Legislative Assembly

Wednesday, the 22nd April, 1970

The SPEAKER (Mr. Guthrie) took the Chair at 4.30 p.m., and read prayers.

BERNARD KENNETH GOULDHAM

Compensation: Petition

MR. BERTRAM (Mt. Hawthorn) [4.42 p.m.]: I have a petition which is signed by 3,246 people who represent a good cross section of the community. The material allegations in the petition may be briefly summarised as follows:—

Namely, that in October, 1961, Bernard Kenneth Gouldham was convicted and sentenced to 12 months' imprisonment with hard labour. He has always protested his innocence and pleaded not guilty. He served 47 weeks of imprisonment and was not acquitted of the offence until late in 1969.

As a result of the conviction he lost two businesses and was made bankrupt. Since his release from imprisonment he has encountered great difficulty in obtaining employment and has been ostracised by society. He has carried the stigma of a convicted person for eight years and there have been adverse consequences flowing not only to himself, but also to his family. He has suffered considerable loss of earnings. In addition the suffering, agony of mind, and worry have taken their toll.

The position is now that instead of being in a position to retire at the age of 60 he finds himself near the age of 60 with no home or assets for his future requirements. It appears there is no remedy available at law for the situation in which he now finds himself, and therefore he must come to the Parliament. Other countries—

The SPEAKER: Is all this in the petition?

Mr. BERTRAM: Yes. This is just a brief summary of the petition.

The SPEAKER: What it states in the petition?

Mr. BERTRAM: Yes. Other countries by legislation on some occasions make provision for this type of situation with the result that people found not guilty of crimes are compensated. There is a prayer which says—

> . . . . . the Government of Western Australia take immediate steps to rectify the injustice to the said BERNARD KENNETH GOULDHAM by making to him such payment as will adequately compensate for the suffering he has had to bear and for his financial loss.

I have signed the requisite certificate that the petition meets with all requirements.

The SPEAKER: I direct that the petition be brought to the Table of the House.

BILLS (2): INTRODUCTION AND FIRST READING

1. Liquor Bill.

   Bill introduced, on motion by Mr. Court (Minister for Industrial Development), and read a first time.

2. Taxi-cars (Co-ordination and Control) Act Amendment Bill.

   Bill introduced, on motion by Mr. O'Connor (Minister for Transport), and read a first time.

QUESTIONS (27): ON NOTICE

1. EDUCATION

Textbooks: Costs

Mr. T. D. EVANS, to the Minister for Education:

(1) Is he in receipt of a letter from the Eastern Goldfields District Council of Parents and Citizens' Associations relative to the cost of textbooks in use in primary schools?

(2) What is his attitude to the suggestion raised in this letter?

Mr. LEWIS replied:

(1) Yes.

(2) The Government Printing Office does not operate as a commercial publisher and print textbooks written by individuals for private profit. It prints Government publications only.

The Government has made an agreement with the Australian Booksellers' Association that Western Australian members of the association and the Government Printer are invited to submit tenders for the publication of textbooks prepared by departmental officers. Therefore, it does not necessarily follow that the Government Printer can produce textbooks more cheaply.

2. FRUIT FLY

Control

Mr. BATEMAN, to the Minister for Agriculture:

In view of the many complaints received from citrus and stone fruit growers in the Canning area that they are not satisfied with the south suburban fruit-fly baiting scheme—

(1) Has his department the facilities to carry out the spraying required to control fruit-fly?

(2) If "Yes" would he be prepared to assist the fruit growers with this problem?

(3) Does his department employ inspectors to investigate fly control methods on a State-wide basis?

(4) If "Yes" what action is taken when heavy infestation of fruit-fly is found on a particular property?

Mr. NALDER replied:

(1) and (2) The control of fruit-fly is the owner's responsibility. The department does not have the facilities to undertake this work other than on an experimental basis.

(3) Investigational work is carried out under the direction of entomologists. Fruit-fly inspectors are employed to police fruit-fly control measures in all commercial fruit areas, the metropolitan area and in country centres as necessary.

(4) The occupier is immediately required to destroy all infested and suspect fruit. Steps are taken to ensure that the necessary baiting or spraying is carried out.

3. EDUCATION

West Armadale Primary School

Mr. RUSHTON, to the Minister for Education:

Now that the West Armadale Primary School is to have more classrooms than first estimated, to what grade will students be enrolled when this school is transferred to the permanent site?

Mr. LEWIS replied:

It is anticipated that the school will accommodate grades 1 to 4 when completed this year and grades 1 to 5 in 1971. A final decision will be made when exact numbers are known at the time of completion of the new school.

4. TRAFFIC

Compulsory Inspections of Motor Vehicles

Mr. GRAHAM, to the Minister for Traffic:

(1) Having regard for the fact that the Traffic Act amendment providing for compulsory inspections of motor vehicles was passed and assented to last June, will he advise why its provisions have not been given effect?

(2) What are the reasons for the delay?

(3) When will the requirement come into operation?

(4) What progress has been made with regard to—

(a) the establishment of the three proposed inspection stations in the metropolitan area;

(b) arrangements for inspection facilities in country districts?

Mr. CRAIG replied:

(1) The present facilities for inspection of motor vehicles are not adequate.

(2) The necessity of obtaining suitable sites, the preparation of plans and the erection of buildings.

(3) When buildings are completed and equipment installed.

(4) (a) Land has been obtained at O'Connor and Bentley and negotiations are proceeding for land in the Hamersley-Balga area. Preliminary plans have been drawn.

(b) The provision of inspection facilities in country districts is the responsibility of the local authorities concerned except where the control of traffic is taken over by the Police Department.

5. RAILWAYS

Resumptions: Wonthella-Utakarra Area

Mr. SEWELL, to the Minister for Railways:

(1) Has a final valuation been given for the land proposed to be resumed for the purpose of railway marshalling yards in the Wonthella-Utakarra area?

(2) If the valuation is final when can owners expect payment for land so resumed?

(3) What amounts have been paid as deposits on land that has been resumed?

(4) What were the criteria used by the department to arrive at a valuation?

Mr. O'CONNOR replied:

(1) Yes.

(2) There is no resumption. Acquisition has been by negotiated purchase. The land is bought progressively as negotiations are concluded.

A total of $89,800 has been paid as full purchase price on three properties. Negotiations can proceed at the owner's convenience on the remaining three properties.

(3) A total of $52,000 has been paid as partial settlement on three properties.

(4) Valuations have been made in accordance with the provisions of part III of the Public Works Act. These are value (i.e. market value unaffected by the proposed public work) plus, according to the situation in particular cases, transfer and removal expenses, disruption and reinstatement of business, disturbance and allowance for compulsory taking.

6. MINING TENEMENTS

Protection of Prospectors

Mr. SEWELL, to the Minister representing the Minister for Mines:

What protection can a prospector expect from the Department of Mines in respect of mineral deposits discovered by him subsequent to the ban being placed on mining tenements?

Mr. BOVELL replied:

The ban placed on mining tenements specifically excluded prospecting areas. Therefore a prospector may apply for a prospecting area over his discovery in accordance with the Mining Act.

7. RAILWAYS

Narrow Gauge: Kalgoorlie-Merredin

Mr. T. D. EVANS, to the Minister for Railways:

Is it intended subsequent to the cessation of narrow gauge passenger services from Perth to Kalgoorlie to remove the narrow gauge rail link between Kalgoorlie and Merredin?

Mr. O'CONNOR replied:

It is intended to remove the narrow gauge railway between Coolgardie and Merredin. Narrow gauge facilities between Kalgoorlie and Coolgardie will be retained to serve the Esperance branch.

8. MEDICAL DEPARTMENT

Principal Matron: Advertising of Vacancy

Mr. FLETCHER, to the Minister representing the Minister for Health:

(1) Did the vacancy for Principal Matron, Medical Department, receive publicity in excess of the advertisement in *The West Australian* of the 4th instant and *Government Gazette* of approximately that date?

(2) Is he aware that qualified people were denied the opportunity to apply as a consequence of the minimum publicity given?

(3) Do the Press and gazette advertisements mentioned satisfy the requirements in respect of vacancies?

(4) If so, does this not conflict with other Government and semi-Government departments where vacancies are advertised on notice boards—the S.E.C. for example?

(5) Who was appointed to the vacancy mentioned in (1)?

(6) Will he request the Medical Department to give greater publicity to vacancies in future—including methods suggested in (4)—so that all who consider themselves qualified may apply to fill a vacancy?

Mr. ROSS HUTCHINSON replied:

(1) Yes. The vacancy was advertised in *The West Australian* of the 4th and 11th April, and in the *Government Gazette* of the 3rd and 10th April. It was also advertised in *The Australian* on the 11th April.

(2) No.

(3) and (4) There is no conflict as referred to by the honourable member; it being considered that the advertisement given was adequate.

(5) No appointment has been made as applications are still under consideration.

(6) This is not necessary as adcquate advertising already applies.

9. WATER SUPPLIES

Water and Sewerage Charges

Mr. TONKIN, to the Minister for Water Supplies:

(1) Does he remember informing Parliament on the 7th April that he had been unable to accede to requests for a reduction of water and sewerage charges "because of increasing deficits on Country Water Supplies from $4,545,818 in 1963-64 to $8,048,791 in 1968-69"?

(2) Was the reason he then gave the true one?

(3) Will he explain the circumstances which have enabled him now to do that which only a fortnight ago he was unable to do for financial reasons?

Mr. ROSS HUTCHINSON replied:

(1) to (3) It should be understood that in all matters pertaining to the work of the Public Works Department in its endeavours to provide services for the people there is virtually a continuing review to try to overcome anomalous situations which may develop.

Further investigations following the replies given to the Leader of the Opposition resulted in a decision to reduce the rate in the dollar in order to offset in some way the increases in valuations without reducing the amount of water that can be obtained and without affecting the price scale of water.

10. ROADS

Overways and Underways

Mr. TONKIN, to the Minister for Works:

(1) Have there been some adjustments of Commonwealth-State relations in respect of the expenditure of the road grant as a consequence of which local governing authorities may receive assistance from the Main Roads Department for the construction of overways and underways that may be approved for the safety of the public?

(2) If "Yes" will he state precisely what the position is?

(3) What is the total amount of money which has already been made available for the construction of overways or underways?

Mr. ROSS HUTCHINSON replied:

(1) The Commonwealth Aid Roads Act, 1969, provides that Commonwealth funds may be allocated for the provision of a bridge or tunnel for the use of pedestrians. It follows, therefore, that there is no restriction on local authorities expending the grants they receive from the Main Roads Department on this type of facility.

(2) Answered by (1).

(3) The Main Roads Department set aside $100,000 in its 1969-70 programme of works for construction of pedestrian overways and underways.

11. ORD RIVER SCHEME

Crop Failures

Mr. NORTON, to the Premier:

(1) Has he read a small news item which appeared in *The West Australian* on the 9th April headed "No extra Ord Aid"?

(2) If "Yes" is it correct that Western Australia had acknowledged its responsibilities for crop failures and other setbacks on the Ord?

(3) If the Government has acknowledged its responsibilities for crop failures and other setbacks on the Ord, what exactly does this mean?

Mr. NALDER (for Sir David Brand), replied:

(1) I have read the news item but I have not seen the complete *Hansard* report of the questions and the answers given.

(2) and (3) My understanding of the Commonwealth Minister's answer, as reported in the news item referred to, was that it was consistent with previous statements made on this particular point.

It was a basic point when the funds for the main Ord dam were negotiated, namely, that the normal farming operations of the project would come within the day to day responsibilities of the State Government as they do for agriculture in most parts of the State where agriculture is carried on in various forms. He was not referring—if my understanding is correct—to any abnormal responsibility.

The State Government has in a practical way assisted the Ord farmers beyond the bounty payments received from the Commonwealth and retains close liaison with the farmers. This is particularly so during the current transition period leading up to the completion of the main dam and the development of increased acreage which in turn will have economic advantages for all Ord farmers.

12. GASCOYNE RIVER

Irrigation Potential

Mr. NORTON, to the Minister for the North-West:

(1) Has an evaluation study of the irrigation potential been made of the Gascoyne River?

(2) If "Yes" what was the finding?

(3) Has a study also been made of marketing prospects of all classes of vegetables and fruits that can be grown on the Gascoyne River?

(4) If "Yes" what was the finding?

(5) Have the feasibility studies for a major dam on the Gascoyne River been completed and, if so, what are the findings?

Mr. COURT replied:

(1) If the question refers to the quantity and quality of water available the answer is that studies are currently in course.

A dam at Kennedy Range has been investigated—see also answer to (5).

Investigations are in progress to evaluate the water potential of the river sands from Carnarvon to about 12 miles upstream of Rocky

Pool and to test deeper aquifers between Rocky Pool and Kennedy Range.

(2) Answered by (1) and (5).

(3) Yes. A study has been carried out by the northern division of the Commonwealth Department of National Development.

(4) It is understood that a report is nearing completion.

(5) A feasibility study of a dam at Kennedy Range has been completed which indicated that it would be extremely costly and there would be difficulties of salinity and supply.

13. IRON ORE DEPOSITS

Mt. Gibson

Mr. BURT, to the Minister representing the Minister for Mines:

(1) Under what type of mining tenement are the iron ore deposits at Mt. Gibson held?

(2) In whose names, and for what period have these areas been held?

(3) Can these areas be rated by the local authority concerned?

(4) If so, over what period?

Mr. BOVELL replied:

(1) They are held under a Right of Occupancy of Temporary Reserves.

(2) Iron Hills Pty. Ltd.

1928H Ministerial Reserve 10-4-61 to 9-7-69. Iron Hill Pty. Ltd., 10-7-69 to present date.

2149H Alan Macdougall, 1-4-62 to 6-12-62. Iron Hill Pty. Ltd., 7-12-62 to present date.

4082H Iron Hill Pty. Ltd., 4-8-67 to present date.

5171H-5183H inclusive, Iron Hill Pty. Ltd., 14-8-69 to present date.

5276H, Iron Hill Pty. Ltd., 14-8-69 to present date.

(3) No.

(4) Answered by (3).

14. LICENSE REMUNERATION

Merredin Shire

Mr. GAYFER, to the Minister for Works:

(1) How many motor vehicles are at present licensed in the Merredin Shire?

(2) What amount by way of license remuneration is expected to be remitted to the Merredin Shire from the Main Roads Department this year?

Mr. ROSS HUTCHINSON replied:

(1) At the 30th September, 1969, the latest figures available, 2,631 motor vehicles—including tractors and trailers—were licensed in the Shire of Merredin.

(2) The Merredin Shire Council will receive a total grant of $100,312 this financial year as provided under section 32 of the Main Roads Act.

15. TRAFFIC

Merredin: Motor Vehicle Examinations

Mr. GAYFER, to the Minister for Police:

(1) What is the estimated cost of the proposed buildings for Merredin in which the police will carry out their vehicle examination and other licensing work?

(2) What are the estimated salaries that will have to be paid to the extra two policemen and the vehicle examiner to be stationed at Merredin?

(3) What equipment will be needed to police traffic and examine vehicles at Merredin?

(4) What will be the cost of this equipment?

(5) Are the personnel costs and equipment costs expected to escalate year by year (apart from ordinary wage and margin increases)?

Mr. CRAIG replied:

(1) While preliminary discussions and investigations have been completed, the request of the Merredin Shire for the Police Department to assume the responsibility of traffic control and vehicle licensing was only received on the 20th April and arrangements concerning the erection of the building and staffing have not been completed.

(2) to (5) Answered by (1).

16. AGISTED SHEEP

Northcliffe Area: Inquiries by Registrar of Companies

Mr. H D. EVANS, to the Minister representing the Minister for Justice:

(1) Is the Registrar of Companies having inquiries made in regard to activities of a pastoral company which agisted sheep on behalf of drought-affected farmers in the Northcliffe area?

(2) If so, in connection with what activities are the inquiries being made, and what are the results to date?

Mr. COURT replied:

(1) Yes.

(2) Inquiries are being made to establish whether there are any breaches of the provisions of the Companies Act. No conclusions have yet been reached.

17. CROWN LAND

Northcliffe-Gardener River Area

Mr. H. D. EVANS, to the Minister for Lands:

(1) Is it intended that Crown land in the Northcliffe-Gardener River area is to be released for farming purposes?

(2) If so, what is the area involved?

(3) When is it expected that such land will be released?

Mr. BOVELL replied:

(1) Crown land in the Northcliffe-Gardener River area is under investigation with a view to possible release.

(2) Approximately 40,000 acres.

(3) Every effort is being made to complete the investigation being carried out by officers of Agriculture and Lands departments. Until this is finalised I am not in a position to estimate the date of release.

I might add that extensive soil surveys to justify the release of this land are in progress and these might take some time.

18. ROADS

Mt. Pleasant Resumptions: Compensation for Inconvenience

Mr. BATEMAN, to the Minister for Works:

(1) When land and homes are resumed in the Mt. Pleasant area to allow for development of Mitchell Freeway, will a certain sum of money be paid to home owners for inconvenience?

(2) If "Yes" is payment made to original home owner or to a recent purchaser when, and if, resumption takes place?

Mr. ROSS HUTCHINSON replied:

(1) If it is necessary to resume property at some future date an allowance will be made in the compensation assessment for disturbance.

(2) Compensation will be paid to the person who is the owner on the date the land is resumed or purchased.

19. EDUCATION

Trainee Teachers: Allowances

Mr. BATEMAN, to the Minister for Education:

(1) Will he advise if his department is considering paying a married man's allowance to trainee teachers who marry during their teacher training course?

(2) If "Yes" when will a decision be made?

(3) Will payments be retrospective to date of marriage?

Mr. LEWIS replied:

(1) and (2) The Education regulations were amended in the *Government Gazette* of the 17th April, 1970, to provide a married man's allowance for all married trainee teachers.

(3) Amendments to regulations normally operate only from the date of gazettal. However, the possibility of retrospective payments of these allowances is being investigated.

20. EARTHQUAKE

Perth Buildings

Mr. BATEMAN, to the Minister for Works:

(1) Has the Government studied the effects of the Meckering earthquake on the buildings of Perth?

(2) What action has the Government taken to assess the quality of repairs made to Government and commercial buildings?

(3) Is it a fact that repairs to buildings, both Government and commercial, are inadequate and that another earthquake of similar magnitude will result in a disaster for Perth?

Mr. ROSS HUTCHINSON replied:

(1) Yes.

(2) None to commercial buildings. The quality of repairs to Government buildings is adequate.

(3) From a Government buildings point of view—no.

21. ROADS

Albany Highway, Maddington: Resumptions

Mr. BATEMAN, to the Minister for Works:

In view of the concern by residents living in Maddington for proposed resumptions of their properties to widen Albany Highway—

(1) Will such resumption be made this year?

(2) If "Yes" on what date will landholders be advised?

Mr. ROSS HUTCHINSON replied:

(1) There are no plans for widening Albany Highway at Maddington. However, plans are being developed for a bridge over the railway at Stokely which will entail some land acquisition.

(2) Plans are not sufficiently advanced to enable a firm date to be given.

22. LAND

Geological Reserves

Mr. HARMAN, to the Minister for Lands:

(1) How many areas were proposed for reservation as geological reserves by the W.A. subcommittee of the Australian Academy of Science in their report made in 1963?

(2) How many such areas have been so approved and gazetted?

(3) Where are these areas so approved?

Mr. BOVELL replied:

(1) 26.

(2) and (3) A reserve has been declared to protect the Wolf Creek Meteorite Crater. The remaining areas have been recorded by endorsement on Lands and Surveys public plans.

23. HEALTH EDUCATION COUNCIL

"Human Relationships" Course

Mr. JONES, to the Minister representing the Minister for Health:

(1) Do the departmental records disclose that the Collie Police and Citizens Youth Club has approached the Health Education Council to have a course conducted by the council at Collie on the following occasions—

(a) the 31st December, 1968, letter to council;

(b) the 28th February, 1969, telephone call to council;

(c) the 22nd March, 1969, Mr. Carr and Mrs. Tatem of Health Education Council went to Collie to discuss details of course;

(d) the 16th July, 1969, telephone call to council;

(e) the 17th July, 1969, Mr. Carr attended a meeting at Collie to discuss the course;

(f) the 22nd February, 1970, telephone call to council re course;

(g) 1969-70. Three personal visits by club Vice President Father Barnabas to council office in Perth re the course?

(2) Do the records disclose that the executive officer, Health Education Council, J. T. Carr, advised the Collie Police Boys' Club in writing on the 8th April, 1970, that he could not follow through with the programme on modern social issues this year and that he was advised to reduce the council's work load?

(3) If (2) is "Yes" how does he reconcile the position in view of his advice to me following a question asked on the 26th March, 1970, that a request from the council for an increase in staff is at present under sympathetic consideration?

Mr. ROSS HUTCHINSON replied:

(1) and (2) Departmental records of the Health Education Council's correspondence are not the responsibility of the department but inquiries indicate that the detail referred to by the honourable member is substantially correct.

(3) Since the answer referred to by the honourable member, funds have been approved by the Government for increased staff to deal with increased demands on the council's services.

24. EDUCATION

Country Schools: Traffic Tuition

Mr. JONES, to the Minister for Education:

(1) What provisions are made to give students in country schools a knowledge of the Traffic Act and an appreciation of the safe use of motor vehicles?

(2) In view of the comparatively high accident rate in country areas does he consider the tuition at present available is adequate?

(3) If "No" would he take action necessary to have suitable qualified persons lecture students in country centres?

Mr. LEWIS replied:

(1) The Education Department and the National Safety Council are at present collaborating in the preparation of a comprehensive programme of instruction in road safety in Government high schools. This will extend to high school level the type of tuition which has been a feature of the curriculum in primary schools for many years and will culminate in practical driver training in the final stages of the course.

(2) With the introduction of the new comprehensive programme at the beginning of the second school term the tuition, which will be continuous throughout the children's primary and secondary schooling, will be adequate.

(3) See answer to (2).

25. GASCOYNE RIVER

Erosion Study

Mr. NORTON, to the Minister for Works:

(1) Has a study into the erosion on the Gascoyne River and its tributaries been made recently?

(2) If "Yes" when, who made this study and what was the finding?

Mr. ROSS HUTCHINSON replied:

(1) A study of the erosion in the Gascoyne River catchment area is being made by the Gascoyne River Catchment Erosion Committee. Currently field surveys and aerial photography to define areas affected by erosion are in progress.

(2) Answered by (1).

26. *This question was postponed.*

27. RAILWAYS

Lowering: Committees

Mr. BURKE, to the Premier:

With reference to the Government announcement that the rail sinking through central Perth would be financed from Government sources and that three committees would be set up to co-ordinate financial and site planning—

(1) Which of these committees has met and when?

(2) What decisions have been made by them?

(3) Who are the persons constituting each committee and what are their qualifications?

Mr. NALDER (for Sir David Brand), replied:

(1) and (2) The Cabinet Subcommittee and the Advisory Committee have met and have requested the Chief Engineer of the W.A. Government Railways to advise on some of those matters affecting the Railways Department as mentioned in the Premier's statement published in *The West Australian* of the 25th November, 1969. These investigations have not yet been completed. When the information is available, the technical subcommittee will be in a position to make a more detailed investigation.

(3) Cabinet Subcommittee—

Minister for Industrial Development.

Minister for Town Planning.

Minister for Transport.

Advisory Committee—

Town Planning Commissioner—Mr. J. E. Lloyd.

Under Treasurer—Mr. K. J. Townsing.

Railways Commissioner—Mr. J. B. Horrigan.

Main Roads Commissioner—Mr. D. H. Aitken.

Technical Subcommittee—

Senior Planning Officer, Town Planning Department (Chairman) — Mr. K. F. Haynes.

Assistant Chief Civil Engineer, W.A.G.R.—Mr. D. Tonks.

Superintendent Engineer, Planning and Traffic, Main Roads Department—Mr. V. MacKenzie.

Principal Assistant (Design), Architectural Division, Public Works Department—Mr. T. Andrzejaczek.

Deputy City Engineer, Perth City Council—Mr. A. Machlin.

Deputy City Planner, Perth City Council—Mr. L. Nilsson.

Traffic Manager, Metropolitan Transport Trust—Mr. D. McDonald.

Acting Design Engineer of Services, Metropolitan Water Board—Mr. W. Harse.

QUESTION WITHOUT NOTICE

LAND

Geological Reserves

Mr. HARMAN, to the Minister for Lands:

I refer to the Minister's answer to question 22 on today's notice paper. As one of these areas has been reserved under the Act, does he consider the mere endorsement on the public plans of the other 25 sites is sufficient to avoid any violation from any source?

Mr. BOVELL replied:

The report of the Australian Academy of Science was made independently of the Government. That organisation issued two complimentary copies, one to myself and one to the Premier, and I thank those concerned. The report was studied and certain action was taken in accordance with the recommendations. The report is not binding on the Government—it is not a Government report—and the Government will take progressively the action it thinks fit in this regard.

LIQUOR BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [4.59 p.m.]: I move—

That the Bill be now read a second time.

I do this on behalf of my colleague in another place, the Minister for Justice, who, together with his officers, has worked long and hard to make it possible to bring this Bill before the House during this session. The Government felt it was desirable to bring the Bill before Parliament as quickly as possible following the work of the committee.

This Bill, which incorporates the recommendations of the committee appointed to review the liquor licensing laws, covers the control and sale of liquor in Western Australia.

As appears from the long title, the object of this Bill is, among other things, to revise the law relating to the sale, supply and consumption of liquor. With minor exceptions, to which reference is made in the memorandum, the Bill is intended to reflect the recommendations of the committee of inquiry into the liquor laws of the State, appearing in its report delivered on the 23rd December, 1969. The report, which was made available to members of this Parliament, has had a reasonable circulation among the public, generally, as some 470 copies have been sold or distributed. A copy of the transcript of the day to day hearings of the committee is available in four volumes in the Parliamentary Library. It is suitably indexed, both as to subject matter and the individuals who were heard, and reference to it should provide no difficulty.

The memorandum explaining the contents of the Bill which has been prepared is submitted for the information of members. This makes it unnecessary and in fact undesirable for me to give any detailed explanation of the provisions contained in the legislation. It is best the memorandum be first read by members, written as it is in explanatory form without any attempt to debate the many points. Although the Bill with its 177 clauses and four schedules looks formidable, members will find that much of it is inescapable machinery detail.

Ultimately the main interest of individual members—apart from a natural desire and a responsibility to appreciate the full significance of all that is in the Bill—will centre around some of the more contentious points such as the legal age for drinking and the proposals for changed conditions for the sale of liquor on Sundays.

The Government desires to place on record its appreciation of the excellent service given by the Committee and its officers. The general acceptance of the recommendations made are indicative of the manner in which Mr. P. R. Adams, Q.C., as chairman, and Mrs. R. Clarke and Mr. J. Ahern, as members, carried out a difficult task. I think this was a committee doing a job of tremendous importance and I was amazed that it was able to get through the work in the time it did and at the same time preserve a degree of simplicity in its report and the explanation it made of its recommendations. So often these reports take too long and as a result they lose a lot of their point because of the complexity of the documents in question.

Every opportunity was given to the community to present their views. As stated in the report, it is not possible to satisfy all the differing interests when dealing with such a contentious subject. Many persons and organisations with different and opposite views make it necessary to deal with the Bill as broadly as possible. For this reason, the Government intends that discussion on the Bill will be quite open and on non-party lines. Members will wish to express their individual views in the matter. To a substantial extent this has been the practice in the past in this Chamber in respect of liquor laws.

In the final analysis, members will express their judgment on the Bill. The important thing at all times is to endeavour to arrive at a Statute that is in keeping with current social needs and a balanced approach to a contentious subject that is with us whether we like it or not.

Since the present Licensing Act was first enacted in 1911—that is a year which has special significance so far as I am concerned—social and economic conditions have changed substantially. During the intervening years amendments to the principal Act have been made as required, but the time has now arrived when a new Act to meet present-day conditions is preferable.

The committee's report, which is available to members, sets out in a clear manner reasons for the recommendations made within it. The enactment of these recommendations will not satisfy everyone in the community, but this must happen in the case of legislation of this type. The good of the community in general must always be the determining factor in any control measure.

It will be observed that the committee recommended a higher rate of license fee in respect of the proposed new tavern license. This is provided for in the Bill.

On the assumption that some members will want to move amendments, it is requested that such amendments be placed on the notice paper as soon as possible so

that other members can give them consideration before the appropriate clauses are reached.

The Bill is submitted for the consideration of members. It is essentially a Committee Bill. As with all similar legislation, experience after it has been in operation will decide whether community interests are being served and whether any further amendments are necessary.

In submitting the Bill for the consideration of the House I would like to add that I feel members will find the memorandum of considerable value. It would be quite redundant for me to repeat all that is contained in the memorandum, because it is essentially intended as an aid to the study of the Bill itself. For that reason I felt it desirable not to read the whole of the memorandum, but to make a very short introductory speech so that the Bill could be got afloat.

Members will have a chance to do some light reading over the weekend and we can then resume the debate at an appropriate time which the Premier will work out with the Leader of the Opposition next week.

Debate adjourned, on motion by Mr. Tonkin (Leader of the Opposition).

Message: Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

Explanatory Notes: Inclusion in Hansard

THE SPEAKER: Members will have observed that the Minister has kept his remarks in his second reading speech to a minimum. This procedure has been adopted by him to avoid needless repetition.

The Minister has already circulated to all members quite extensive explanatory notes. Members will appreciate that in the normal course of events the explanatory notes would not find a place in *Hansard*. In the years to come persons within and without the House may desire to indulge in research to discover the reasons of this Parliament in making its decisions on the Bill now before it. If the explanatory notes are not incorporated in *Hansard* our records will indeed be incomplete.

In those circumstances and in this case I intend directing *Hansard* to incorporate the Minister's notes in the record of the proceedings immediately following the Minister's speech.

Explanatory Notes

As appears from the long title, the object of this Bill is, among other things, to revise the law relating to the sale, supply and consumption of liquor. With minor exceptions, to which reference will be made, the Bill is intended to reflect the recommendations of the Committee of Inquiry into Liquor Laws of the State, appearing in its report delivered on the 23rd December, 1969. The report, which was made available to members of this Parliament, has had a reasonable circulation among the public, generally, as some 470 copies have been sold or distributed. A copy of the transcript of the day to day hearings of the Committee is available in four volumes in the Parliamentary Library. It is suitably indexed, both as to subject matter and the individuals who were heard, and reference to it should provide no difficulty.

It will be seen from the Report that the Committee stressed the need for the supply of liquor to be attached to some other service, notably food and, to a lesser extent, entertainment but, at the same time, played down the need for accommodation which has, for a period of almost 100 years, been subject to a much greater emphasis. The thinking here is based on the growing number of motels and limited hotels that are making a specialty of providing that service.

The part of the report that has been the subject of much, if not most, comment is the recommendation for the provision of fairly extensive drinking hours, in what might loosely be called the Metropolitan Area, on Sundays. The Committee placed considerable emphasis on the requirement and ability of persons, under the existing law, to make a round trip of upwards of 40 miles by motor vehicle to engage in the short period of an hour's "swill".

There is no doubt that its recommendation as to Sunday trading was considerably influenced by this factor.

The next matter of major controversy is the reduction of the age at which young persons might obtain liquor. The Committee appears to have considered the reports of Royal Commissions, both in New South Wales (the Maxwell Report) and in Victoria (the Phillips Report) where the age has, at least since the turn of the century, been 18 years. It points out that in neither of those States was the question of that age raised to the Commission or dealt with by it. It draws the inference from that, and is satisfied by its own inquiries, that the 18-21 year age group has not presented, and is not presenting, a particular problem in the area of liquor consumption. For this and other reasons that are fully set out in the report, the Committee has recommended a reduction of the age to 18 years.

The Committee felt that young persons, even those below the age permitted for the supply of liquor, should be able to accompany their parents during their visits to hotels, believing this would tend to inhibit drinking to excess and misbehaviour, on the part of the parent. It will be seen that the Bill gives effect to the recommendation in this regard.

Of the only other major matters for general comment, one is the provision of a tavern licence, which is consonant with the Committee's thinking on accommodation and is engendered, further, by its hope of the provision of food as ancillary to drink. The second is the provision of a store licence, to replace the present gallon licence, enabling the sale of single bottles. The hope here is to convenience the shopper who may prefer to drink in the home. The Bill provides for the immediate conversion of gallon licences and requires the licence, after a period slightly in excess of one year (according to the enactment of the Bill and the date of its commencement), to be tied to the sale of groceries or pre-cooked foods.

The Committee was concerned that the only existing seafarers' club may not be conforming to the provisions of the existing Act and its recommendation for the establishment of a seafarers' canteen has been given effect in the Bill.

The main departure from the Committee's recommendation relates to the existing requirement for an occasional licence on the afternoon of Anzac Day. This has been an irksome provision, the only benefit being that the fees paid for those licences were paid to the Anzac Day Trust Fund, established under the Anzac Day Act, 1960. The Treasury has agreed that the amount of these fees ($5,008 over each of the past two years) should be the subject of an annual appropriation by Parliament and that the afternoon of Anzac Day should fall within "ordinary trading hours". The Bill has made provision accordingly. It should be noted, however, that licensees not wishing to open on that afternoon may, under the Bill, obtain leave to remain closed.

Sectional references to the Licensing Act, 1911, appear in the margins of such of the clauses of the Bill that do not contain an entirely new provision. These references are intended to enable a comparative study of the proposed with the existing provisions and are not meant to suggest that an existing provision has been re-enacted in its present form. In fact, the whole scheme of the Bill is so different to that of the Licensing Act, 1911, that, in many cases, it has been difficult, if not impracticable, to give an adequate or sufficient cross-reference.

A detailed examination of the Bill follows—

PART I.—PRELIMINARY.

Clause 4 repeals not only the existing Licensing Act and its amending Acts but, also, the Illicit Sale of Liquor Act, 1913, and the Returned Sailors and Soldiers' Imperial League of Australia, W. A. Branch, Incorporated (Anzac Club Control) Act, 1938. The provisions of these two measures have been included, virtually, in their entirety, in the Bill (see Part VII, Division 3 and clause 70, respectively).

The repeal of the two Innkeepers Acts does not arise out of any recommendation of the Committee of Inquiry, but is intended to give relief to hoteliers who may, under present law, be liable for damage to vehicles standing in their parking areas. Clause 174 places hoteliers in the same position as any other trade, in that matter of liability to the public, and thus removes what is said to be an anachronism that has too long existed.

Clause 5 provides for transition, by saving existing appointments, proceedings and licences. It will be seen, however, that the clause (by subclause (3)) makes provision for the conversion of certain licences, and a reference to the Second Schedule will show that the Publican's General Licence receives a new name, in accordance with the Committee's recommendations and the plea of the hoteliers. This class of licence, in terms of the recommendations, will now include two others that were of a similar character, namely, the Wayside-house Licence and the Australian Wine, Beer and Spirits Licence (of which only one exists), both of which enable sales at similar hours and to the public at large. The Australian Wine Bottle Licence and the Gallon Licence are converted to a Store Licence and the limitations provided by subclause (3) of clause 36 will apply to both. The Occasional Licence, that was not a licence properly so called, becomes an occasional permit. Under subclause (4) a club now becomes the subject of a licence as that, virtually, was the effect of registration under the Licensing Act, and the provisions of the Bill are consequentially tidier, shorter and more realistic.

The grading of hotels, under the Licensing Act, is kept on foot by subclause (5).

Clause 6 is virtually a repetition of section 46 of the Licensing Act, with much of the dead wood removed. However, paragraph (h) of the clause, to a minor extent, revises paragraph (c) of section 46, by banning the hawking of wine (see subparagraph (h) (iv)). This was always intended to be the effect of the provision.

Clause 7 calls for comment to the extent that any interpretation is new or revised, thus—

"bar" is revised to ensure that the term relates only to a place whence the customer or patron can obtain liquor, directly from the person pulling or pouring it, and does not include a place from which a steward, alone, may obtain it.

"beer", "brandy", "spirits" and "wine" are added or rewritten to make the interpretation, "liquor", more concise and understandable.

"juvenile" is added to eliminate the necessity of using the words, "person under 18 years of age", throughout the Bill.

"licensee" and "licensed premises" have been extended and clarified.

"lodger" is added so as to include the licensee and his family and servants living on the premises, as the existing Act and the Bill exempt both from certain provisions; the term is, therefore, a shortening provision.

"meal" is intended to extend the concept of that presently to be found in section 44G (6) (b) of the Licensing Act, which is of too restrictive a nature. Abuses of the term can be corrected, if need be, by regulation.

"ordinary trading hours" is a shortening provision which must be read in conjunction with the interpretation, "weekday", which is another shortening provision. It will be seen that the former expression includes the afternoon of Anzac Day, where it falls on a weekday.

"provisional certificate" was not previously defined. The interpretation is necessary, but the concept is unchanged.

"sale" has been tightened up to include disposal of liquor by lottery, which has, in fact, occurred.

"seafarer" is needed to restrict the use of seafarers' canteens to the persons for whom they are intended, under the recommendations. The size of the vessel will admit crews of State ships, but not of the ordinary, coastal fishing boats.

"restaurant", is an interpretation intended to give effect to the Committee's recommendation 19, at page 27 of the Report. It would enable a person, such as the lessee of the King's Park restaurant (called tea-rooms) to obtain a licence.

Subclause (2) is inserted to make clear what is required by the expression, "with or ancillary to", appearing throughout the Bill. The expression is used in the Victorian and South Australian legislation where it has not, in either case, been defined. This means that the Courts may be required to define it, and the licensee is left in doubt as to where his duty lies. It is true, however, that the interpretation is somewhat elastic in referring to the service of liquor, "within such time . . . as is reasonable in the circumstances of the particular case", but this is because the situation will vary as between one kind of licence and another.

Subclause (3) answers a difficulty experienced by the Court in the use of the expression, "have regard to", and it is considered advisable that, in the final analysis, the responsibility of making a decision should be reposed in the Court.

PART II.—ADMINISTRATION.

Division 1.—Court.

The provisions of this division are, to all intents and purposes, the same as those now existing in the Licensing Act, but it will be seen that the dead wood contained in sections 8 to 20 of that Act have been eliminated, leaving the Court as presently constituted.

Another feature is that the licensing districts have been eliminated, and the Court is at liberty to sit wherever required, which in effect is what happens now.

Division 2.—Appeals.

This is a new provision as the current Act does not make any provision for appeals from the decisions of the Licensing Court. It will be seen, however, that the appeals are only on questions of law and that appeals are not open to objectors, except in the case of an owner who is or was an objector. It is expected that the appeals will follow the method somewhat similar to the Justices Act appeals against decisions of Magistrates and Justices in Courts of Petty Session. The Committee recommended a right of appeal because of the greatly increased discretion conferred on the Court.

Division 3.—Officers.

This division is devoted to officers of the Court, providing for the appointment of clerks and supervisors of licensed premises. The supervisors of licensed premises are at present in existence, but are not currently mentioned in the Licensing Act. It is proposed that these officers take over many of the duties now carried on by members of the Police Force, that is, those duties that relate to the inspection of premises and keeping up of standards, both under grading and generally.

Duties of the Police are set out in clause 21, and clause 22 is written into the Bill in an attempt to obtain more cooperation from officers of local health authorities.

PART III.—SALE, SUPPLY AND CONSUMPTION OF LIQUOR.

Division 1.—Licences and Permits for Licences.

Clause 23 sets out the type of licences that may be granted under the Bill. It makes no mention of those that are presently in existence and have been

converted under the earlier provisions of the Bill. Further, no references are made in clause 23 to an Australian Wine Licence, although this licence will remain on foot, for the time being. A reference to clause 39 shows that the Australian Wine Licence is to be phased out by the end of 1972. Consequently, no new Australian Wine Licences will be granted in terms of this Bill.

The division then goes on to consider the various types of licences mentioned in clause 23 and to set out the authorities for the sale of liquor that are conferred by them.

A new feature of the hotel licence, which was the former Publican's General Licence, is that holders of this type of licence will be enabled to serve liquor with or ancillary to a meal, after ordinary trading hours. This authority was formerly conferred only on the holder of a Limited Hotel Licence and it was necessary for the holders of Publican's General Licences to obtain a restaurant licence. This will no longer be necessary.

Subclause (2) of clause 24 enables an applicant to apply for a change in the ordinary trading hours, as far as they relate to his licence. The intention is that, where in any district, such as a market area or a wharf area, different hours might be justified, the holder of the licence may apply to the Court and have his licence endorsed with those different trading hours. Further, a licensee who does not wish to open on the afternoon of Anzac Day may also apply under this subclause.

The Sunday trading hours are to be found in paragraph (c) of subclause (1) where, it will be seen, the differential of hours, between those hotels within what may roughly be described as the Metropolitan Area and those outside it, is effected.

Subclause (5) provides that those hotels that are currently operating on a Sunday continue to do so, until such time as they obtain a variation of those hours and provides, also, that those who are not presently authorised to trade on Sunday must elect to do so, and make their election known to the Court. This means that, on the coming into operation of the Act, Sunday trading would remain, temporarily, as it is now. It is expected that those hoteliers who wish to trade on Sundays will then make an application and will be permitted to elect to do so.

Provision is made in subclause (6) for the issue of an entertainment permit. The premises will need to be suitable for the issue of a permit of this type and the permit, when issued, will enable the hotel to remain open for an additional period of two hours, that is, the hours between ten and midnight.

Subclause (9) provides for an occasional permit which takes the place, as has been seen, of the occasional licence, presently provided by the Licensing Act. It is intended that this permit should not be issued except for what is called a special occasion, but the Court is given a discretion to decide what is such an occasion.

Clause 25 provides for a Caterer's Permit which is intended to replace the Temporary Licence which is now issued to certain licensed persons. The Caterer's Permit is proposed to be merely an extension of the Hotel Licence, as it enables the holder of the licence to exercise the privileges of his licence in some place other than the licensed premises. It will be seen, however, that the hours for a Caterer's Permit, which are to be laid down from time to time, are extensive and enable the permit to be operated on any day of the week, other than Good Friday, and between such hours as fall between nine o'clock in the morning, of the one day, and two o'clock in the morning, of the following day. The idea of this is to enable hoteliers to cater for weddings and other functions, which occur at various times of the day and on varying days. The Caterer's Permit is open only to hoteliers and to restauranteurs.

All other types of licensees will be required to obtain an Occasional Permit. Individuals and associations, who in the past have been able to obtain a temporary licence, will now be required to obtain a Function Permit, to which reference is made later.

Clause 26 makes provision for the new Tavern Licence. The hours under which the Tavern Licence operates will be similar to those of the Hotel Licence, and the Entertainment Permit and Occasional Permit are open to this type of licence-holder. The main difference between this type of licence and that of the Hotel is that no requirement for residential accommodation applies, but, on the other hand, the licensee will be required to have light meals available to his patrons, from the time he opens to the time he closes. This type of meal is envisaged as being either a precooked meal which may be kept frozen on the premises—sometimes called "a T.V. dinner"—and which will be heated and served, as required, or alternatively, the meal might be in the form of a cold collation. However, the Court will have the right to approve of the type of meal that is to be served by the holder of a Tavern Licence and it could well be that the standard of meal would be fairly high. The main idea of the light meal, as opposed to a meal defined in clause 7, is that it should be readily available at all times.

Clause 27 covers the Limited Hotel Licence and is virtually the same as presently exists in section 30 of the Licensing Act, except that the hours for the service of meals are now limited to those of a Restaurant Licence. There appears to

have been some doubt, under the operation of the provisions of the Licensing Act, as to whether the words, "at any time", relating to a meal, were not affected by the operation of sections 121 and 122 of the Act. The clause makes it clear, therefore, that the hours for service of liquor with meals will end at half-past twelve in the morning. It will be seen, however, that the holder of a Limited Hotel Licence will be able to obtain an Occasional Permit.

Clause 28 provides for Canteen Licences, as they presently exist, and adds provisions relating to a Seafarers' Canteen, of which more will be seen later in the Bill.

Clause 29 imports a new Winehouse Licence which is intended, in due course, to replace the Australian Wine Licence. To obtain a Winehouse Licence, the premises will need to be virtually the same, and similarly equipped, as those for a Restaurant Licence. There is, however no requirement for liquor to be served with or ancillary to meals, but the meals must be available at a time when they would ordinarily be available under a Restaurant Licence. The licensee will be enabled to sell wine and brandy, but only for consumption on the premises.

Clause 30 provides the new Cabaret Licence. This licence operates between the hours of nine in the evening and half-past three in the morning following, but the licensee is required, during that period, to provide entertainment, on the premises, and is also required to have light refreshments continuously available to his patrons. The nature of the light refreshments and the nature of the entertainment are required in both cases to be approved by the Court.

Clause 31 imports the new Theatre Licence, authorising the sale of liquor on theatre premises, when live theatre is being presented there. It is not intended that liquor be provided for any persons other than the patrons of the theatre and the clause makes provision for this restriction. A theatre licence was, at one time, provided for by an Act, now repealed (59 Vict. No. 15, 1895).

Clause 32 re-enacts the provisions of the existing Railway Refreshment Room Licence.

There are no Railway Refreshment Room Licences presently in operation. The provision for a Railway Refreshment Room Licence was continued at the request of the Railways Department which felt that its policy of not leasing refreshment rooms may, at some future time, be changed. All railway refreshment room services presently in existence—about five in number—are operated by the Railways Commission under the powers conferred by the Government Railways Act, 1904. If, however, the premises were to be leased then a licence would be required by the lessee.

Clause 33 re-enacts the provisions of the packet licence with the difference that this licence may now be applied to the proprietors of aircraft, as well as of ships. A further provision restricts the operation of the licence, in the case of small ships such as ply in protected waters, to hotel hours, and the clause further makes it clear that the licence is not to operate at any time when the vessel is moored or the aircraft is on a landing ground.

Clause 34 re-enacts the provisions relating to restaurant licences, with the additional power in the Court to extend, to the holder of this type of licence, what is called a lodger's permit. This permit is made to apply to motels that have a restaurant licence, and nothing more. It enables the licensee to place liquor in guest's rooms, where required and where the licensee has premises accommodating not less than twenty guests. This is a Victorian provision. The Committee considered it anomalous that a guest of a motel that had a restaurant licence should be required to go elsewhere to obtain liquor which he might wish to place in the refrigerator in his room.

Subclause (5) enables the restaurateur to obtain a caterer's permit, but, unlike the hotelier he is not authorized to sell and supply liquor pursuant to the permit, except where he is also catering for food.

Clause 35 which provides for a club licence re-enacts the greater part of Part VIII of the Licensing Act. It provides the same hours for clubs as currently exist, but limitations are placed on the number of guests that may be served and, then, only in the company of a member and at his expense. It provides the same Sunday trading hours as for hotels in the metropolitan area, where the club is in that area. These hours may, however, be changed, at the request of the club, if the club is a sporting body, and provision is made for this in subclause (2).

Subclause (3) enables the club to obtain an occasional permit, but the Court will not issue such a permit to a club, unless it is satisfied that the club has the necessary facilities to operate the permit without inconvenience to those members who are not concerned with the occasion.

Power is given to the Court to limit the number of members that any club may have—a power that it is currently exercising, with doubtful authority, under the Licensing Act.

Clause 36 relates to the store licence. This is the licence that, under the provisions of the Bill, replaces the gallon licence and the Australian Wine bottle licence. It will be seen that, while this type of licence now enables the licensee to sell single bottles of any type of liquor for consumption off the premises, the hours of operation of the licences are restricted to shop hours. It appears, from page

twenty three of the Report, that the Committee intended that, where a store is closed on Wednesday afternoon, it should be enabled to open on Saturday afternoon, and conversely. The clause, accordingly, provides that these stores should be limited in their hours of operation to those provided under the Factories and Shops Act. This would mean that, within the metropolitan area and other areas where shops are closed on Saturday afternoons, these licences will not operate during the hours after 1.00 or 12.30 p.m. However, the licensee is enabled to obtain what is called a late delivery permit which will permit him to deliver liquor sold during the hours when it is lawful to do so. A further provision of the clause makes it essential, at the end of 1971, that every holder of a store licence should have a substantial business in groceries or pre-cooked foods. This is provided by subclause (3).

Clause 37 relating to a wholesale spirit merchant's licence is virtually a re-enactment of section 37 of the Licensing Act, with the difference that the principal part of the licensee's business must be the sale of liquor to the holders of licences. The licence enables the holder to make deliveries out of trading hours.

Clause 38 re-enacts the present provisions relating to a brewer's licence and also provides for deliveries out of trading hours.

Clause 39 continues the Australian wine licence, but only for a period ending 31st December, 1972. It also continues the provisions enabling the holder of this type of licence to obtain a permit for the service of food on the premises. This provision will most likely, make it easier for the conversion of this licence to a winehouse licence. On the other hand, in a case where the premises do not lend themselves to conversion to a winehouse licence, it will be practicable for the licensee to obtain a store licence, always assuming that he is able to order his business so that a substantial part of it is for the provision of groceries and pre-cooked foods, within the period limited by the Bill.

Clause 40 is incorporated by a recommendation of the Committee and is taken from the Eastern States where it is possible, in the cases of restaurant licences and other licences where persons are required to have food with their drink, to use what is called the reception area, in which to have pre-dinner drinks or drinks while waiting for a table which may not then be free. It is not expected that all restaurants will qualify for this type of permit, but certainly, the larger hotels and some of the newer types of restaurants may have a suitable area which could qualify for the granting of a permit under this clause.

Clause 41 and similarly, Clause 44, make it clear that the licences and permits to which this Part applies are subject to further restrictions that follow later in the Bill.

Division 2.—Permits for Unlicensed Premises.

Clause 42 was introduced on the recommendation of the Committee to enable small clubs, in country areas particularly, that could not qualify for a club licence, to serve liquor to their members and guests on certain days and at certain hours that are specified in the permit. This type of permit is available to clubs in other States and enables the holder of the permit to purchase his liquor from a retail outlet and resell it to the members. Most permits of this type would operate for part of the year only, particularly in relation to country golf clubs, where the course is not used more than twenty weeks of the year, at the outside, and then only on two or three days of the week.

Clause 43 makes provision for a most important type of permit. It is a permit that will enable persons and associations of persons to do what, in many cases, is presently being done unlawfully. In many cases, the organisers of charitable bodies, with the best intentions in the world, are holding barbecues and like functions, charging persons for admission to the function and then serving them with liquor and food, on admission. This is unquestionably an offence under the existing law and Clause 156 of the Bill makes this clear. The Committee felt that persons should be enabled to conduct functions at which liquor is supplied, either pursuant to a function permit or pursuant to a caterer's permit, or both. The clause will accordingly eliminate the illegality of many functions now being held, if the organisers are prepared to apply for, and obtain, a function permit.

It will be seen that the organisers will, except in the case of race meetings and agricultural society meetings, be required to obtain their liquor from retail outlets which, in most cases, is now being done. The race meeting organisers and some agricultural show organisers, however, have been buying their liquor from wholesale outlets, under a temporary licence, and the clause is framed so as not to disturb this practice, other than to require the obtaining of a function permit.

Division 3.—Liquor on Unlicensed Premises.

Clause 45 re-enacts many of the present provisions of the Licensing Act. The important difference, however, is that persons will no longer be permitted to bring liquor to dance halls, as is presently being done. The requirement is that they should avail themselves of a caterer's permit, or, in some cases, of a cabaret permit, in organising their requirements for liquor at dances. Further, while not wishing to eliminate the right of persons to bring liquor into unlicensed restaurants, as they are now doing, the Committee felt that this right should be restricted to certain hours.

It felt that this restriction would do much to removing the present "sly-grogging" that is made practicable by the consumption of liquor, purported to have been brought, but not in fact brought, onto the premises. The Committee felt that persons should, if they wished, still be enabled to bring their liquor onto unlicensed premises of their choice, but that the hours during which they were to be permitted to do this should be limited to those provided by this clause.

Clause 46 re-enacts much of what is presently in the Licensing Act and does not call for comment. The sectional reference in the marginal note relates to the existing provisions.

Clause 47, in effect, re-enacts the provisions of Section 134B of the Licensing Act. However, the clause simplifies the procedures, by enabling the Court to place limitations on the consumption of liquor on the premises, by its original order, instead of requiring the occupier to return to the Court, at later stage, to obtain a variation of the prohibition order, presently called a permit. This does not, of course, prohibit or prevent the occupier from obtaining a variation of the initial order or of having it rescinded entirely, as appears in the present section. Apart from that difference, the clause is virtually a re-enactment of the existing provisions.

PART IV.—GRANTING OF LICENCES PROVISIONAL CERTIFICATES AND PERMITS AND RENEWAL, TRANSFER, REMOVAL ETC. OF LICENCES.

Division 1.—Granting of Licences, Provisional Certificates and Permits.

Clauses 49 to 53 (inclusive) call for little comment, as they are, for the most part, a re-enactment of existing provisions. It will be seen, however that it will now be possible, under clause 50, for a company to hold a licence. It is not clear whether, under the existing Act, this is so or not, but the practice has been not to grant licences to other than natural persons. The Committee felt that the granting of licences to corporate persons would, in effect, give a realism to what is apparently taking place, as these companies are operating under a licence held by one of their employees.

Clause 54 modifies the existing provisions of Section 47, to the extent that the Court is at present bound to fix a radius of 40 chains, within the metropolitan area, but has an unfettered discretion outside that area. It will now, in each case, fix what it considers to be an area effected by an application for a licence.

Clause 55 restricts the making of objections to persons who, the Committee thought, should be entitled to object, in each particular case. Clearly, there should be official objections to the granting of any kind of licence and that is provided by subclause (1). Subclause (2), on the other hand, limits the persons who may object to a particular kind of licence and sets these out in detail. For example, an hotelier may not object to the granting of a wine-house licence or a limited hotel licence or cabaret licence. Again, only official persons may be heard to object to other types of licences that are not mentioned in subclause (2).

Clause 56 is a re-enactment of an existing provision in the Licensing Act and does not call for comment.

Clause 57 sets out, in detail, the nature of the objections that may be taken for the granting of various types of licence and also to the issue of a permit.

Clause 59 is intended to encourage local authorities to take an interest in licensed premises and, as will be seen, applicants are required to obtain a certificate from the local health authority, as to the suitability, or otherwise, of premises to which an application relates.

Clause 61, while incorporating certain other provisions that presently exist in the Licensing Act, makes it clear—as that Act does not presently do—that the upholding of an objection is a complete bar to the granting of a licence. In fact, this has been the practice of the Court, but the Licensing Act is silent on the subject.

Clause 62 re-enacts existing provisions of the Licensing Act and extends the granting of a provisional certificate to every type of licence.

Clause 63 sets out, in greater particularity, some of the provisions of existing Section 47 of the Licensing Act and, by sublause (2), gives effect to the Committee's recommendation that too much preoccupation has been accorded to the question of accommodation with hotel licences. The Committee felt that, where accommodation is to be considered, the Court should look to see what other types of accommodation are presently in the area and should be enabled, as appears in subclause (3), to grant a licence without requirement of any, or more than minimal, accommodation, where the requirements of the area do not call for it. The Committee was of the view that, in some cases, a tavern licence might well meet the requirements of the area and that an hotel licence would not be necessary.

Clause 64 then proceeds to lay down the conditions for the granting of a tavern licence and makes it clear that, as the Committee recommended, in granting or not granting these licences, the convenience, rather than the needs, of the public should be taken into account. Another factor which should influence the Court, in the granting of this type of licence, is that of rationalizing licences in an area, and the clause makes provision for consideration of this aspect.

Clause 65 takes into account the fact that the grant of a limited hotel licence should not turn on any question of the number of persons resident in, but, rather, on that of the persons who are passing through, an area, particularly persons such as tourists and the like. It follows, therefore, that the granting of a limited hotel licence is subject to considerations different from those of other licences of an hotel character.

Clause 66 re-enacts, in effect and substance, the provisions of the Licensing Act relating to works canteens, but makes it clear that these licences are to be renewed only as long as no other licence can meet the need in the area. Existing provisions sought to do this by prohibiting a canteen licence to be within a specified distance of some other licence that could provide the service. The Committee felt that this was unrealistic and that the grant of a canteen licence of this kind should turn upon the circumstances of the particular case. The clause makes provision accordingly.

Clause 67 makes provision for the new seafarers' canteen licence of which comment has been made earlier. It will be seen that the canteen must be situated at a seaport and that the body that is to control it requires to be such as is approved by the Minister.

Clause 68 requires the grant of a wine-house licence to be subject to similar provisions as those applying to the grant of an hotel licence. The clause goes on to provide for easy translation of the Australian Wine Licence into a wine-house licence, if this appears practicable and the premises are suitable.

Clause 69 lays down the balance of the provisions which are to be found in Part VIII of the Licensing Act. It provides quite stringent provisions for the granting of a club licence and re-enacts many, if not all, of the provisions that relate to a registered club. An opportunity has been taken of incorporating, as a substantive enactment, many of the matters which are, under the Licensing Act, required to be included in club rules. It is believed better that the Act should speak on these subjects than that the club rules should cover them.

Clause 70 introduces into the Bill all the provisions that relate to the Anzac Club, under a separate Statute regarding which earlier comment appears in this memorandum.

Clause 71 lays down the pre-requisites to the grant of a store licence and provides further, by subclause (2), that an Australian Wine Licence may be readily converted to a store licence, if, as is most often likely to occur, the premises are unsuitable for a wine-house licence. It is envisaged, however, that as a practicable proposition, most Australian wine licences will be removed from their existing premises, for conversion either to a wine-house licence or to a store licence. Under this clause, this will be a reasonably simple procedure.

Clause 72 makes it clear that the grant of any licence other than those mentioned in the immediately preceding clauses is subject only to valid objections.

Clause 73 was inserted to give effect to the Committee's view, expressed throughout its report, that the standard for various types of licences may be varied from place to place. In fact, the Court is already giving effect to these provisions.

Clause 74 makes it clear that the grant of permits is limited only by the establishment of objections and it calls for little, if any, comment.

Division 2.—Renewal of Licences and Permits.

This Division contains mostly machinery provisions for the renewal of licences and permits. The provisions are, for the most part, contained in the existing Act and do not lay down any new procedures, other than that a licensee need not appear before the Court, in order to obtain a renewal of his licence, except under the provisions of Clause 81. Present licensees are required to appear before the Court on each occasion of renewal of the licence. The Committee recommended that this procedure be eliminated, unless circumstances warrant an appearance.

Clause 82 provides that the Court may grant a renewal of the licence, subject to the licensee giving effect to certain variations of the premises, and may suspend the licence, or renew it for a limited period only, until its requirements have been carried out.

Clause 88 deals with the transmission of licences and the provisions of Section 57 of the Licensing Act are re-incorporated by that clause. For the sake of convenience, circumstances for the entry of successors and others into licensed premises have been tabulated, and appear in the Third Schedule of the Bill. The Schedule does not make any substantial amendment to the existing provisions.

Division 4.—Removal of Licences.

This division, embracing clauses 90 to 92, does not make any substantial change to the existing provisions for removal, as they now appear in the Licensing Act, as reference to the sections mentioned in the side notes to the clauses will show.

PART V. — IMPROVEMENT AND RATIONALIZATION OF LICENSED PREMISES.

Division 1.—Improvement and Maintenance of Premises.

Clauses 93 to 98, inclusive, constitute a re-enactment of sections 50, 51 and 51A of the Licensing Act.

Clause 39 incorporates section 116 of the Licensing Act and gives it a home in a part of the Bill where it should more properly be found.

The remaining provisions of this division are those to be found in the sections of the Act mentioned in the side notes; and section 51B of the Act has been included in this division and appears as clause 104.

Division 2.—Grading of Hotels.

The provisions of this division are a re-write of these provisions to be found in sections 51C, 51D and 51E of the Licensing Act, and no material change has been made in those provisions, except to re-order them and set them out in appropriate clauses.

Division 3.—Rationalization of Hotel Licences.

This division is a new concept and comprises the Committee's recommendations for the re-ordering of hotel licences, where they are in excess of the requirements of any particular area or where any of the services which they provide are redundant. The Committee's comments in this respect are to be found on pages 41 to 44, inclusive, of the Report and the recommendations are contained, as recommendation 33, on the last of those pages.

Clause 112 enables the Court to investigate any particular area of its choosing and to consider the situation there, as regards hotel licences.

Clause 113 provides that, following such an investigation, the Court may call on some or other of the licensees, in the area, to show cause why their licences should be continued.

Clause 114 sets out the circumstances in which the licensees may justify a continuance, or if unable to do so, may obtain time to take other steps with regard to the licence, notably, the removal of the licence, its conversion to a tavern licence or its transfer to some other person who may be able to take any necessary steps. Failing the showing of cause, the Court is given power to order that the licence be not renewed at the conclusion of its currency.

The powers conferred on the Court by this division are extremely far-reaching and involve a completely new concept in the area of reduction of licences. In the past, provision was, and in other States, provision is, made for compensation of the owners of premises that are discontinued under a reduction scheme. The Committee, however, did not feel that such a scheme should find any place in our legislation and their reasons for so believing are fully set out in the pages of the report mentioned above.

Division 4.—Surrender of Licences.

This division does not contain any new provision, for they are a re-enactment of those presently existing in the Act.

PART VI.—OBLIGATION OF LICENSEES.

The only new provision that is included in any clause of this division is that to be found in clause 120, which provides a period for the clearing of the bar, for the consumption of liquor purchased before closing time and for the removal of liquor lawfully sold in sealed containers before closing time. This follows a recommendation of the Committee for such a provision. It applies to all types of licences, including restaurants and cabarets, and persons are, in each case, enabled to complete the consumption of liquor, within half an hour after the time when they were last able to purchase it.

Clause 122, which is a re-enactment of the existing section 118, enables a licensee to refuse services, in certain cases. The existing provisions allow him to do this, for reasonable cause, but do not attempt to give any definition of reasonable cause and, as a result, licensees are left in some doubt as to their right to refuse supply of food, accommodation and refreshment.

Subclause (7) of clause 122 makes it clear that licensees are not permitted to refuse the supply of liquor in the form in which it is required. Evidence was given, before the Committee, that aborigines were often refused service on the premises and were obliged to take their requirements away, by the bottle. This is seen, by some of the organisations that have, as their major purpose, the integration of aborigines into the community, to be a discriminatory procedure. Subclause (7) is based on the Committee's recommendation regarding such procedures.

PART VII.—OFFENCES AND LEGAL PROCEEDINGS.

Division 1.—Offences relating to the Sale and Supply of Liquor.

This division has, as its purpose, the bringing together of a large number of sections that are to be found in different parts of the Licensing Act and of ordering them so that they are readily found in the one place. It will be seen that the various defences to complaints of offences under the division are set out and, among these, is a provision that a juvenile may, in certain circumstances, be supplied with liquor, if in the company of a person having authority over him. Subclause (6) of clause 126 defines the term "person in authority over" a juvenile. This is in keeping with the recommendations of the Committee and is to be found in the Victorian legislation.

The other provisions of the division do not introduce any new concept and do not call for comment.

Division 2.—Offences Generally.

Clause 129 sets out offences by persons other than licensees and, again, provides defences to complaints of several offences

there provided. One of the new provisions is that to be found in subclause (7) where, following the recommendation of the Committee, the Tasmanian provision, requiring a juvenile to sign a certificate as to his age, is incorporated. The giving of a false certificate under that subclause constitutes an offence, but the subclause does not provide that the certificate is, of itself, an excuse for unlawful service of liquor to a juvenile. This provision is intended, primarily, as a deterrent to young persons wrongfully attempting to obtain liquor. The remaining clauses are re-enactments of those now appearing in the Licensing Act and do not call for comment.

Division 3.—Unlawful Dealing in Liquor.

This division incorporates in the Bill all the salient provisions of the Illicit Sale of Liquor Act, 1913. Where any of the provisions of that Act are omitted from the division, they appear later in the Bill. As these provisions have been on foot for many years, they do not call for comment, at this stage.

Division 4.—Miscellaneous Powers of Police and Others.

Here, again, many of the provisions of the Licensing Act have been brought together in an orderly form. The only change of any substance is to be found in subclause (2) of clause 148, whereby a member of the Police Force may arrest a person refusing to leave licensed premises, when properly required to do so. Without this subclause, the arrest could only follow resisting ejection or returning to the licensed premises after ejection. It will be seen that, by the provisions of clause 129, a time has been fixed during which a person may not return to the licensed premises after being required to leave.

Division 5.—Proceedings and Evidence.

Most of the provisions of this division are to be found in the Licensing Act, at present. They have, in many cases, been re-worded to make their meaning clearer, but, in substance, their effect is the same. Clause 156, however, is a statement of what is said to be the law at present, namely, that any transaction, whereby liquor is provided and money passes, is deemed to be a sale. The intention of the clause is that persons who require to raise money, or have money as an element of a transaction involving liquor, should apply for a function permit, under the earlier provisions of the Bill.

Subclause (1) of clause 157 re-enacts the existing section 240. Subclause (2) enables the admission of evidence of accomplices, without corroboration, and is to be found in the South Australian measure. Subclause (3) enables acts, admissions and statements of servants of licensees to be admitted as evidence. The reason for this requirement is that, where a company holds a licence, it may well be that action could not be taken against it, without the admission of the acts, admissions or statements of a company servant.

Clause 158 provides that a person nominated and approved to be responsible as licensee is subject to the same penalties as a person who is a licensee in his own right.

PART VIII.—FINANCIAL PROVISIONS.

Division 1.—Fees for Licences, Permits etc.

Clauses 159 to 165 bring together the present, somewhat rambling and prolix provisions of sections 72 to 80 of the Licensing Act. Much of the deadwood has been eliminated and, for simpler reading and understanding, all fees, including fees which are payable by percentage, have been set out in the Fourth Schedule to the Bill. The only new provision in the division is that requiring the holders of wholesale spirit merchants' licences and of brewers' licences to render a return of liquor sold to persons who are holders of a licence. At present, it is necessary for the Treasurer to issue a direction to these licence holders to make this return and the Bill now eliminates the necessity for the giving of any such notice. Adverting to the Fourth Schedule, it will be seen that, following a recommendation of the Committee, the percentage payable by the holders of tavern licences has been fixed at 7½ per centum of the total amount of all liquor purchased for the licensed premises. Some consideration was given to other fees which may be somewhat outmoded, but it is considered preferable that these provisions should operate for some time, before making any increased impost on the holders of other types of licences.

The Schedule makes provision for the payment of higher fees for permits that are of a continuing nature and which will, in most cases, enure for a whole year.

In each case where a licence or permit does not run for the whole year, the amount payable is reducible, proportionately, under the provisions of this division.

Division 2.—Premiums.

Clause 166 provides for the imposition of premiums, on the granting of a new licence or of a provisional certificate for a new licence; and it exempts five classes of licence from the necessity of a prepayment of a premium. A packet licence is not presently so exempt but, in fact, the Court does not exact the premium for a packet licence, and a club licence is not caught, because clubs are presently registered and are not subject to a licence.

Clause 167 continues the requirement for the payment of a premium for the removal of a licence, but it exempts those licences

that are removed pursuant to a rationalization scheme, if the licence is removed to an area in respect of which no application is pending. The Committee recommended that removals of this kind should be free from liability for premiums.

The Licensing Act does not lay down any mode of assessing premiums and, although the Court has a formula by which it fixes them, it was not considered advisable to write it into the Bill.

Division 3.—Moneys for Relief, Education and Rehabilitation.

Clause 168 enables the Treasurer to make good the moneys that would have been payable to the Anzac Day Trust Fund, if occasional licences were continued on Anzac Day. As these licences are discontinued and no permit is required for an Anzac Day afternoon falling within ordinary trading hours, the clause makes provision for an appropriation that would be commensurate with the amount that might otherwise have been received by the Fund.

Clause 169 takes the place of section 247A of the Act which provides for education, in government and private schools, on the affects of liquor. The clause goes further, following the recommendation of the Committee, in enabling funds to be provided, not only for this purpose, but also for the establishment of clinics and centres for the rehabilitation of inebriates. In each case, it will be seen, the money must be appropriated by Parliament, for the purpose.

PART IX.—MISCELLANEOUS.

This part picks up most of the remaining sections of the Licensing Act that are of a miscellaneous nature. However, clause 171 provides for a register of owners. In many cases, notices are required to be sent to or served on owners and it is important that their names and addresses should be properly recorded and any change noted. The provision of a register for this purpose is a very necessary machinery provision.

Clause 174 is a clause that relieves innkeepers of their common law liability. The repeal of the two Innkeepers Acts would have enlarged that liability to its original common law position. This clause relieves them entirely of any liability that does not apply to other types of trades.

Clause 175 provides an immunity for persons acting in good faith—a provision that is not, although it ought to be, in the Licensing Act.

In this part, the rule-making power and the regulation-making power have each been more specifically set out and the intention as to the nature of the subordinate legislation to be prescribed, in each case, is more fully specified.

GENERAL.

It should be added that Part X of the Licensing Act, relating to the adulteration of liquor, has been completely omitted from the Bill, following the recommendations of the Committee that these matters should be reposed in the Public Health Department. In fact, the Foods and Drugs Regulations, made under the Public Health Act, 1911, already regulate matters of the strengths and purity of liquor and it is proper that these provisions should be policed by those administering the Act under which they properly fall. It will be seen, however, that the offence of selling liquor under a false description or trade name remains an offence under the provisions of this Bill.

It must be appreciated, that in drafting the Bill, it has been necessary, on occasion, to interpret the Committee's recommendations, assisted by the commentaries that appear in the Report. Where these have been insufficient or the Report is silent on a question, in many cases, the assistance of the Licensing Court and of the Liquor Inspection Branch of the Police Department (both of which are particularly concerned in the administration of licensing law) has been sought.

In some cases, penalties have been varied to bring them into line with others or to make them more realistic.

DISTRICT COURT OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

Debate resumed from the 16th April.

MR. T. D. EVANS (Kalgoorlie) [5.8 p.m.]: Last year this Parliament concerned itself with a study and the ultimate passage of a piece of legislation of very great importance. I refer, of course, to the Bill which became the District Court of Western Australia Act, 1969. By this piece of legislation we wrote into our system of administration of justice a new concept; a concept which was interposed between the old established local court system and the original Supreme Court system of judicature.

The District Court Act was proclaimed to operate as from the 1st April, 1970, and already three justices have been appointed to the bench of this court. We are now confronted, at this early stage in 1970, with a Bill to amend the principal Act of 1969.

This Bill seeks to amend the District Court Act by way of introducing certain procedural alterations. The most important of these is the appointment of Mr. Good, who was Solicitor-General and who last year was appointed to the position of Chairman of the Third Party Claims Tribunal, to the status of Chairman of the Judges under the new District Court Act.

In 1967 Parliament approved the setting up of the motor vehicle Third Party Claims Tribunal and, as a result of this move, personal injury cases henceforth were to be removed to the jurisdiction of that tribunal. A chairman was appointed to that tribunal and he served in that office for a short time.

When the original chairman resigned the person who was then Solicitor-General—and I refer to Mr. Justice Good—was appointed Chairman of the Third Party Claims Tribunal.

When appointments were made this year to the District Court, Mr. Good—as he then was—became a member of the District Court bench and he was accorded the title of chairman of the bench. The measure before us is to approve of Mr. Good—the present Chairman of the Third Party Claims Tribunal—as chairman of the bench of the District Court.

In a complementry measure—to which I feel I have a right to make some reference—and I refer to the Bill to amend the Motor Vehicle (Third Party Insurance) Act, which is shortly to come before us, provisions are included whereby any member of the bench under the District Court Act would have the right to preside as chairman of the motor vehicle Third Party Claims Tribunal.

Members may ask: What is the attitude of the Opposition to this? For myself I will readily indicate that I see no objection to it whatsoever; far from it. It is with some regret that I recall that only a few weeks ago while we were debating an amendment to the Workers' Compensation Act I drew the attention of the Minister in charge of that piece of legislation to the fact that it contained a desire and indeed a submission from the Law Society of this State to the *ad hoc* committee set up by the Minister for Labour in respect of workers' compensation legislation and that the Chairman of the Workers' Compensation Board should be accorded the status of a district court judge.

Unfortunately, however, this submission apparently fell on deaf ears and my representations from this side of the House to the Minister on that occasion did not seem to fare any better. Possibly they may bear fruit in the future.

It is of some interest to note—and I am now dealing with the District Court Act in conjunction with the amendments which are anticipated in the Bill to amend the Motor Vehicle (Third Party Insurance) Act—that previously when the Minister for Agriculture introduced an amending Bill to the latter Act to bring about the creation of the tribunal, he said that the purpose of the tribunal was to introduce a system under which consideration of personal injury cases would be consistent, as far as possible, and the judgments emanating from the tribunal would be uniform, as far as possible. This was said to be one of the main objectives of the new tribunal. At that time it was anticipated and felt in many quarters, and particularly on this side of the House, that this objective was far from achievement by the system sought.

The amending legislation which is before us shows only too clearly that this objective was almost impossible of attainment, because we now find that a member of the bench of the District Court can be invited at any time to sit as the Chairman of the Third Party Claims Tribunal. So, it is difficult to imagine how the consideration of such cases could be given consistent attention, at least, and it is also difficult to imagine that the judgments would have the appearance of being uniform.

I would like to make one further reference to the Third Party Claims Tribunal, as it is mentioned in the amending Bill; that is, at the time it was conceived and brought into operation, the jurisdiction was taken away from the Supreme Court. It appears to me that now possibly the jurisdiction is slowly returning to the Supreme Court via the District Court. Only time will tell whether the jurisdiction completes the return home, where it should remain.

The other provisions of this Bill are such that when the District Court legislation was before this Parliament last year it was the intent of the authors and, indeed, it was the legislative intent that matters of a civil nature which at the time of the coming into operation of the District Court system had been commenced in the Supreme Court would be completed in that court. Apparently experience has shown that the amount of litigation coming before the Supreme Court—I refer to litigation which is beyond the jurisdiction of the limit set by the District Court Act—is such that the Supreme Court finds it difficult, if not impossible, to deal with all these matters which at that stage had been commenced but not completed in the Supreme Court. If the Act had been in operation, those matters would have been commenced in the District Court. We are asked to approve an amendment whereby in respect of these matters the Chief Justice of the Supreme Court can make an order remitting them to the District Court for attention.

Another procedural amendment in the Bill will ensure that jury lists, which are now in operation or which are in the course of preparation under the Supreme Court Act or under the repealed Courts of Session Act, shall in future be the jury lists for the purposes of the District Court. This is an obvious amendment, and it will avoid the necessity of separate jury lists having to be prepared purely and simply for the purposes of the District Court Act. We are also asked to approve the raising

of the upper financial limit of the jurisdiction of the District Court in matters of land ejectment.

Finally it has been considered desirable to include in the amending legislation a provision to determine the priority which will exist between a warrant of execution issued under the jurisdiction of the Local Court, one issued under the jurisdiction of the District Court, and a writ of execution issued out of the Supreme Court.

Mr. Bickerton: I do not like the term "warrant of execution."

Mr. T. D. EVANS: Mr. Speaker, you might have assumed safely from my remarks that we raise no objection to the Bill and, indeed, we support its passage.

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 Mr. Court (Minister for Industrial Development), and passed.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

TERMINATION OF PREGNANCY BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Williams, read a first time.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 16th April.

MR. GRAHAM (Balcatta—Deputy Leader of the Opposition) [5.25 p.m.]: As my colleague, the member for Kalgoorlie, pointed out, this Bill is complementary to the measure we have just debated. He has made reference to the provisions, and there is no need for me to go into what the Bill before us seeks to achieve. I merely indicate that I have no opposition to the passage of the measure.

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 Mr. Court (Minister for Industrial Development), and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL, 1970.

Second Reading

Debate resumed from the 21st April.

MR. BICKERTON (Pilbara) [5.27 p.m.]: This Bill to amend the Local Government Act deals with several matters, but the one I want to refer to in particular is the provision which deals with the rating of leases held by iron ore companies which have made with the Government agreements which have been ratified by Parliament. In regard to the other amendments in the Bill, I shall leave one for the member for Collie to deal with, and I can raise no great objection to the rest.

From my own point of view the amendment relating to the rating of leases held by the iron ore companies is somewhat a *fait accompli*, because the local authorities in my area have already agreed substantially to the proposals that have been put forward by the Minister. Of course, the local authorities are the organisations which have to obtain the money from the iron ore companies; and, having agreed in principle, but with some minor objections, to the formula that is set out in the Bill, I find it rather difficult to disagree with the local authorities.

As the Minister pointed out during his second reading speech, a committee was set up in 1967 comprising departmental officers to inquire, in the main, into a method of rating to be applied to the iron ore leases and, secondly, the rating to be applied to the salt-producing leases. The object of the committee was to set up a form of rating which would vary from the normal local government rating procedure. This was necessary because of the large areas of land involved in the actual agreements which had been ratified by this Parliament.

The Minister stated that the purpose of appointing the committee was to seek an alleviation of the rates which would apply under the present provisions of the Act. The valuation which would apply under the Local Goverment Act is based on 20 times the rental value, and that would produce an astronomical figure resulting in the rating being out of all proportion to the service rendered by the particular local authority. To a certain extent, one must go along with that view.

As I have said, the committee was formed in 1967, but it was not until about the middle of 1970 that the present measure was brought before us. Perhaps one could level some criticism at the committee, or the Government. I would say the Government was responsible for the committee taking so long to arrive at some form of conclusion in connection with this matter. I have criticised this point on previous occasions in the House, and I

have asked many questions on the subject. I feel that I should once again say that the local authorities have lost a great deal of revenue because of the delay caused by the committee. I suppose my criticism should be levelled at the Government, as it set up the committee.

As I have said, the local authorities have lost much revenue because of the delay, and I would like to hear from the Minister why there is not some provision in the Bill to make it obligatory for the companies to make some form of retrospective payment in connection with the rating of their leases.

I have never taken issue with regard to the rating of the townsites of the companies, and I do not intend to do so on this occasion. In the main, the companies have created their own towns and provided housing, school buildings, and police stations, and have constructed roads. For that reason I suppose it could be argued that the companies could hardly be expected to pay exorbitant rates.

I have always stated, and I wish to reiterate what I have said, that the mining leases and claims which the companies have converted from their temporary reserves, as laid down in the original agreements, have produced nothing by way of revenue as far as the local shires are concerned. We have reached the stage where, to a certain extent, we are discriminating, because anyone else—or any member of this Chamber—who pegged a mining claim would be expected to pay the rates thereon immediately the claim was approved by the Minister for Mines. The companies concerned, fortunately, are not poor—according to their balance sheets up to date—but they have been exempted from rating for quite a number of years to the financial detriment of the local shires.

The committee has at last come to light with a suggestion which, as I have said, the shires have, in the main, already accepted. I think the companies have been let off rather lightly as far as their mining claims are concerned. The main portion of this Bill dealing with iron ore leases is covered at page 7 of the report of the committee. The report states—

> (1) Any person holding lands by virtue of:—
>
> (a) An agreement with the State which has been approved by Act of Parliament and which lands (whether of a freehold or leasehold nature) are, pursuant to the provisions of the particular agreement, to be assessed for the purpose of local authority rating on the unimproved value thereof;

The report then deals with petroleum leases which I will not go into now. The report goes on—

> —may, by giving one month's notice in writing to the local authority, or authorities, concerned, choose to have the whole of such lands valued for the purpose of local authority rating on the following basis:—
>
> for the first 100,000 acres or part thereof, $1.00 per acre
>
> for the second 100,000 acres or part thereof, .75c per acre
>
> for the third and fourth 100,000 acres or part thereof, .50c per acre
>
> for each acre in excess of 400,000, .25c per acre.

There may be some merit in the fact that where a mineral such as iron ore is concerned, and such huge areas are involved, and where the companies are expected to provide so many facilities, some compensation should be made in connection with the rating.

The present amendment to the Act deals with agreements which have been ratified by this Parliament. So, if any member here—or any other person—were to take up similar areas and did not have an agreement ratified by this Parliament he would be expected to pay the full rates on the valuation of the area; the local authority rates which applied. In the case of the iron ore agreements there has been an exemption for two or three years. No rates whatever have been paid, and we now find that the companies will be charged a very much reduced rate compared with anyone else pegging in the normal way. One wonders whether that is fair, in the circumstances. As I have said, from inquiries I have made it appears that the shires have accepted the conditions set out in the report of the committee. I have no doubt that some of the shires probably accepted the conditions under some form of pressure with the object of reaching finality on the matter. Up until the time of the committee report the shires were not receiving any rates whatsoever as far as these claims were concerned.

It would only be fair if this Bill provided that the ratings which have been recommended by the committee were to apply from the time the companies were granted their mining claims. In other words, I think the rates should be retrospective. There is to be a considerable reduction in the ratings, and to give one example from the table at the back of the committee's report, I will quote the case of Hamersley. That company will come within the Shire of Tableland, administered from Wittenoom. The area of the holding, according to the table in the report, is 192,000 acres, and the

total rental thereon would be $67,200. Under the local authority valuations that rental has to be multiplied by 20—under normal circumstances—giving a figure of $1,344,000. The rate in the $1 in that particular shire is 5c., and the total rent payable would normally be $67,200. However, the rate which will actually be paid in this instance will be $8,450.

I know that in the case of this particular company certain arrangements were made with the shire under which an *ex gratia* payment was made. That payment helped the shire at the time, but it also complicated issues considerably so far as other shies were concerned. That payment was used, more or less. as a precedent when the discussions took place over rating.

The other mining companies come within the shires of Hedland, Nullagine, and Onslow. I cannot understand why the shires did not get together at the time and rate the companies the same as any other company which did not have a ratified agreement with the Government would be rated. I feel sure that had pressure not been brought to bear upon those shires the companies would have been rated as I have suggested. There is no reason why a company protected by a ratified agreement of Parliament should have to pay less rates than a company which has no agreement with the Government.

I know it can be argued that the companies have done a considerable amount of work in the districts and I readily agree the money expended by the companies has made a great difference. However, the ratified agreements contain a clause stating that no discriminatory rate will be struck against the companies. Well, it is not a matter of striking a discriminatory rate in this case; it is a matter of those with ratified agreements paying a similar rate to that paid by anyone else who happens to peg mineral claims in those particular local authority areas.

As I said, the shires within my area have, in the main, agreed to the proposals put forward by the Minister, and I can only say it is their responsibility to answer to their ratepayers, and other people who find anomalies, for their actions. It must be gratifying to them to know that at last they are receiving some form of rating, for which they have been waiting for three or four years.

To the companies, I would say that I would not blame them for one moment for obtaining a rate on their leases which would be most beneficial to them, but I do not like to see anomalies occurring, such as will occur in this case; because companies that have not got ratified agreements with the Government will be paying different rates to the council from those paid by companies that have ratified agreements.

Before resuming my seat, I would say that I support the measure because the councils have agreed to it, but I do want to repeat that, to my way of thinking, these councils have been robbed of much revenue by the fact that the companies have operated for so long without paying rates. If I had a point of criticism against this measure, it would be that the rating should have been made retrospective to the time the companies received their actual mineral claims, as opposed to the holding of temporary reserves. I support the measure.

MR. JONES (Collie) [5.47 p.m.]: Like the member for Pilbara, I agree with the Bill. However, I consider that the provisions could have been extended in a number of instances.

As has been stated, a majority of shires have indicated their agreement with the proposed alterations, which were circularised by the committee appointed in 1967 to consider amendments to the Act. When introducing the measure, the Minister said that the Act had been amended on a number of occasions since its introduction in 1961 and he foreshadowed that further amendments could be made in the next session of Parliament.

The committee appointed in June, 1967, to consider amendments to the Act made certain recommendations to the Country Shire Councils' Association which involved matters affecting each individual shire. A perusal of the points discussed by the committee and its recommendations discloses that a matter affecting the Collie Shire Council was considered at length, but no recommendations were made to the Minister by the committee following the submissions received. I shall quote briefly two paragraphs—

> The Country Shire Councils' Association sent this inquiry on to its member Councils. One particular comment that was forthcoming as a result of this move was that of the Collie Shire Council, which suggested that the Committee should recommend adoption of the provisions of the Local Government Act of New South Wales, which, with regard to coal mining leases, provide for an unimproved value reckoned on output. This Council objected that the rental for the existing coal mining leases in Collie is only 5 cents per acre and that this has stood unaltered since 1904. It was claimed that the total rates payable on the Collie leases is only $250, but that, if the New South Wales system was adopted, the amount received by the Council would be $17,800.

It will be seen therefore that the rating system for coalmining leases within the province of the Collie Shire Council had not been amended since 1904. Members will appreciate that since 1904 costs have risen sharply but the rates payable to the local authority by the coalmining companies have not altered since that date. That being the case, the committee thought it wise to consult the State Electricity Commission about the proposition of the Collie Shire Council. Paragraph 7 of the report reads—

> The Committee sought the view of the State Electricity Commission as to the abovementioned proposals from the Shire of Collie. The Electricity Commission's view (with which the Western Australian Government Railways Commission was said to agree) was that any increase in the rates payable on coal mining leases would have the effect of increasing the present price of coal to the two Commissions. This, it was considered, would not be in the best interest of the State and would result in the rest of the State paying for the increase in the revenues of the Collie Shire Council.

The proposition was either rejected or was not favourably received by the State Electricity Commission and the Western Australian Government Railways Commission. That is how the matter stood.

I cannot find in the report of the committee any recommendations to improve the situation or to alter the rating system that had been in operation since 1904. I would have assumed that the committee, being no doubt conversant with the increasing costs of shire councils, would express some view and would indicate that some alteration was necessary to overcome the state of affairs that existed.

It is all very well for the State Electricity Commission and the Western Australian Government Railways Commission to indicate their views, but one must look at the position of the Collie Shire Council. Investigation will reveal that 82 per cent. of the shire is unratable, which means that only 18 per cent. of the land in the Collie shire is ratable. It will be realised that this causes the Collie authority some concern. The 82 per cent. comprises mainly forestry leases, Crown land, and water purification projects.

What happened is quite clear. The committee obtained the views of the Country Shire Councils' Association, which in turn referred the matter to the individual councils, and replies were received. Then inquiries were made of the State Electricity Commission and the Western Australian Government Railways Commission, and as far as the committee was concerned the position remained at that level. The Collie Shire Council—in view of the recommendations of the committee, no doubt—made approaches to the Minister for reconsideration of the issues involved because the rate of 5c per acre had existed since 1904.

I understand that the deputation from the council pointed out how unjust the situation was; that there had been no alteration and the council was required to meet increasing costs. The Collie Shire Council made two suggestions. The first was that the rate should be based on coal output, as is the position in New South Wales. The second was that the same rates should be applied as for agricultural land in the same locality. The Government considered the propositions advanced and, for reasons not known to, or not indicated by, the Minister, it came up with the proposition that is contained in the Bill.

The position was serious for the Collie Shire Council because in 1959-60 the coalmining companies paid $1,815.75 in rates out of a total levy of $51,431.20, whereas in 1969-70 they paid only $382.68 out of a total levy of $88,726.96. The Bill provides that the rates under the new system shall be $5 per acre, which will mean increased revenue to the Collie Shire Council—$1,913.39 under the new formula, as compared with $382 under the old system.

I wish to point out that other factors enter into the provisions of the Act. I cannot understand why forestry land is free from taxation in this respect. We now have the position that 82 per cent. of the land in the Collie Shire is unratable; it consists of Crown land, forestry leases or water purification projects.

Let us look at forestry. The Forests Department is now conducting a business. It has changed its entity from an organisation dealing with the reafforestation programme to an organisation engaged in the project of planting pine trees. It is well known to members that the Forests Department is planting pines in numerous areas throughout the State. This is a business transaction which is no different from coalmining, in my view. The coalmining company is responsible for roads on its leases. The Forests Department should be responsible for roads on its leases if it becomes a business undertaking.

I believe the Nannup Shire is in a similar position. Is it unreasonable to suggest that the provision contained in the Bill requiring coalmining companies to make a contribution to the conduct of the shire should have application to the Forests Department? Members may not be aware of the seriousness of this if they have not seen the effect of it. It is all very well to say that the Wellington Dam is an asset to the State, but the Wellington Dam holds Collie back because the Water Purification

Board must watch very closely the salinity of the water. If there is any indication that the salt content is increasing, land resumption will inevitably take place.

So we have the shire that is referred to in the Bill in the position of having 82 per cent. of its land unratable. We have the State getting the benefit of the water catchment area, which is of little benefit to Collie as a town. We also have the position that a lot of land is taken up by the Forests Department for a forestry programme and for the purpose of growing pines.

I think shires which are in this position should be compensated in some way. I am not suggesting it should be by way of a general rating system, but I think the Government or the Minister in charge of the portfolio should see that shires that are in this situation are adequately compensated. It is unreasonable that Collie, for example, should have to bear these three anomalies, resulting in a reduction in the rates available to it, and I think it is time that some consideration was given to the points I have raised.

I do not intend to go over ground that has already been covered by the member for Pilbara. A number of the clauses in the Bill deal with the filling of vacancies in municipalities, the special requirements for leases in the northern part of the State, payments by companies, special recommendations on leases under the Petroleum Act, and other matters referred to by the member for Pilbara.

In the main, I agree with the legislation proposed. The one point of dissension as far as I am concerned is that the Bill does not go far enough. I repeat that I consider the Government should have a look at this question in order to provide some relief for Collie.

In conclusion, I hope that such a position will not pertain for so long in the future as it has in the past because, as I have indicated, the rating system for coalmining companies has not been altered since 1904. This is far too long and I hope the Government of the day will keep the matter under review so that the Collie Shire can be adequately compensated for the money it has to spend to meet its commitments.

MR. MITCHELL (Stirling) [6.1 p.m.]: I wish to support the Bill on several counts and to refer to section 41, which prescribes the order of retirement of members of municipal councils. Apparently there is some doubt surrounding the wording in the Act relating to the retirement of councillors in rotation. It has been provided that half of the members shall retire in one year and the other half in the following year. From my knowledge of local government it has always been very important to observe a situation where one-third of the councillors retire each year, leaving in office two-thirds of them with some experience of council affairs. Unlike the State Parliament, where it is possible to have a large turnover of members, I think it is essential that at least the majority of the members of a council left in office should have a knowledge of council affairs.

Therefore it is only right that we should bring before the House amendments that will clarify the existing position and make it quite clear that one-third of the members of a shire shall retire each year.

The other amendments refer, more particularly, to the north-west and Collie areas. Whilst it does appear that mining companies in the north are gaining some advantage from the fact that the rating is not so severe on them as it might have been, at least they have made a great contribution to the development of those areas; and, as I see it, this slight rating concession does not apply to the township areas. Land in the township will still be rated on the same basis as any other area. In view of the contribution the companies have made towards the development of the areas in which they are operating I believe they are entitled to some consideration in regard to the rating of their leases. At least the amendment in the Bill will clarify a matter which has been left in abeyance for too long.

The member for Collie has commented on the unfair position in which shires such as the Collie Shire, which has a large portion of its land reserved for water catchments, forestry reserves, and coalmining leases, have been placed. It now appears that the situation relating to the coalmining leases will be satisfactorily settled, but I have found, as a result of my many years' experience in local government, it has always been the complaint that the Forests Department and similar departments do not pay rates according to the area of land held by them.

However, I think many of us sometimes overlook the fact—I think it is still being overlooked—that the great tract of land held by the Forests Department in the Collie Shire is creating the greatest amount of employment in the district; and the same applies in many other shires. In fact, in many instances, the district relies on the employment that is provided in, say, mining, coalmining, and other industries. The wages force residing in the township is a result of these reserves being held, because the reserves represent the life blood of the towns themselves.

Therefore it is hardly reasonable to expect the Government to pay rates on a reserve, such as a forestry reserve, when

it is providing a means of employment that is keeping the people in the town; and, naturally, these people pay rates on the homes they occupy in the township areas. However, this is only my point of view, but I sympathise with those districts which are faced with these problems, because I have many of them in my own electorate. The problem that is faced by those districts is that rating is restricted and they are expected to provide some of the facilities required on these Government reserves.

I do not wish to labour the point. I merely wish to give my general approval to the Bill. It has been approved by members of the Opposition and I feel sure that the amendments contained in it are justified, and that we will have many more before us in the future, because local government, being such a complex matter, has to be kept up to date. Therefore it is necessary to bring forward amendments to the Act during every session in order to keep local government on a proper level. I support the Bill.

Debate adjourned, on motion by Mr. Norton.

ADJOURNMENT OF THE HOUSE

MR. COURT (Nedlands—Minister for Industrial Development) [6.6 p.m.]: I move—

That the House do now adjourn.

The SPEAKER: Before I put the question I presume that the screening of a film will still be made this evening. I therefore remind members that the film will be screened at 6.45 p.m.

Question put and passed.

House adjourned at 6.7 p.m.

Legislative Assembly

Thursday, the 23rd April, 1970

The SPEAKER (Mr. Guthrie) took the Chair at 2.15 p.m., and read prayers.

BILLS (3): RETURNED

1. Kewdale Lands Development Act Amendment Bill.
2. Taxation (Staff Arrangements) Act Amendment Bill.
3. Acts Amendment (Commissioner of State Taxation) Bill.

Bills returned from the Council without amendment.

QUESTIONS (23): ON NOTICE

1. LAND

Resumptions: Kewdale Marshalling Yards

Mr. TONKIN, to the Minister for Works:

(1) Did he see in Tuesday's *Daily News* under the caption "Kewdale man upset over resumption" a statement to the effect that farmer Fred Everitt had accused the Public Works Department of callousness towards people affected by land acquisition for the Kewdale marshalling yards?

(2) Were the areas and amounts of money mentioned correct?

(3) How does he reconcile the amount of $22,000 said to be the sum offered for 13½ acres with the sum of $163,835 paid for 14¾ acres of land as part purchase of a total of 24¾ acres for a site for the Morley High School?

(4) Why is land being resumed for marshalling yards and not for school sites?

Mr. ROSS HUTCHINSON replied:

(1) Yes.

(2) Yes.

(3) Firstly, there is a difference in time. The sum of $22,000 mentioned refers to land acquired for Forrestfield marshalling yards. It was originally referred to as Kewdale and date for valuation is the 28th July, 1966.

Statutorily correct date for valuation is the 3rd August, 1961, in accordance with provisions of the Public Works Act and Standard Gauge Railway Act. The 28th July, 1966, was adopted for reasons of equity because it is the date which would apply if the Kewdale Lands Development Act, which authorised the work, was the enabling Act. Property owners were not notified until January, 1967.

Land for Morley High School has valuation dates the 8th October, 1969, and the 9th January, 1970.

Secondly, there is difference in zoning. Forrestfield land is zoned "rural"; Morley land is zoned "deferred urban".

Activity on the real estate market indicates three facts—

(i) The general level of values in 1969-70 is higher than in 1966.

(ii) The general level of values for "deferred urban" zoned land is higher than for "rural" zoned land.