the same rules as the Legislative Assembly; it would not be a bad idea. It would remove the last vestige of the charade that this is a House of Review.

The Hon. G. C. MacKinnon: Forget that.

The Hon. D. K. DANS: I cannot forget it, because that is an important part of the whole operation. Only a few tattered remnants remain of what used to be if it ever was; let us go the whole hog and have a planned approach to legislation.

While in no way do I wish to limit the opportunity of Government back-bench members to speak, last night's debate reinforced what I have said in respect of this House not being a House of Review. It is simply a political Chamber, in which Ministers may introduce Bills. I note from a perusal of *Hansard* that a number of Government members spoke on behalf of the Minister.

The Hon. P. G. Pendal: They did not speak on behalf of the Minister.

The Hon. D. K. DANS: Normally, when a Minister is handling a Bill during the Committee stage the practice is for the Minister to speak for himself, and to answer any queries raised.

The Hon. G. E. Masters: That upset you.

The Hon. D. K. DANS: It did not upset me one bit. In fact, I found the contribution of other Government members no better than that of the Minister.

The Hon. G. E. Masters: You are biased.

The Hon. D. K. DANS: Naturally. Last night we had the unusual situation—whether planned or unplanned—of Government members stonewalling their own Bill. I believe that either by accident or design, they added about five hours to the debate.

The Hon. G. E. Masters: Let *Hansard* record loud laughter.

The Hon. P. G. Pendal: You seem to forget that back-benchers represent constituents; that is why we talked.

The Hon. D. K. DANS: I have already said that; I agree. This no longer is a House of Review.

The Hon. G. E. Masters: You are doing now what you did last night.

The Hon. D. K. DANS: Members forget that this Bill was in Committee in the House of Review.

The Hon. G. E. Masters: Look at *Hansard* and then talk to some of your own members, Mr Dans.

The Hon. D. K. DANS: All the sensible comments were made by our own members, so the Government should forget all this bunkum that this is a House of Review. I will go along with what Mr MacKinnon said and then we will destroy the last vestige of the charade that this is a House of Review.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.21 p.m.]: I do not intend to delay the House.

The Hon. D. K. Dans: Well, don't!

The Hon. I. G. MEDCALF: I had hoped we could allow members to go home a little earlier than usual tonight, but due to these pressing matters which had to be debated on this occasion, there was no need that this House should finish by 6.00 p.m. The Hon. Des Dans cannot continue any longer now, because he has sat down; but I am surprised that members have spoken at such length at this time. Nevertheless, that is their right in this House of Review.

The Hon. D. K. Dans: Yes, yes!

Several members interjected.

The Hon. I. G. MEDCALF: It is very odd that the Hon. Mr Dans should take us to task for not being a House of Review.

The Hon. D. K. Dans: I was not taking you to task. I was just pointing out a reality.

The Hon. I. G. MEDCALF: I was not aware that the policy of the Opposition was to allow its members to have any voice other than that laid down by Caucus. Indeed, it is very obvious from what happened last night that a number of members of this House chose their own time to make their own speeches and a note had to be sent to one member reminding him to conclude his speech in reasonable time, otherwise he would still be talking now!

Far from this being a concerted effort on the part of the Minister to have Government members speak on his behalf, I can assure the Hon. Mr Dans—

The Hon. D. K. Dans: I did not say that. You are fabricating things.

The Hon. I. G. MEDCALF: —members spoke entirely independently, in their own time, and at their own choice. That was quite apparent bearing in mind the number of Government members who spoke last night. I was sitting next to Mr Masters and from time to time he expressed astonishment as to who intended to stand up and speak next.

The Hon. D. K. Dans: I bet he did!

The Hon. I. G. MEDCALF: It certainly was not an orchestrated effort: but I hasten to add it was a particularly fine demonstration of members having adequate time to speak and using that time to say what they wanted to put forward. That also applied to members of the Opposition.

The Hon. D. K. Dans: I agree with that.

The Hon. I. G. MEDCALF: I could well imagine the Opposition might be taking us to task had we used the gag, but we did not even think about doing that.

The Hon. D. K. Dans: I was not arguing about those who spoke. I thought they supported the Minister well when he was caught flat-footed on a number of occasions.

The Hon. I. G. MEDCALF: Ample time was allowed for this debate, but unfortunately it was delayed for two hours on a point of order before we were able to start, otherwise we could have finished a couple of hours earlier.

The Hon. G. E. Masters: That was engineered! That was set up!

The Hon. I. G. MEDCALF: I heard the Hon. Des Dans say to the President as he left the Chair, "Take your time". Obviously it was not necessary to hurry!

The Hon. D. K. Dans: You know why I did that; I had suffered an accident. My pen had burst in my pocket and my blue blood was all over my white shirt.

The Hon. I. G. MEDCALF: In other words, the Hon. Des Dans was in no hurry whatsoever.

The Hon. D. K. Dans: I had to go home and change my shirt—a very practical reason.

The Hon. I. G. MEDCALF: It is apparent the Opposition speaks with two voices: Frequently we are taken to task because we are not a House of Review and, at other times, we are accused of being a rubber stamp. It depends entirely on the mood of the Opposition and the legislation under discussion. If Opposition members feel they can arrange for some of our members to change their minds, they start reminding them that we are a House of Review and they say, "We are a House of Review. Why don't you vote with us?"

Many different constructions can be placed on what is meant by a "House of Review". I give credit to the Hon. Des Dans for being entirely sincere in what he said. I do not mean to lampoon his comments, but legislation may be reviewed in different ways. With a bicameral legislature each House can, and indeed does, amend the legislation of the other.

Every time Parliament is opened we proudly assert our undisputed right to introduce legislation in this Chamber. Of course, with three Ministers in this House, not only do they each have to manage the work of five Ministers in another place, but also they have to introduce their own Bills. The only situation in which Council Ministers cannot introduce their own Bills is when they require a Governor's message. We amend legislation which comes from the other place. Indeed, today we returned to the Assembly a requested amendment to the Stamp Amendment Bill (No. 4). Frequently Bills are amended in this House when matters are brought to our attention either by one of our members or a member of the Opposition.

Likewise Council Bills are amended in the other House where necessary. The Bail Bill was amended in the Legislative Assembly. Therefore, with a bicameral legislature, legislation may be reviewed in either House. That is one interpretation which may be placed on the matter; but if one does not advocate a bicameral legislature, one has no chance whatsoever to review anything.

The hours of Parliament were referred to and Government members have already given some attention to this matter and will continue to do so. Government members are well aware that, from time to time, problems are created as a result of sitting hours and naturally people look at this from their own points of view.

The Hon. Mr Berinson looks at this matter from the point of view of a member who lives in the metropolitan area and is quite happy to spend the day at Parliament House, because that is his prime requirement.

The Hon. Mr MacKinnon pointed out the situation of members representing country electorates which is very different from that of city members. Country members have large electorates to administer and many calls are made on their time. They are certainly not able to be at Parliament

House at 9.00 a.m., 11.00 a.m. or 2.30 p.m. every day.

The Hon. D. K. Dans: They manage it in the Assembly.

The Hon. I. G. MEDCALF: Many members here would be well aware of what I am saying. I am looking at the matter from the point of view also of a Government Minister who has all the calls on his time which are involved in the administration of ministerial duties. That is one of the reasons the hours have remained as they are for so long.

If a Minister had to be at Parliament House at 2.30 p.m. every day, what does he do about Cabinet and Select Committee meetings? When does the Minister attend meetings which are designed to assist members of Parliament? How would a Minister be able to deal with the manifold responsibilities entailed in the administration of a department? We are constantly criticised in this regard. For example, an Opposition member may stand up and ask, "What did you do about the McCabe-LaFranchi report in 1980 when Messrs McCabe and LaFranchi came over to Western Australia?"

The Hon. D. K. Dans: What did you do?

The Hon. I. G. MEDCALF: I did not know they were over here and I believe the Hon. Peter Dowding asked me that question. When I referred the matter to the Commissioner of Corporate Affairs, he said. "Why should you know they were here? I did not know either. They never tell us when their inspectors come over to Western Australia. They just come over and make their inquiries. When our inspectors go to Victoria, we do not tell them. We only tell them if they have information which we need. Otherwise we obtain the information directly ourselves from the police, the people involved, the companies, or anyone else who can be of assistance." The same situation pertains in other States and there is no reason that it should be any different.

I mention that just to illustrate that, when members of the Opposition ask Ministers what they are doing about this or that, they must consider when Ministers would be able to investigate matters—if Parliament were to sit during the hours suggested, would they have to do so between the hours of 11.00 p.m. and 6.00 the next morning? We must be practical.

There is another point of view besides the one mentioned by the Hon. Joe Berinson and the one mentioned by the Hon. Graham MacKinnon, for which I have the greatest sympathy because I am well aware of the problems facing country members. There is also the point of view of the Government how we run a Government in the Legislative Council, where we have Ministers who have to answer to their duties in the House, to their duties in the electorate, and all the other manifold duties to which they have to attend. There are many sides to this coin. While it is a matter to which I am sure the Government parties will give continued attention, members should be aware of the real problems that exist before they consider changing to the times requested.

Question put and passed.

House adjourned at 5.31 p.m.