Amendment put and a division taken with the following result—

Ayes—15

| | |
|---|---|
| Mr Bateman | Mr Hartrey |
| Mr Bertram | Mr Jamieson |
| Mr Bryce | Mr May |
| Mr Carr | Mr Skidmore |
| Mr H. D. Evans | Mr Taylor |
| Mr T. D. Evans | Mr A. R. Tonkin |
| Mr Fletcher | Mr McIver |
| Mr Harman | *(Teller)* |

Noes—22

| | |
|---|---|
| Sir Charles Court | Mr Old |
| Mr Cowan | Mr O'Neil |
| Mr Coyne | Mr Rushton |
| Mr Crane | Mr Shalders |
| Mr Grayden | Mr Sibson |
| Mr Grewar | Mr Sodeman |
| Mr P. V. Jones | Mr Stephens |
| Mr Laurance | Mr Tubby |
| Mr McPharlin | Mr Watt |
| Mr Nanovich | Mr Young |
| Mr O'Connor | Mr Clarko |
| | *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Mr Davies | Mr Ridge |
| Mr T. H. Jones | Mrs Craig |
| Mr J. T. Tonkin | Mr Mensaros |
| Mr Moiler | Mr Blaikie |
| Mr T. J. Burke | Dr Dadour |

Amendment thus negatived.

Clause put and passed.

Clause 64 put and passed.

Clause 65: Section 94GA added—

Mr HARTREY: I move an amendment—

Page 19, line 6—Insert before the word "received" the word "knowingly".

New section 94GA is in exactly the same terms as new section 94BA. I do not intend to repeat my arguments.

Amendment put and negatived.

Clause put and passed.

Clauses 66 to 73 put and passed.

Title put and passed.

*Report*

Bill reported, with amendments, and the report adopted.

## GRAIN MARKETING BILL

*Returned*

Bill returned from the Council with amendments.

## ADJOURNMENT OF THE HOUSE: SPECIAL

**SIR CHARLES COURT** (Nedlands—Premier) [10.45 p.m.]: I move—

That the House at its rising adjourn until 10.00 a.m. tomorrow (Wednesday).

Question put and passed.

*House adjourned at 10.46 p.m.*

# Legislative Council

Wednesday, the 12th November, 1975

The **PRESIDENT** (the Hon. A. F. Griffith) took the Chair at 11.00 a.m., and read prayers.

## QUESTIONS ON NOTICE

*Postponement*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.07 a.m.]: Mr President, I ask that the questions be taken at a later stage of the sitting.

The **PRESIDENT**: Leave is granted.

## LEAVE OF ABSENCE

*President*

**THE PRESIDENT** (the Hon. A. F. Griffith): Members, I desire to inform the Council that during the recess it is my intention to proceed overseas. I will be visiting the United Kingdom and parts of Europe, and will be absent from the State for approximately three months.

As you are aware, the Standing Orders provide that whenever the President is absent owing to leave of absence being granted to him by the Council, the Chairman of Committees shall fill the office of the President as Deputy President during such absence.

In order to regularise matters, I would be grateful if I could be granted leave of absence, and the appropriate motions were moved.

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.08 p.m.]: I move, without notice—

That leave of absence for approximately three months from 16th November be granted to the Hon. A. F. Griffith, President of the Legislative Council.

In so moving, I convey to you, Mr President, and your good lady, wishes for a very pleasant trip and I hope you gain much satisfaction from your visit overseas.

**THE HON. R. THOMPSON** (South Metropolitan—Leader of the Opposition) [11.10 a.m.]: I have much pleasure in seconding the motion and supporting the words of the Minister for Justice. May you, Mr President, and Mrs Griffith thoroughly enjoy your trip.

Question put and passed.

## COMMITTEES FOR THE SESSION

*Chairman of Committees: Deputising for President*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.11 a.m.]: I move, without notice—

That during the absence of the President, the Chairman of Committees be authorised to represent the President on the following Standing Committees—

The Library Committee.

The Printing Committee.

Question put and passed.

## GRAIN MARKETING BILL

*Assembly's Message*

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

## STATE HOUSING ACT AMENDMENT BILL

*Second Reading*

**THE HON. I. G. MEDCALF** (Metropolitan—Honorary Minister) [11.12 a.m.]: I move—

That the Bill be now read a second time.

Section 78 of the State Housing Act, 1946-1974, authorises the Governor to make regulations for the management, use, control, regulation, and inspection of houses, buildings, and land maintained by or through the State Housing Commission. Under paragraph (h) of section 21(1) the commission may exercise the following powers—

. . . maintain, repair, carry out any improvement to and generally control and manage any houses, buildings and land vested in or subject to any mortgage or security in favour of the Commission.

From the foregoing it is apparent that the relative regulation-making power is restricted by paragraph (h) to physical maintenance of assets. Such power is considered inadequate for the maintenance, management, and control of assets in a manner other than physical.

This Bill accordingly proposes to remedy the inadequacy by inserting into the principal Act a provision set out in an additional paragraph (ha) which will empower the State Housing Commission—

In respect of land and any houses and buildings thereon that are subject to a mortgage, contract of sale, or lease pursuant to this Act, to charge, and receive from, the owners, mortgagors, or lessees thereof such management fees, if any, as are from time to time prescribed in respect of owners, mortgagors, or lessees, as the case may be;

By such broadening of the powers of the Commission concerning which regulations may be made, the object and purposes of the principal Act may be more adequately managed and administered.

I commend the Bill to the House.

**THE HON. LYLA ELLIOTT** (North-East Metropolitan) [11.14 a.m.]: We have had a look at the proposed amendment to section 21 and can find nothing to which to object. It appears to be a necessary piece of machinery legislation to be incorporated in the Act and we therefore support it.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by the Hon. I. G. Medcalf (Honorary Minister), and passed.

## PAY-ROLL TAX ASSESSMENT ACT AMENDMENT BILL

*Second Reading*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.16 a.m.]: I move—

That the Bill be now read a second time.

This is the second of the measures to which the Premier referred when introducing the Budget. It has two purposes which are—

to replace the existing general exemption with a system of tapered deductions, and

to prevent avoidance of tax by the use of multiple registrations.

When the Commonwealth Government administered pay-roll tax, the general exemption was raised to $20 800 in September, 1957, and this figure was adopted by the States in their uniform law when they took over this tax in September, 1971. It has remained at that figure ever since, and still applies today.

Pay-roll tax is currently levied at a rate of 5 per cent on the total taxable annual wages paid.

Currently all employers whose annual wage bill exceeds $20 800 are allowed to deduct that sum after which pay-roll tax is payable on the balance. Where annual pay-rolls do not exceed $20 800, no tax is payable.

The majority of taxpayers pay the tax in monthly instalments under a return system. The remainder pay on a quarterly, half-yearly, or annual basis as approved by the commissioner. These are the employers with the smaller pay-rolls. Provision exists in the law for the commissioner to make adjustments either by additional assessment or refund after the conclusion of a financial year.

Since the take-over of pay-roll tax by the States, there have been consistent requests for an increase in the general exemption of $20 800.

In the past, all State Governments, for financial reasons, have resisted any change in the uniform legislation, but the rapid wage inflation in recent years has brought renewed and persistent demands, particularly from the small business sector, which is encountering severe financial difficulties.

As a result of these Australia-wide urgent representations, the State Premiers commissioned their Treasury and taxation officials to examine the problems of the general exemption. They were asked to make recommendations for changes which could be prudently made with regard to the financial difficulties faced by the States.

Arising from these recommendations, the majority of States agreed to replace the general exemption with a uniform system of tapered deduction to operate on and from the 1st January, 1976. Queensland then decided it was able to go a little further and, as far as I am aware, Victoria has not yet finalised its decision.

Under the new system, annual pay-rolls of $41 600 or less will not be liable to any pay-roll tax. This is double the existing level of $20 800.

For annual pay-rolls of more than $41 600, the deduction will reduce by $2 for every $3 that the annual pay-roll exceeds $41 600. This means that the deduction will phase out at $104 000, and annual pay-rolls above this amount will receive no deduction.

Calculations disclose that compared with the present situation, all employers with annual pay-rolls below $72 800 will pay either no tax or a reduced amount. Those with pay-rolls in excess of this sum will pay more. However, the maximum increase in tax in those cases will be $1 040 per annum, and this burden will be reduced substantially because pay-roll tax is a deduction for income tax purposes.

In this State there are approximately 7 000 pay-roll taxpayers. Of these, about half will either pay no tax or pay a reduced amount. Of the remainder, almost 2 500 will receive no deduction and, therefore, pay on the total pay-roll.

The introduction of the proposed system in Western Australia will, therefore, achieve its objective of granting a measure of relief to the small businessman.

The Bill now before members contains provisions to give effect to the deduction system I have described on and from the 1st January, 1976.

In addition, there are provisions which will allow pay-roll tax to continue to operate on a monthly return system with an annual adjustment, where necessary. The Bill also contains provisions to deal with the transition from one system to another half-way through the year.

There are also proposed amendments in the Bill to provide for the operation of the new system in respect of taxpayers who have employees both in this and in one or more of the other States or territories.

The remainder of the Bill deals with the problem of multiple registrations which, as I mentioned earlier, is the second reason for the introduction of this amending legislation. For some time this problem has been under examination in all States.

Under the provisions of the existing law, it is possible for a large variety of arrangements to be made which have the effect of enabling a concern to obtain a number of employer registrations for pay-roll tax and, therefore, qualify for an equal number of deductions.

This has the result that, instead of qualifying for one deduction of $20 800, as currently provided, the concern qualifies for a number of these deductions, and so pay-roll tax is avoided to this extent. The most common methods in vogue are the use of related companies, partnerships, trusts, and service contracts.

Related companies are those which have common direction or control, or are grouped in a common enterprise such as a holding company and its subsidiaries. In these circumstances, each of the companies registers as a separate employer, and submits separate returns, each claiming the full general exemption.

In the case of partnerships, each partner may separately employ individuals employed in partnership business and so gain a number of registrations.

Another method is to create a series of trusts, each of which is employing a number of individuals engaged in a common enterprise, and thus gaining a number of registrations with a corresponding number of exemptions.

In some cases the owners of a business employ persons to supply specific services which, when taken together, enable the business as a whole to perform its functions. Each of the owners thereby gains a separate registration.

Because a blatant case came to light in Victoria which was costing that State a little less than $1 million in pay-roll tax per annum in that instance alone, the Victorian Government has already legislated to prevent avoidance by the means which I have described.

The problem of multiple registration has been under examination by State taxation officials for some time, and recently was one of the subjects of a drafting conference between a number of the States which our Parliamentary Counsel attended. This conference has produced a uniform draft which has been adapted to suit Western Australia, and the provisions appear in the Bill now before the House.

In essence, the scheme contained in the Bill groups together as one entity for pay-roll tax purposes, certain employers and allows only one deduction for the group where the aggregated annual pay-rolls of the members of that group qualify for a deduction.

In summary, the types subject to grouping are—

related corporations;

partnerships with common ownership;

trusts with common beneficiaries;

businesses with common control; and

where employees are used in other businesses.

Because there is a wide variety of combinations which may be employed to avoid pay-roll tax, the legislation is of necessity, complex and extensive. Each of the foregoing types of employers is defined and tests for grouping appear in the proposed sections.

There may be cases where, following an examination, an employer would be technically included in a group, but the business conducted by such an employer is carried on completely separately from the group, and is in no way connected with it, except that an owner has a connection in other ways.

The Bill provides that, in these circumstances, the commissioner is to have discretion to exempt the employer from the grouping provisions. This propsal is to avoid the unintentional grouping of completely independent businesses.

I should add here that it is not usual to provide this type of discretionary power to a commissioner, but after consultation with the other States and with the Treasurer, the commissioner suggested, and it was agreed, that there should be this discretionary power because, with the complexity of this legislation, there will be cases where technically a company or a group of companies could get caught up in the group provisions but, in fact, be a *bona fide* separate business never intended to be caught up in this machinery dealing with multiple operations.

The Bill contains a provision which states, where businesses have been grouped together, only one deduction may be claimed, and it is to be granted to a nominated employer in that group.

So far as the commissioner is aware, we have currently in Western Australia only relatively few cases of avoidance which will need to be corrected by grouping. However, we have been informed that the practice was becoming widespread in the major States and there are recent indications of its being actively canvassed in this State.

Under the proposed deduction system, the tax saving by use of multiple registration devices could be twice as great as under the existing system of general exemption.

On the advice of the commissioner, this time was considered appropriate for introduction of this provision in our legislation before rampant evasion makes it much more difficult to deal with, particularly as we are doubling the basic exemption and making it much more attractive for this type of multiple operation.

Were such practices allowed to continue and multiply, it would lead not only to a serious reduction in revenue, which might necessitate increases in the rate, but would of course, produce numerous inequities.

For the reasons I have given, the Government has agreed to the proposals recommended by States' conferences.

As a result of the introduction of the grouping provisions in the Bill, there are, of necessity, a number of consequential amendments to various sections.

These grouping provisions are to operate on and from the 1st January, 1976. This gives reasonable notice of the Government's intention.

I might mention that I intend to move an amendment to clause 12, but it is merely to correct a printing error. I commend the Bill to the House.

**THE HON. GRACE VAUGHAN** (South-East Metropolitan) [11.27 a.m.]: The Opposition supports this Bill and does not intend to speak on it at length in order that it may have a speedy passage. We commend the Government for its vigilance in seeing that the system by which taxes are collected is as equitable as possible. This Bill obviously intends to see that through; and by a tapered system of deductions we will be able to collect taxes from those people who, in all honesty, should pay them.

One of the great faults of our system is that it appears to be fair game for businesses to avoid paying what are their due taxes. We commend this Bill because in many instances there is one rule for those people in business and another for those who are employed; so it is with satisfaction we note the Government has taken this step, and is keeping pace with the other States in respect of this tax.

**THE HON. V. J. FERRY** (South-West) [11.28 a.m.]: I wish to support the Bill. I am particularly pleased to note that it contains provision for a measure of relief to those employers and businesses which have a relatively small pay-roll. It is fairly generally recognised today that small business concerns are having a great deal of difficulty in continuing to be viable and, therefore, any relief such as that given by this measure is indeed welcome to them.

Statistics are published almost daily showing the economic trend in Australia—and it is no different in Western Australia

—which is that businesses are suffering a great deal in the prevailing economic climate. Therefore, I commend the Government for recognising these difficulties and taking practical steps to afford some measure of relief; because not only is the exemption increased to $41 600, but beyond that a tapered scale of assessment will apply. Further to that, of course, an upper limit is placed on annual pay-roll tax in certain areas.

Taxes are undoubtedly unpopular; no-one likes paying them. As a result of this there are always people and firms who will seek to circumvent the rules. Therefore, it has been found necessary to tighten up the rules under this legislation to ensure that equity prevails and that, as far as possible, no person or firm receives an unfair advantage over a competitor by the use of a deviation.

I am particularly pleased for those smaller concerns in country areas that have so many added costs to meet today when running their concerns. I speak of costs such as transportation, communications, and the like. I support the Bill.

**THE HON. D. J. WORDSWORTH** (South) [11.31 a.m.]: On numerous occasions I have spoken of the difficulties this very low exemption rate on pay-roll tax has caused in various industries, particularly in the rural sphere in which I am experienced. Previously I spoke of the difficulties that are met by a shearing contractor in my district. I know that all those engaged in the rural industry will appreciate the raising of this exemption limit applying to pay-roll tax from $20 800 to $41 600. One must admit that the figure of some $20 000-odd has become ridiculous. In the farming sphere it was found that a farmer could well exceed that amount by employing only three people. This was certainly not the principle behind the tax in the first place. It was originally introduced to hit the big employer, but eventually it found its way down to those who are insignificant.

I have a few reservations about the provisions relating to the grouping of small businesses. Whilst I agree with the general sentiments that many people are escaping taxation by having their businesses split up, often this is not the intention; they have not just been set up in that fashion merely to escape this one particular tax.

The Hon. Grace Vaughan: It is often an unhappy coincidence.

The Hon. D. J. WORDSWORTH: Probably that could be said in many instances. However, I think the whole system of probate and general business planning is the aim of many farming communities. This is what they are endeavouring to do. When one mentions trusts, straightaway I think this is what many farmers are creating, particularly when they are handing over their own farming properties to a younger generation whilst still retaining some security for their old age. Many farmers have been encouraged to try to combine farming entities, particularly if they are owned by various members of their families, such as by brothers, for example, so that they can commonly share machinery and equipment. This tendency has been greatly encouraged, particularly as the price of some farming machinery has increased so greatly, and there is a need for some machinery which is not used a great deal or for any length of time.

So I am pleased to see provision is made for consideration to be given to some of these cases, because I feel that not everyone has designs merely to evade this form of taxation. I support the Bill.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 11 put and passed.

Clause 12: Part IVA added—

The Hon. N. McNEILL: I realise that members have had little notice of this amendment by way of the notice paper, but it is the amendment to which I alluded in my second reading speech. It seeks to make a small, but important alteration. It is one which, of necessity, has to be done in this fashion. The amendment has reference to section 16 which, in fact, should be section 16K. This is quite a long clause, and for the information of members I point out that the reference appears in line 39 nearly at the bottom of page 31 of the Bill. Accordingly, I move an amendment—

> Page 31, line 39—Delete the expression "16" and substitute the expression "16K".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 17 put and passed.

Title put and passed.

*Report*

Bill reported, with an amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and returned to the Assembly with an amendment.

## FINANCE BROKERS CONTROL BILL

*Second Reading*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.42 a.m.]: I move—

> That the Bill be now read a second time.

A Bill to provide for the regulation of finance brokers was introduced on my

behalf in another place on the 29th April, 1975. That Bill was purposely allowed to remain on the notice paper until interested parties had an opportunity to examine it and make recommendations as to desirable amendments.

I received many proposals suggesting a considerable number of amendments and these would have taken up many pages on a notice paper. Consideration was also given to amendments placed on the notice paper in the Legislative Assembly.

The original Bill has been redrawn to include those amendments which the Government found acceptable. That this Bill has a slightly different title is merely to avoid the Government having two Bills before Parliament dealing with the same subject, despite the fact that no decision was made on the previous Bill.

This Bill provides for the statutory control of finance brokers; that is, those who, as agents, in the course of business, negotiate loans on behalf of others.

At present, finance brokers are not subject to any specific statutory control. Thus, even though they handle other people's money, they are not required by Statute to maintain a trust account or to have their accounts audited. They are not required to have sufficient financial resources to maintain a stable business nor are they required to lodge a fidelity bond. They are not required to be of good character nor, even though they hold themselves out as having certain expertise, are they required to understand the business of finance broking.

The need for legislation is emphasised by the conviction recently of a mortgage broker. He had misappropriated more than $170 000 in a number of dishonest dealings, leaving nine of his clients with little chance of getting their money back.

This Bill is designed to remedy this sort of situation. Subject to certain exceptions, which I shall mention later, finance brokers will no longer be permitted to carry on business as such unless they are licensed under this legislation. A license may be held by a natural person, a firm, or a body corporate. Applications for a license are to be made to the finance brokers supervisory board, which is to be set up under this legislation. Any person aggrieved by a decision of the board has a right to appeal to the District Court.

An applicant for a license will be required to lodge with the board a bond from an insurance company or other approved surety or a guarantee from a bank or other approved guarantor. The amount of the bond or guarantee in the case of each broker will be fixed by the board. The bond or guarantee must be conditioned on the licensee duly accounting for money coming into his hands and complying with obligations imposed on him in relation to that money. The Government decided to require a bond or guarantee, rather than establish a fidelity guarantee fund, because a fidelity guarantee fund would take time to build up to a satisfactory level.

The Bill also provides that finance brokers must maintain trust accounts into which they must pay all money received by them as brokers and that such trust accounts must be audited by an approved auditor. The board is given power to cause a trust account of a finance broker to be audited whenever it considers it in the public interest to do so.

In 1973 the Law Reform Commission, during the course of its study of the Land Agents Act, drew the attention of the then Attorney-General to problems in the area of mortgage broking. As a result, the commission was requested by the Attorney-General to consider and report on the question whether legislation should be enacted to control the activities of mortgage brokers. The commission submitted a report to me in September, 1974, recommending that finance brokers be controlled by Statute and detailing the form such controls should take. The commission considered that statutory control should not be limited to persons arranging loans on the security of mortgages over land. It pointed out that mortgage brokers do not always confine their activities to arranging secured loans and that, in any case, the risk of defalcation by a broker exists whether or not the lender intended that the loan be secured. In the commission's view the only categories of brokers who should be exempt from statutory control are those in respect of which safeguards against defalcation are already adequate. This Bill broadly follows the recommendations of the commission, although there are some differences.

The Government considers there is an urgent need for legislation and accordingly brought this Bill before Parliament as soon as it was possible to do so. The Bill provides for the Minister to fix an appointed day after which a finance broker shall not carry carry on business as such unless he is licensed. However, the Bill also provides for the control of finance brokers in the transitional period before the appointed day. During this transitional period, all the provisions of the legislation that are in force will apply to finance brokers. By this means, the Government will be able to proclaim certain provisions to apply during the period; for example, the requirements for the maintaining and auditing of trust accounts.

The following persons or classes of persons are excepted from the definition of "finance broker" in and for the purposes of the Act—

(a) banks and insurance companies;

(b) building and friendly societies;

(c) stockbrokers who are members of an approved stock exchange within the meaning of the Securities Industry Act, 1970, when dealing in securities within the meaning of that Act;

(d) trustee companies authorised to act as executor or administrator pursuant to Statute;

(e) certificated legal practitioners when acting incidentally to the practice of their profession as such;

(f) a person who in association with a bona fide business of supplying goods or services carried on by him, as an agent to negotiate or arrange loans for persons who deal with him in the ordinary course of that business.

The Government considers that persons dealing with members of the above categories are already adequately protected. The Bill also empowers the Government to except any other person or class of persons from the definition of "finance broker" in and from the purposes of the Act if he considers adequate protection against defalcation already exists.

I should state that the reference to empowering the Government to accept any other person or class of persons, refers to the Minister acting on behalf of the Government.

The Government does not consider that accountants who engage in finance broker activities should be excepted from the definition of "finance broker" in the Act. Although most accountants are members of private professional associations they are not subject to statutory controls with respect to trust accounts or audit, nor are they required to contribute to a fidelity guarantee fund.

There is doubt whether the provisions of the Land Agents Act extend to a land agent acting in the capacity of a mortgage broker. The Government therefore considers that a land agent should be required to obtain a finance broker's license before he can act as such a broker. I think this would be in accordance with the views of most land agents who would generally regard the activities of mortgage brokers as separate from those of land agents. The finance brokers supervisory board will consist of five members. One will be appointed as chairman. One must be a person experienced in commercial practice. One must be a legal practitioner, and two must be licensed finance brokers elected by the body of licensed finance brokers.

The board will be assisted in the carrying out of its functions by a registrar and inspectors, appointed under the Public Service Act. The registrar and inspectors will have the power to aid the board in matters of inquiry. At this stage I should point out that it will be open to the Government, in order to save expense, to combine the activities of this board with other similar boards, in the sense that members and officers could be appointed to more than one board, and common registration facilities utilised.

The board has the power to cancel or suspend a finance broker's license and may also fine or caution a licensee. For these general purposes the board has the power to hold an inquiry, to summons witnesses, and administer oaths. The board is required to fix the maximum amount of remuneration for services rendered by licensees. One interesting feature is that a license, once granted, is not subject to annual renewal. All that is required is an application for an annual certificate. The board is given the right to attach to annual certificates such conditions as it thinks fit.

One further point should be mentioned. The Bill contains provisions controlling the contents of a finance broker's advertisement. In particular it regulates statements about interest rates. An advertisement published by a finance broker must not mention an interest rate in respect of loans unless it is mentioned in respect of specific amounts, and includes the percentage rate of interest calculated in accordance with the formula set out in the schedule to the Bill.

These are the main provisions which I think should be drawn to the attention of members and I commend the Bill to the House.

**THE HON. GRACE VAUGHAN** (South-East Metropolitan) [11.51 a.m.]: The Opposition supports the Bill and wishes it a speedy passage through the House. I desire to make a few remarks concerning the composition of the board. While it is fairly flexible in that the appointment particularly of the chairman leaves it open for representation of all sections of the community to be assured, I feel there should be some consumer representation.

At all times in the present climate, Parliament should ensure that all boards have consumer representation. I trust that when the chairman is appointed the consumers will be represented.

The problem of finance brokers and, indeed, trading in the matter of money itself, has intensified under our capitalist system. When man invented a means whereby he could barter and exchange without having to carry the goods around with him, he invented an immense problem.

It has been a matter of concern to many people that over the last few centuries the crime of usury—not only the social and legal crime, but also religious crime—seems to have gained respectability. However, the matter of dealing in money

should be watched with great care and apprehension because money is not a product as such, but is rather a vehicle by which other goods and services may be obtained.

It is commendable of the Government that it has introduced a Bill which at least will be responsible for study of the character of the people who are facilitating the means by which goods and services are exchanged and obtained.

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [11.54 a.m.]: It would be remiss of me not to acknowledge the views of Mrs Vaughan given on behalf of the Opposition in support of the Bill. It has been a somewhat lengthy exercise to arrive at a piece of legislation which is generally accepted. I have already indicated in my second reading speech that this is new legislation covering new ground and, not surprisingly, numbers of difficulties have been encountered in an endeavour to meet requirements. The first essential requirement was adequate protection of the members of the public; in other words, persons to whom Mrs Vaughan referred—the consumers. In this respect she expressed not exactly disappointment, but a reservation. She believed that the consumer should have received recognition on the board.

It must be realised that that has been the role of Government. It is a role which the Government has endeavoured to discharge in the preparation of the legislation and the spelling out of its provisions. In other words, the Government acts on behalf of the people and the consumers essentially and basically for their protection. Therefore I think I can be more than reasonably confident in believing that the board in the ordinary course of its functions will adequately protect the people. It will face the problems which all boards encounter when they are first established, but I am sure that it will adequately cope with them.

The association representing mortgage brokers has supported the legislation and realises the need for it. In fact, the strongest representations made to me have come from that quarter. The association, responsible for the finance brokers, has seen the need for protection not only for the public of course, but also for themselves as reputable and honest operators in this commercial field.

While the Bill gives recognition to the role of those people, it is basically concerned with the protection of the public.

I am grateful to the Opposition for its support of the Bill which I commend to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Exceptions to "finance broker"—

The Hon. N. McNEILL: Other Statutes refer to exemptions, while this Bill deals with exceptions. I rise simply because the Mortgage Brokers Association has been in touch with me to convey a certain reservation about some provisions, one being contained in clause 5 (1) (g). The association feels that this provision could be used as a legal justification for a person operating without a license under the Act. I do not need to emphasise that the association's belief is without foundation. I have had the matter explored and the legal opinion is that adequate protection is provided.

I mention the matter particularly because I wish to demonstrate that this is another instance of how the association, as a responsible body, is endeavouring to ensure that persons operating in this field will be required to comply with the provisions of the legislation.

I raise the matter to assure the association its point was not overlooked while the Bill was being considered in Committee.

Clause put and passed.

Clauses 6 to 98 put and passed.

Schedule put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and passed.

## SALARIES AND ALLOWANCES TRIBUNAL ACT AMENDMENT BILL

*Second Reading*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [12.11 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this measure is to facilitate the periodic adjustment of judges' salaries by eliminating the need for legislation at regular intervals in order to give effect to recommendations made by the Salaries and Allowances Tribunal.

As members know, the tribunal is required to inquire into and to report from time to time on the remuneration of judges of the Supreme Court and of the District Court, but it can only recommend the nature and extent of the alterations that should be made.

As the annual salaries payable to judges are now fixed under the provisions of the Judges' Salaries and Pensions Act, it becomes necessary to amend that Act on every occasion when it is decided to vary their remuneration which now should be quite an unnecessary procedure. Indeed, if recommendations are to be made by the tribunal at frequent intervals, as may well prove to be the case for some time at least, an almost intolerable situation will arise.

Even in the event of only one annual adjustment of judges' salaries, it would be necessary to introduce legislation once a year, which is not a course favoured by the Government.

We have therefore considered other methods which could be used to authorise alterations to the remuneration of judges.

One such method which is contained in the Bill now before members is to provide for a recommendation made by the tribunal to come into operation unless either House of Parliament passes a resolution disapproving the recommendation.

It is necessary, of course, to limit the time during which recommendations could be rejected, and a period of 15 sitting days after a copy of the tribunal's report has been tabled was allowed for this purpose in the Bill as originally introduced.

But in response to representations made when the Bill was being debated in another place, it is my intention to move amendments in this House to shorten from 15 sitting days to nine sitting days the period allowed for disallowance of such recommendations, and also to ensure that in relation to the recommendation of the tribunal which is expressed in clause 2 to take effect on 19th September, 1975 the period for disallowance will be nine sitting days commencing on the day after the day on which the Bill now before the House receives the Royal Assent in lieu of the period of 15 sitting days commencing on 7th November, 1975. Obviously, disallowance cannot be moved before the Bill becomes an operative Act.

The recommendation made by the tribunal in its first report resulted in an amendment to the Judges' Salaries and Pensions Act which now prescribes the annual salaries payable from the 8th August, 1975.

Action has not yet been taken to further amend the Act in order to give effect to the tribunal's recommendation which was contained in its second report, to increase the remuneration of judges by 3.5 per cent from the 19th September, 1975 and no such action will be required if this measure is passed.

The second report was tabled on the 16th October, 1975, and if the provisions in the Bill are accepted, a period of 15 sitting days after the 7th November, 1975, will be available to either House to disapprove the recommendation should this course be decided upon.

However, an amendment to the Judges' Salaries and Pensions Act will be necessary to make the salaries now prescribed in that Act subject to the provisions of the Salaries and Allowances Tribunal Act, and there is a current Bill for this purpose.

The proposed method of varying judges' salaries is a simple one, and will avoid the necessity for future amendments to the Act in order to give effect to recommendations of the tribunal which are not disapproved by either House.

By way of amplification, members will recall that when we introduced the Bill to amend the Salaries and Allowances Tribunal Act, all of the salaries and allowances that are covered by that legislation are determinations, with one exception; that is, the salaries and allowances relating to judges of the Supreme Court and District Court.

At that time the judges were insistent that the final decision in respect of their salaries had to be made by Parliament. It seemed to me to be a little cumbersome, but it was their wish. It could mean that we might easily have to introduce two or three Bills each year to give effect to the requirements of the Act. I do not think that was foreshadowed.

There were several alternatives. One was to follow the course of introducing a Bill every time it was necessary to make an adjustment. Another alternative was the course we now propose to follow, whereby we will table recommendations, and if those recommendations are not disallowed by the Parliament they will become fully effective.

Under the proposed system, we believe that Parliament will, in effect, approve the salaries because Parliament has within its powers, as a matter of the positive act in tabling the recommendations, a provision in the legislation to disallow the remuneration.

A number of variations of the proposed theme were canvassed, but it was eventually felt that the simple way to make adjustments was to table the documents and allow a period of 15 days for objection, which is the period allowed in Commonwealth legislation.

The Premier had originally suggested six days, which would be two sitting weeks. If Parliament decided not to move during that time, it would indicate there was no objection. However, 15 days was eventually the period brought forward, and accepted. Apparently the Commonwealth has agreed to 15 days. If anyone were to move for the disallowance of the recommendations, they would move fairly quickly, and would not be reticent in taking the appropriate action. We would then have an indication that the recommended sum might not be paid.

I commend the Bill to the House.

**THE HON. R. THOMPSON** (South Metropolitan—Leader of the Opposition) [12.17 p.m.]: I support the legislation. As the Minister pointed out in his second reading speech, the recommendations of the Salaries and Allowances Tribunal will now lay on the Table of the House. Of course, the judges themselves are to blame for the situation because when the salaries tribunal was established for members of Parliament, judges, and civil servants, it was the judges who said they wanted to be the odd ones out and wanted Parliament to decide their salaries. However, with the alteration in the criteria under which the tribunal operates, it could mean that we could have legislation before us every three months to set judges' salaries because of wage indexation and periodical adjustments that are made from time to time.

The legislation before us is a simple and sane method of avoiding the problem. I did intend to query the provision of 15 sitting days, but the Minister has now suggested this may be altered to nine days in the future, and I believe that is a reasonable period of time. We should have adopted this course in the first place, rather than listen to the judges. I support the legislation.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and passed.

## JUDGES' SALARIES AND PENSIONS ACT AMENDMENT BILL

*Second Reading*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [12.21 p.m.]: I move—

> That the Bill be now read a second time.

In certain respects, the existing pension benefits of retired judges and the widows of former judges are deficient and need revision, and this is the main object of the measure now before members.

At present a retired judge who has attained 60 years, and has served for not less than 10 years in that capacity, is entitled to a pension equal to 50 per cent of salary at date of retirement. The pension is adjusted annually, according to movements in the Consumer Price Index.

Where a judge has served for less than 10 years, his pension entitlement is 30 per cent of salary if retirement occurs before he has completed six years of service as a judge. For each complete year of service in excess of five years, he is entitled to an additional 4 per cent of salary, until he reaches the maximum benefit of 50 per cent of salary after 10 years' service.

A widow receives 50 per cent of her late husband's pension entitlement.

A pension equal to 50 per cent of salary at date of retirement after 10 years' service as a judge, and the benefits at present applying for service of less than 10 years, are considered reasonable and, indeed, they are favourable by comparison with the pension benefits of others who also serve the State in various capacities. Therefore, it is not proposed to vary these existing benefits.

On the other hand, the present benefit for the widow of a former judge of 50 per cent of her late husband's entitlement is low by comparison with other Government pension schemes in this State.

The Bill therefore contains a provision to lift the rate of benefit payable to the widow of a former judge to five-eighths—that is, 62.5 per cent—of her late husband's entitlement, which is the rate for widows of former members of Parliament. The rate for widows of former public servants is 62.8 per cent.

Under the provisions of the Act as it now stands, the pension of a former judge's widow who was married to him before he ceased to be a judge, terminates on her remarriage, but if she married him after he ceased to be a judge, she has no pension entitlement.

These provisions are far less generous than those provided for under the Superannuation and Family Benefits Act and there appears to be no good reason for not bringing the two into line.

The Bill therefore provides for the pension of a former judge's widow, who was married to him before he ceased to be a judge, to terminate only if she remarries before attaining the age of 55 years, but in this event her pension would be restored on the termination of that remarriage.

In the case of a former judge's widow who married him after he ceased to be a judge, it is proposed that she be entitled to a pension from the date of her husband's death if she is then aged 55 or more, or from the time she attains the age of 55 if she were less than that age when she became a widow and had not remarried.

Since January, 1972 pensions payable to retired judges and the widows of former judges have been increased annually, according to movements in the Consumer Price Index, and it is proposed to continue with this method of updating pensions.

However, there is a time lag at present in applying the initial updating to a

pension, and it is proposed to amend the Act in order to reduce this delay.

Under the existing provisions of the Act, the first updating of a pension can be delayed for periods of up to two years, which is quite unreasonable in current economic circumstances.

The Bill provides that where, on the 1st January in any year, a pension has been in force for at least 12 months, it is to be increased by the full percentage movement in the Consumer Price Index for the previous year.

In the case of a pension which has been in force for less than 12 months on the 1st January in any year, it is to be increased by 25 per cent of the movement in the Consumer Price Index for the previous year, for each whole quarter that the pension has been in force.

The proposed new provisions speed up the first updating of a pension, and conform with those laid down in the Superannuation and Family Benefits Act.

The opportunity has also been taken to bring allowances for the dependent children of a deceased judge into line with those prescribed in the Superannuation and Family Benefits Act for dependent children of a contributor or former contributor to the fund established under that Act.

The present allowance in respect of the dependent child of a deceased judge is only $2 per week, and this has remained unchanged since 1950. The allowance applies only to children under 16 years of age.

The rate currently applying under the Superannuation and Family Benefits Act is $8 per week for each child under 16 years, or student child under 25 years, where the contributor or pensioner is survived by a spouse. Where both parents are deceased, the rate is the greater of $10 per week or an amount based on the notional widow's pension.

At present, the annual salaries payable to judges are fixed under the provisions of the Judges' Salaries and Pensions Act and, as members know, it has been necessary in the past to amend the Act on every occasion when it was decided to increase their remuneration.

The proposed new method of effecting changes in judges' salaries will do away with the need to amend the Judges' Salaries and Pensions Act in order to implement recommendations made from time to time by the salaries and allowances tribunal.

This Bill proposes to make the salaries now prescribed in the Judges' Salaries and Pensions Act subject to the provisions of the Salaries and Allowances Tribunal Act which, of course, is essential if the objective of the proposed new method of varying judges' salaries is to be achieved.

In many cases appointments are taken up at a very mature age. Consequently, the period of service is often so restricted that a pension scheme of the normal type would be impracticable in almost every case. We have to allow also for the fact that, with the new District Court scheme, we may have some judges coming to the bench at a younger age than in the past.

In preparing these amendments, those responsible have endeavoured to look at the total situation and to upgrade the scheme in a general way relating to all judges, but at the same time having full regard for the fact that we now have a new type of judge of recent years; namely, the District Court judge.

I believe this scheme is a realistic one. I should add that there was some agitation to have the scheme related to a percentage of the current salary of a judge, but after mature consideration the Government decided against this, and opted for the CPI adjustment system such as prevails in the Superannuation and Family Benefits Act, and also under the parliamentary superannuation scheme.

In Committee it is my intention to amend the second schedule to correct a small drafting error. I commend the Bill to the House.

**THE HON. R. THOMPSON** (South Metropolitan—Leader of the Opposition) [12.29 p.m.]: I have had an opportunity to study this measure while it has been in another place. I will not recapitulate all the Minister has said because I agree with the contents of the Bill.

This measure will bring our Act into some uniformity with the Acts of other States. Our legislation has been deficient in regard to superannuation for judges and benefits for their dependants, and the lifting of the pension payable to 62.5 per cent of a judge's salary is a realistic move. Our superannuation scheme is now based on the Consumer Price Index, and this will mean that there will be automatic adjustments to the pension of judges; in other words, as the salaries of judges increase, so also will the superannuation benefits payable to them. I support the legislation.

**THE HON. GRACE VAUGHAN** (South-East Metropolitan) [12.30 p.m.]: Mr President, this is the first occasion on which I, as a member of Parliament, have been able to speak on legislation which is obviously sexist.

*Sitting suspended from 12.31 to 2.00 p.m.*

The Hon GRACE VAUGHAN: As I was saying before the luncheon suspension, since I have been in Parliament, this is the first piece of legislation with which I have had to deal and which is obviously sexist.

The Bill relates to the pension benefits which will accrue to members of the judiciary. I had hoped that the Interpretation Act would cover the two genders, but it does not do so. I have sought expert opinion on this matter and I understand that the Premier is studying it. However, I am sure he will find that the Interpretation Act merely allows the substitution of one gender for the other, but not of one female noun for a male other than when referring to man-woman. When one is referring to a widow one is qualifying the female species in that she had to be married.

The anomalies are very evident and I feel that both men and women in our society who are concerned with ensuring that the inequalities between the female and the male of the species are eliminated will join with me in an attempt to find a solution to this problem.

I understand that I am not permitted to move any amendments to this Bill, and this is a good argument in favour of my cause. If I ask for amendments, they will be construed as being an extra expense on the Crown and therefore they cannot come from the Opposition. I understand this is the position so, as it will be an extra expense, the widowers of judges will not be covered by this legislation.

The PRESIDENT: Perhaps I could help by saying that if it is so, amendments are not permitted by this House, not just the Opposition.

The Hon. GRACE VAUGHAN: Very well. It would seem to me that all that is required is that wherever the word "widow" occurs the words "or widower" should be added. Also, wherever the word "husband" or "wife" occurs, the word "spouse" should be substituted. This, I think, would overcome the anomaly.

I am sure that all fairminded people will join me in deploring the present situation. Of course, the blame cannot be apportioned to this particular Parliament or Government. It is simply that our society has allowed these things to happen because of the conditions which have obtained generally in the past couple of hundred years. I am not blaming anyone in particular. I am not saying there has been some conspiracy by male chauvinists who have set out to deprive the female judges of the opportunity to benefit by the contributions they have made, which contributions, incidentally, are the same as are paid by the male judges.

The anomaly has arisen because when the legislation was framed the society had in mind that there would never be such a person as a female judge. However we know that already in Australia we have female judges and that there are likely to be more. If they are to be treated as equals with the men, then they have to receive the same benefits.

If members would study the Act they would find that in part II of the second schedule is a very serious anomaly under which the female judge's widower would not receive anything under item 1 but the children would. However, in item 2 in the second part of the schedule, when a former judge is already a pensioner, because the word "widow" is mentioned, then the children would not receive anything in the way of benefits.

The whole legislation is geared for males and this was the position when it was introduced. I have to speak very strongly about this because although I see myself as a member of Parliament *per se* and not as a women's representative, I certainly have my eyes and ears open for any anomalies which may be introduced into the Parliament in regard to differentiation between male and female.

We are talking of establishing an independent body to ensure that everyone is receiving his and her proper rights and privileges. It would certainly be an anomalous situation to find ourselves introducing legislation which would militate against the rights of women judges and then establishing an independent body to go through old legislation to ascertain whether we had any sexist legislation.

This is blatantly sexist legislation. It is, in fact, setting out that judges are men and their spouses are women, and their spouses will be widows and only to widows will pensions be paid from the contributions made by all judges, whether male or female.

I understand that the Leader of the Opposition in another place brought this matter to the attention of the Treasurer, and the Treasurer agreed that the proposition was unfair and he was prepared to look into it. This is a complaint which women have; they complain they are patted on the head and told that everything will be fixed up. I do not think we can accept that sort of procrastination and I would like something to be done about this Bill before it leaves this House and returns to another place.

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [2.11 p.m.]: In acknowledging the support which the Bill has received let me quite briefly comment upon the remarks made by the Hon. Grace Vaughan. I would say that, perhaps, she is over-reacting or being oversensitive in her comments. If the Bill does anything at all, it recognises that we have male judges in this State; that is all. I do not believe one is justified in extending the aim of the Bill beyond that point.

In reply to the honourable member's claim that assurances may have been given in another place, and that if the matter arises it will be looked into, I certainly do not regard that as a pat on the head, or in any way to be patronising.

Irrespective of the sex of the persons concerned—no matter what the legislation is—when anomalous situations arise then the procedure which has been followed since the beginning of Parliament will be adopted and the necessary adjustments will be made in order to fit the particular situation. Certainly, I would not be prepared to hold up the legislation, as suggested, for the purposes of making any such alteration. I commend the second reading.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 11 put and passed.

Clause 12: Second Schedule added—

The Hon. N. McNEILL: I indicated during the course of the second reading that I proposed to put to the Committee a small amendment to the second schedule. The amendment has been circulated, and it refers to what was, in fact, an error in the drafting of the Bill. Paragraph (b) in column 5 of the second schedule reads—

(b) During any period of re-marriage if widow satisfies Board that loss of pension causes severe hardship.

The word "Board" should, of course, be "Treasurer". Accordingly, I move an amendment—

Page 7, Second Schedule, Part I, Item No. 1, column 5—Delete the word "Board" in line 3 of paragraph (b) and substitute the word "Treasurer".

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

*Report*

Bill reported, with an amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and returned to the Assembly with an amendment.

## BILLS (3): RECEIPT AND FIRST READING

1. Industrial Training Bill.
2. Industrial Arbitration Act Amendment Bill (No. 4).

   Bills received from the Assembly; and, on motions by the Hon. N. McNeill (Minister for Justice), read a first time.

3. Police Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by the Hon. N. E. Baxter (Minister for Health), read a first time.

## PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

*Second Reading*

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [2.21 p.m.]: I move—

That the Bill be now read a second time.

The present parliamentary superannuation scheme came into operation on the 1st January, 1970, replacing the original scheme which had been in operation since 1944.

While the present scheme is a vast improvement on that, there are features which need review in the light of changes since 1970 in similar schemes in other States.

As members are aware, the present basic pension entitlement is 30 per cent of basic salary, increasing by 1 per cent for each six months of contributory service in excess of seven years to a maximum of 66 per cent after 25 years.

By comparison with other parliamentary schemes in Australia, this method of calculating pension entitlements produces a less favourable benefit for retiring members.

In New South Wales, Victoria, and Queensland, the maximum benefit is 70 per cent of basic salary after 20 years, but members contribute 11½ per cent of salary, compared with 10 per cent in Western Australia. In South Australia, where the maximum benefit is 75 per cent after 22 years one month, a member also contributes 11½ per cent of salary.

It would take 23 years for a 10 per cent contribution to amount to the total paid over 20 years at the rate of 11½ per cent, and a maximum benefit of 70 per cent of basic salary after 23 years' contributory service is considered appropriate for Western Australia by comparison with other States.

The Bill proposes, therefore, that the basic pension entitlement after seven years of contribution to the fund be 38 per cent of the basic parliamentary salary at the date a person ceased to be a member, increasing by 18 per cent for each further six months of contributory service, to a maximum of 70 per cent for 23 years of contributory service.

The Hon R. Thompson: Just a minute—I think there is an error there. You said 18 per cent and I think it should be 1 per cent for each six months.

The Hon. N. McNEILL: I am grateful to the Leader of the Opposition. I think he is probably right and I will have the matter investigated.

In the case of pensions at present being paid to former members and widows of former members, the Bill provides for them to be recalculated on the proposed new basis and increased accordingly. It is proposed that the increase be payable

with effect on and from the first pension day in January, 1976.

Under the provisions of the existing scheme, a member has to maintain his contributions to the fund during service beyond the period of 25 years required to attract the maximum benefit. It has been suggested that contributions ought to cease when a member becomes entitled to the maximum benefit.

However, as members will appreciate, the calculation of pension entitlement not only takes into account length of contributory service, but also any additional salary resulting from the occupancy of higher office. As such salary will be taken into account for any period beyond 23 years, it is proposed that contributions to the fund should continue, but at the reduced rate of 5 per cent of salary.

It is also proposed to amend the method of updating pensions payable under the scheme. At present the pensions payable to former members or their widows are adjusted according to the movement in the basic parliamentary salary from time to time. However, the adjustment is made only to the State's share of pension which is assumed to be two-thirds of the total pension. There is no adjustment of the remaining one-third.

The existing method of updating is to be changed to provide increases in the total pension according to movements in the Consumer Price Index for Perth. This is the method now used to adjust the pensions of former judges and retired Government officers.

The first cost-of-living adjustment under the new method is to take effect on and from the first pension day in January, 1976. Subsequent adjustments are to be made each January thereafter in accordance with the percentage movement in the Consumer Price Index for the previous year. Where a pension has been in force for 12 months, the full percentage increase is to be applied. Where it has not been paid for a full year, 25 per cent of the increase is to be applied for each complete quarter the pension has been paid.

As existing pensions have been, or are being, increased under the present method of updating to take into account movements in the Consumer Price Index for the March, 1975 and June, 1975, quarters, the January, 1976, adjustment to pensions will have regard only to the movement in the Consumer Price Index from the 1st July, 1975, to the 31st December, 1975.

However, the increase will not take place until official notification of the December Consumer Price Index is received from the Commonwealth Statistician which is expected towards the end of January or early in February next year, but it will apply retrospectively to the first pension day in January.

Provision is made in the Bill to protect the pension rights of any member who may elect to resign from one House in order to contest a seat in the other. Under the present legislation, there is no provision to preserve continuity of membership between the date of resignation and the date upon which the election for the contested seat is conducted.

Another provision which has been reviewed is the benefit payable to a former member's widow where the whole or part of his pension entitlement has been converted to a lump sum at retirement. Under the present scheme, a widow's pension is based on the portion of the member's pension remaining after conversion to a lump sum.

It is a provision common to other State parliamentary schemes, and also to the Superannuation and Family Benefits Act, that where a contributor exchanges part of his pension for a lump sum, his widow is entitled to receive a pension based on the full pension for which he had contributed, irrespective of whether his pension had been reduced by commutation.

It is considered that a similar provision should apply in the parliamentary scheme in this State.

Therefore, it is proposed that the widow of a former member be entitled to five-eighths of the pension which her late husband would have been receiving, had he not converted part of it to a lump sum.

It is considered that this benefit should apply also in the case of a widow of a former member who qualified for pension, but being under 40 years of age at the time of retirement, received the whole of his entitlement in the form of a lump sum.

Provision has been made for such a widow to be entitled to five-eighths of the pension which her husband would have been receiving at the time of his death, had his pension not been converted.

Other aspects of widow's pensions have been reviewed, and several changes are proposed.

Under the present scheme, in order to qualify for a pension, the widow of a former member must have been married to him at the time he ceased to be a member. Moreover, pension ceases on the widow's remarriage, and cannot be re-instated.

These provisions fall well short of those contained in the Superannuation and Family Benefits Act, and it has been decided to bring them into line.

The Bill therefore provides that where marriage occurs prior to retirement, the widow's pension would cease only if she remarried before attaining the age of 55 years, but in this event it would be restored on the termination of that remarriage. It is also proposed that where marriage to a former member occurs after retirement, the widow be entitled to a pension from the date of her husband's death if she is then aged 55 or more, or from

the time she attains the age of 55 years if she were less than that age when she became a widow and had not remarried.

Under existing legislation, an allowance is payable on the death of a member or former member to any of his children under the age of 21 years undergoing a full-time course of education. In keeping with other schemes, it is proposed to raise the age limit to 25 years, and provision has been made in the Bill accordingly.

At present, an allowance is not payable where children of a former member are the issue of a marriage contracted after he ceased to be a member. This provision is to be repealed so as to permit payment of children's allowances irrespective of when the former member's marriage occurred.

I am sure members will agree that the proposed changes to the scheme are both realistic and desirable. I commend the Bill to members.

Debate adjourned until a later stage of the sitting, on motion by the Hon. R. Thompson (Leader of the Opposition).

## SECURITIES INDUSTRY BILL

*In Committee*

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Interpretation—

The Hon. N. McNEILL: Before proceeding to move my amendments, I should like to give the Committee some explanation by way of preliminary comment. Members may be a little surprised to see the number of amendments on the notice paper in respect of this piece of legislation. When the legislation was first introduced it was pointed out it was in the nature of uniform legislation entered into and negotiated between the four member States of the Interstate Corporate Affairs Agreement; the legislation was allowed to remain on the Tables of both Houses for a considerable time in order that industry, the Opposition, and members generally would have an opportunity to study in considerable depth what was contained in the legislation and to enable the Government to test the reactions, if any, to the proposed legislation.

During that period, I, in conjunction with other Ministers in other States and officers and sections of industry have been active in carrying out a complete assessment of the legislation in regard, firstly, to clarification of the Bill, to see whether any features needed further clarification to make the intentions clear and, secondly, to ascertain whether any provisions of the Bill were impractical, thus providing the Minister concerned and the commission with the opportunity to submit the necessary amendments to Parliament.

It is my understanding that Western Australia is the first Parliament to be in this present position, and the very concentrated discussions over the last few weeks have culminated in the amendments appearing on the notice paper.

The amendment to clause 4 is to substitute a new definition of the term "listing rules". In its present terms the existing definition might be construed as being limited only to those provisions of stock exchange listing rules which deal with securities being admitted to the list of quoted securities or being removed therefrom and accordingly might not embrace the provision of listing rules which are applicable after listing has been granted, but before removal.

The latter listing rules are what are commonly known as the continuing requirements and it is important that the term includes those continuing requirements of listing rules where it is used throughout the Bill. In fact, this is one piece of clarification resulting from the review of the legislation. I move an amendment—

> Page 8, line 39—Delete the interpretation "listing rules" and substitute the following interpretation—
>
> "listing rules", in relation to a stock exchange, means rules governing or relating to—
>
> (a) the admission to, or removal from, the list of the stock exchange of bodies corporate, governments, unincorporate bodies or other persons for the purposes of the quotation by the stock exchange of securities of bodies corporate, governments, unincorporate bodies or other persons and for other purposes; or
>
> (b) the activities or conduct of bodies corporate, governments, unincorporate bodies and other persons who are admitted to that list—
>
> whether those rules—
>
> (c) are made by the stock exchange or are contained in the memorandum of association or the articles of association of the stock exchange; or
>
> (d) are made by another person and adopted by the stock exchange;

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 to 7 put and passed.

Clause 8: Inspections of books, etc. of licences and others—

The Hon. N. McNEILL: This is another instance where an examination of the original legislation disclosed that the intention of this clause is not sufficiently clear. In fact, the intention by way of request was to provide that an authorised person—for example, a person from the Victorian Corporate Affairs Office—would be entitled to inspect in Western Australia books of a Victorian licensee, where those books are located in Western Australia.

It was felt that the paragraph as presently drafted contains deficiencies of a rather technical nature. The amendment in my name will recast the paragraph to achieve the original intention of the provision. I move an amendment—

Page 20, lines 16 to 22—Delete paragraph (a) and substitute the following paragraph—

(a) shall have the same powers in Western Australia in relation to any such books or banker's books in Western Australia as he would have had if he had been authorized under subsection (1), the reference in that subsection to this Act were a reference to that declared law, the reference in that subsection to a licence were a reference to a licence within the meaning of that declared law and the books or banker's books were books or banker's books referred to in that subsection; and .

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 9 to 29 put and passed.

Clause 30: Stock exchanges to provide assistance to Commissioner—

The Hon. N. McNEILL: The purpose of the amendment in my name is to ensure that the Commissioner for Corporate Affairs will be advised immediately or forthwith by a stock exchange whenever that stock exchange takes disciplinary action against any of its members.

I am sure members will be aware that, under the Bill, members of a stock exchange are required to obtain licenses from the commissioner, who is entitled to impose conditions on, or to revoke or suspend such licenses. In these circumstances it seems desirable that the commissioner should be informed immediately of any action which is taken by the stock exchange against a person holding a license issued by the commissioner. I refer to action of a disciplinary nature.

This is a commendable amendment. The matter has been the subject of some controversy, as to whether there ought to be such a requirement. The amendment requires such disciplinary action to be advised to the commissioner. I move an amendment—

Page 42—Insert after subclause (1) the following new subclause to stand as subclause (2)—

(2) Where a stock exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member of the stock exchange, it shall forthwith give to the Commissioner in writing particulars of the name of the member, the reason for and nature of the action taken, the amount of the fine (if any) and the period of the suspension (if any). .

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 31 to 39 put and passed.

Clause 40: Conditions to which licence is subject—

The Hon. N. McNEILL: The purpose of the amendment in my name is to provide that the commissioner will be under an obligation to inform the Stock Exchange, and to the extent where applicable the other members of a stockbroker's firm whenever the commissioner effects any variation in the terms or conditions of a license held by a stockbroker.

This amendment places an obligation on the commissioner, and in the circumstances that is reasonable. I move an amendment—

Page 47—Add after subclause (3) the following new subclause to stand as subclause (4)—

(4) Where the Commissioner imposes, or varies or revokes, conditions or restrictions under this section in relation to a licence granted to a member of a stock exchange, he shall inform the stock exchange and, if the member is a partner in a member firm, the member firm. .

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 41 to 50 put and passed.

Clause 51: Issue of contract notes—

The Hon. N. McNEILL: I have on the notice paper two amendments to this clause and they make somewhat of an intrusion into a fairly complicated area of the operation of the stock exchange and the dealing in securities.

In its present terms paragraph (d) of clause 51 (2) would require a dealer to mark on each contract note issued by him to his client a statement as to whether or not the contract note was issued in respect of a dealing which took place in the ordinary course of business at a stock market.

The proposed new paragraph (d)—that is, the first amendment in my name—will not require him to make any such reference in a contract note if the dealing did take place in the ordinary course of business on the stock market, but will continue to require him to mark the contract note that the dealing did not take place in the ordinary course of business if that is the case.

That deals with the first amendment in my name on the notice paper. I move an amendment—

Page 55—Delete paragraph (d) and substitute the following—

(d) the day on which the transaction took place and, if the transaction did not take place in the ordinary course of business at a stock market, a statement to that effect; .

Amendment put and passed.

The Hon. N. McNEILL: I move an amendment—

Page 56—Add after subclause (4) the following new subclauses—

(5) For the purposes of this section, a transaction takes place in the ordinary course of business at a stock market if it takes place in prescribed circumstances or is a transaction that is a prescribed transaction for the purposes of this section.

(6) Notwithstanding the provisions of section 6, a person is not associated with another person for the purposes of this section by reason only that he is—

(a) a partner of the other person otherwise than by reason that he carries on a business of dealing in securities in partnership with the other person;

(b) a director of a body corporate that carries on a business of dealing in securities of which the other person is also a director; or

(c) a director of a body corporate of which the other person is a director, not being a body corporate that carries on a business of dealing in securities. .

This amendment also deals with the matter of the ordinary course of business on a stock market.

New subclause (5) has been included because it has been recognised that there are substantial variations in opinion as to what constitutes the ordinary course of business on a stock market. One of the areas in which opinions differ is the case where the transaction or dealing concerned is affected by what is known as a crossing; for example, where the same stockbroker has both buying and selling orders for the same classes of securities and matches the clients' orders accordingly. There are many ways in which crossings, in fact, take place, some of which are undoubtedly in the ordinary course of business of the stock market, but there are instances in which crossings should not necessarily be so regarded.

Another instance where doubt arises as to whether a transaction should be regarded as having been effected in the ordinary course of business at a stock market is the case where, say, a Perth broker receives a buying order which cannot be filled that day on the Perth exchange and which he transmits to his Melbourne agent after the Melbourne exchange has closed and a sale is effected after the closing hours of the Melbourne exchange at a price determined by reference to the closing price posted on the Melbourne exchange on that day.

The whole purpose of paragraph (d) is to ensure that dealers' clients receive contract notes which indicate whether their buying or selling orders were carried out basically under the auction system and it is proposed to make regulations which specify the circumstances which satisfy that test. All contract notes issued in other than the prescribed circumstances will have to be marked "not effected in the ordinary course of business at a stock market". That would enable the differentiation to be understood.

I now turn to the new proposed subclause (6).

Under subclause (4) a dealer is deemed to be acting as principal if he is acting on behalf of a person with whom he is associated by reason of the provisions of clause 6.

The preceding provisions of the clause provide that where a dealer deals as a principal he must so indicate on the contract note and further that instead of issuing a contract note to his own client —which would be himself or his associate —he shall issue the contract note to the other party to the transaction.

It has been recognised that there are circumstances in which by reason of the breadth of the associate provisions in clause 6, it would be both unfair and probably misleading to deem the dealer to be dealing as principal in certain of the cases where he is deemed by clause 6 to be an associate. To take an example, a dealer might also be a director of a charitable company like the Winston Churchill Trust and by virtue of clause 6 he is deemed to associate with any other director of that trust even though they may have no common business interests at all.

Under the clause as it stands, if as a dealer, he received a buying order from

that other director of the trust the contract note which he issues would not go to that other director of the trust, but would go to the selling party and would be marked to indicate that the dealer entered in the transaction as principal.

There are two things wrong with this, in the Government's view. The first is that the other director of the Winston Churchill Trust with whom the dealer had no business connection does not get the contract note which he should really get, and the second thing is that the selling party gets a contract note which on the face of it indicates that the dealer had sold him securities which the dealer owned or in which he had an interest in one form or another. This would be quite misleading.

The purpose of the amendment is to provide that notwithstanding clause 6 in certain circumstances the associate provisions of clause 6 do not apply to clause 51.

That may well and truly sound a somewhat complicated explanation, but I have endeavoured to present it in the simplest possible terms to provide a better understanding not only for the Committee, but also for those people who have considerable occasion to refer to the proposed Act and to the reasons the provisions are included.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 52: Certain persons to disclose certain interests in securities—

The Hon. N. McNEILL: I move an amendment—

Page 56—Delete subclause (1) and substitute the following—

(1) Where a person who is a dealer (not being an exempt dealer), investment adviser, dealer's representative or investment representative sends circulars or other similar written communications in which he makes a recommendation, whether expressly or by implication, with respect to securities or a class of securities, the firstmentioned person shall cause to be included in each circular or other communication, in type not less legible than that used in the remainder of the circular or other communication, a concise statement of the nature of any interest in, or in the acquisition or disposal of, those securities or securities included in that class that the firstmentioned person or a person associated with him has, or ought reasonably to know that he has, at the date on which the firstmentioned person last sends the circular or other communication. .

The detailed analysis of the operation of the original subclause (1) has shown that it would be impossible for dealers, investment advisers, or other persons to whom it extends to comply with its terms.

The sort of situation to which the existing subclause would apply would include a situation where in one office of a dealer a letter is written to a client commending securities A, B, and C and at or about the same time, but quite independently, another letter is sent from another branch of the same dealer to another client commending securities C, D, and E. As the subclause now stands, because there was a common security in the two letters, the dealer or other person sending each letter would have been obliged to disclose his or his associate's interest in security C, which is the common one.

In fact the only way in which the subclause could have been complied with in its present terms is by every dealer, investment adviser, etc. making such a disclosure in every letter going from his office commending securties; and further, because of subclause (7), by also forwarding a copy of every such letter to the stock exchange in the case of a stockbroker, or to the commissioner in the case of another dealer.

As the purpose of the clause is to attempt to differentiate between circular type commendations promoting stocks to an extent likely to affect the market and letters written to individual clients, it has been decided to seek to delete the existing subclause and to substitute a new provision which attempts more accurately to identify a circular type of commendation from the individual commendation.

Amendment put and passed.

The clause was further amended, on motions by the Hon. N. McNeill (Minister for Justice), as follows—

Page 57, line 7—Delete the word "and".

Page 57, line 13—Delete the passage "securities." and substitute the passage "securities; and".

Page 57, line 14—Add after paragraph (b) of subclause (2) the following new paragraph—

(c) notwithstanding the provisions of section 6, a person is not associated with another person in relation to the sending of a circular or other communication or the making of a recommendation by reason only that he is—

(i) a partner of the other person otherwise than by reason that he carries on a business of dealing in securities in partnership with the other person;

(ii) a director of a body corporate that carries on a business of dealing in securities of which the other person is also a director; or

(iii) a director of a body corporate of which the other person is a director, not being a body corporate that carries on a business of dealing in securities,

unless the person and the other person are acting jointly or otherwise acting together or under or in accordance with an arrangement made between them in relation to the sending of the circular or communication or the making of the recommendation. .

Page 58, lines 18 to 21—Delete paragraph (b) and substitute the following—

(b) if the first-mentioned person is a natural person who carries on business in partnership—is signed by a partner in the partnership in the name of the partner or of the partnership; or.

Page 59—Delete subclause (7) and substitute the following—

(7) A stock exchange to which a copy of a letter, circular or other communication is sent under subsection (6) shall preserve that copy for the period of seven years next after the day on which the stock exchange receives the copy.

(8) A copy of a letter, circular or other written communication sent by a person to a stock exchange or given to the Commissioner in accordance with subsection (6) shall be a copy that—

(a) if that person is a natural person who does not carry on business in partnership—is signed by that person;

(b) if that person is a natural person who carries on business in partnership—is signed by a partner in the partnership in his own name; or

(c) if that person is a body corporate—is signed by a director, manager or secretary of the body corporate. .

Clause, as amended, put and passed.

Clause 53: Dealings as principal—

The Hon. N. McNEILL: I move an amendment—

Page 60—Delete subclause (4) and substitute the following—

(4) Subject to subsection (5) and the regulations, a dealer who, as principal (otherwise than by reason only that he is dealing or entering into a transaction on behalf of a person associated with him) enters into a transaction of sale or purchase of securities with a person who is not a dealer shall not charge that person brokerage, commission or any other fee in respect of the transaction. .

Under clause 53 as presently before the Chamber a dealer is not entitled to charge brokerage or commission when he enters into a transaction as principal. However, a dealer is deemed to be acting as a principal when he is acting on behalf of a person with whom he is associated within the meaning of clause 6.

There does not seem to be any good reason why a dealer who executes a buying or selling order on behalf of one of his associates should not be entitled to charge that associate commission or brokerage, and the new subclause would permit him to do so. A dealer who is dealing strictly on his own account will nevertheless continue to be prohibited from charging a commission or brokerage.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 54 to 58 put and passed.

Clause 59: Dealers' trust accounts—

The Hon. N. McNEILL: At present subclause 59 (4) provides that, for the purposes of subclause 59 (2), all moneys received by a dealer from a client otherwise than in payment of a debt, are deemed to be held by the dealer in trust for that client. As a consequence of further investigation some doubt has been expressed as to when a debt is deemed to arise.

The new subclause (4) which I propose to move seeks to overcome such doubts by referring instead to moneys received "otherwise than in respect of brokerage and other proper charges or in payment or part payment for securities delivered to the dealer before the moneys are received". My amendment clarifies the situation. Therefore, I move an amendment—

Page 69—Delete subclause (4) and substitute the following—

(4) For the purposes of subsection (2), all moneys received by a dealer from a client, otherwise than in respect of brokerage and other proper charges or in payment or part payment for securities delivered to the dealer before the moneys are received, shall be deemed to be held in trust for that client. .

Amendment put and passed.

Clause, as amended, put and passed.

Clause 60: Purposes for which money may be withdrawn from a trust account—

The Hon. N. McNEILL: New subclauses 60 (4), (5), and (6) which I propose to move to add after subclause (3) are intended to overcome difficulties which would arise in relation to the clearance of cheques paid into a dealer's trust account.

If a dealer draws on the trust account in relation to a particular cheque, and the amount of that cheque has not been paid and is later refused payment, there would be a deficiency in the dealer's trust account. Because of their relatively high turnover of transactions, dealers would find it impracticable to obtain special clearances on all cheques paid into their trust accounts before drawing against them, even apart from the more obvious objection of the costs involved which would ultimately be borne by the clients.

The proposed new subclauses will prevent a dealer from being in breach of the normal trust account provisions by reason only that payment on a particular cheque is refused after he has drawn against it, so long as he pays into the trust account an amount equal to the amount of the relevant cheque forthwith after payment on the cheque is refused.

An appropriate penalty provision is included, and in relation to a dealer who is a stockbroker, failure to make such a payment to the trust account, when such a cheque is refused payment, is deemed to be a defalcation for the purposes of the provisions of the Bill relating to the fidelity fund of a stock exchange.

The proposed new subclauses are important and significant provisions which clarify in a practical way the difficulties which could be experienced. I move an amendment—

Page 70—Add after subclause (3) the following new subclauses—

(4) A dealer is not guilty of an offence against subsection (1) by reason only that he withdraws from a trust account an amount that is the whole or any part of the amount of a cheque that has been paid into the account but that has not been paid, and has not been refused payment, by the banker on which it is drawn.

(5) Where a dealer withdraws from a trust account an amount that is the whole or any part of the amount of a cheque that has been paid into the account but that has not been paid by the banker on which it is drawn and the banker later refuses payment of the cheque, the dealer shall forthwith pay into the trust account by cash or bank cheque an amount equal to the first-mentioned amount.

(6) Where a dealer fails to comply with subsection (5)—

(a) he is guilty of an offence against this Act and liable to a penalty not exceeding $1 000 or imprisonment for a period not exceeding six months; and

(b) where the dealer is a member of a stock exchange, the failure shall, for the purposes of Part IX, be deemed to be a defalcation by the dealer.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 61: Appointment of auditor by dealer—

The Hon. N. McNEILL: Mr Deputy Chairman (the Hon. Clive Griffiths), perhaps I could deal with both amendments to this clause.

The DEPUTY CHAIRMAN: Yes.

The Hon. N. McNEILL: The amendment I propose to move in respect of paragraph (e) of subclause 61 (2) simply increases from $ 1000 to $2 000 the amount in which a dealer's auditor may be indebted to the dealer before he is disqualified from acting in that capacity. It is recognised by this amendment that as between an auditor and, say, a stockbroker, the amount of $1 000 may be unduly restrictive.

The amendment I propose to move in relation to paragraph (f) of subclause 61 (3) is substantially the same as the admendment to which I have just referred, except that in the first case subclause 61 (2) relates to the disqualification of the appointment of an individual as an auditor, and subclause 61 (3) relates to the disqualification of a firm from being appointed as the auditor of a dealer. I move the following amendments—

Page 71, line 1—Delete the passage "$1 000" and substitute the passage "$2 000".

Page 71, line 19—Delete the passage "$1 000" and substitute the passage "$2 000".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 62 to 80 put and passed.

Clause 81: Deposits to be lodged by sole traders and member firms—

The Hon. N. McNEILL: I have an amendment to this clause set out on the

notice paper. It is designed to overcome some technical difficulties in the existing provision.

The new subclauses (1), (2) and (4) of this new clause 81 are substantially the same as clause 81 as it presently appears, but the new subclause 81(3) treats moneys lodged with a stock exchange under clauses 81 and 82 as still being money in the relevant trust account, notwithstanding such lodgement.

This provision is necessary so that other provisions of the Bill such as clause 60 and the fidelity fund provisions continue to apply to such moneys.

Accordingly, I move an amendment—

Page 85—Delete all words in the clause and substitute the following—

Deposits to be lodged by sole traders and member firms.

(1) Each sole trader and each member firm shall lodge and maintain a deposit as required by this Part with the stock exchange of which the sole trader is a member or by which the firm is recognized.

(2) A deposit referred to in subsection (1) is payable out of moneys in a trust account kept by the sole trader or member firm.

(3) An amount paid from a trust account as, or as part of, a deposit lodged with a stock exchange under this Part continues to be money in that trust account notwithstanding that it is so lodged.

(4) Where a sole trader or member firm fails to comply with subsection (1), the sole trader or each partner in the member firm (as the case may be) is guilty of an offence and liable to a penalty not exceeding $2 000 or to imprisonment for a period not exceeding one year.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 82: Deposits to be proportion of certain balances—

The Hon. N. McNEILL: Members who have noted paragraphs (a) and (b) of subclause (1) of this clause may have been of the mind, as others have been, that they appear to be cumulative, but it is certainly not the intention to convey that impression. Therefore, new subclause 82(1) seeks to simplify the existing subclause 82(1) by eliminating the transitional provisions of the present paragraph (a) of subclause 82(1), thereby overcoming a doubt which has been expressed as to whether paragraphs (a) and (b) of the existing subclauses are unintentionally cumulative.

The new subclauses 82 (2) and (3) are substantially the same as the existing provisions in the Bill. Therefore, I move an amendment—

Page 86—Delete all words in the clause and substitute the following—

Deposits to be proportion of certain balances.

(1) The deposit required to be lodged and maintained by a sole trader or member firm under section 81 is an amount equal to two-thirds (or, where a lesser proportion is prescribed, that proportion) of the lowest balance in the trust account maintained by the sole trader or member firm during the period of three months ending on the quarter day last past.

(2) Where a sole trader or member firm maintains two or more trust accounts the amount of the deposit required to be lodged and maintained by the sole trader or member firm under section 81 shall be determined as if a reference in subsection (1) to the balance in the trust account at any time were a reference to the aggregate of the balances at that time in the trust accounts maintained by that sole trader or member firm.

(3) Nothing in this Part requires the lodging or maintaining of a deposit where, but for this subsection, the amount of the deposit would be less than $3 000.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 83: Deposits to be invested by stock exchange—

The Hon. N. McNEILL: From the notice paper members will note that I have two amendments to make to this clause. The first amendment, which has some relation to subclause 83 (1), seeks to clarify the meaning of "a deposit" by adding the words "from a sole trader or member firm", and also seeks to clarify the obligations of the stock exchange in relation to any such deposit by providing that the exchange "holds the deposit upon trust for the sole trader or member firm". Accordingly, I move an amendment—

Page 87, lines 1 to 3—Delete the passage "Where a stock exchange receives a deposit under section 81, the stock exchange shall invest the deposit —" and substitute the passage "Where a stock exchange receives a deposit from a sole trader or member firm under section 81, the stock exchange holds the deposit upon trust for the sole trader or member firm and shall invest the deposit—".

Amendment put and passed.

The Hon. N. McNEILL: The second amendment I wish to move deals with the fidelity bond. This provision appears in

section 41 of the existing Act in Victoria, and is considered necessary for the protection of stockbrokers and their clients so that the fidelity fund is available to provide any necessary security against loss. This is simply an added protection, and I move an amendment—

Page 87—Add after subclause (6) the following new subclause to stand as subclause (7)—

(7) The fidelity fund of a stock exchange shall guarantee the repayment by the stock exchange of the amount of a deposit received from a sole trader or member firm. .

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 84 to 97 put and passed.

Clause 98: Claims against fund—

The Hon. N. McNEILL: I move an amendment—

Page 97, lines 3 and 4—Delete the passage "or to whom a payment may be made under subsection (2) of that section".

The amendment is intended to ensure that the official receiver or trustee in bankruptcy of a bankrupt dealer cannot as of right obtain a court order compelling amounts of money to be paid to him out of the fidelity fund.

This amendment is necessary in case the majority of the debts owing by the bankrupt dealer are unrelated to his business of dealing in securities, and to avoid the fidelity fund from being dissipated for the benefit of other creditors in such circumstances.

Subclause (2) would still give a stock exchange a discretionary power to make a payment to a trustee of the estate of a bankrupt dealer in any case where such an objection either did not arise, or was not material.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 99 to 116 put and passed.

Clause 117: Restriction on use of title "stockbroker."—

The Hon. N. McNEILL: I move an amendment—

Page 114—Delete all words in the clause and substitute the following—

Restrictions on use of titles "stockbroker" and "sharebroker".

A person who is not—

(a) a member of a stock exchange; or

(b) a person who is a member of, or is a partner in a partnership that is recognized as a member firm by a stock exchange within the meaning of a declared law—

shall not take or use, or by inference adopt, the name or title of stockbroker or sharebroker or take or use or have attached to or exhibited at any place a name, title or description implying or tending to the belief that he is a stockbroker or a sharebroker. .

The amendment seeks to extend the prohibition against the use of the expression "stockbroker" by persons who are not members of stock exchanges or partners in member firms recognized by stock exchanges, to the use of the expression "sharebroker" as well, as that expression has a similar meaning.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 118 to 132 put and passed.

Clause 133: Transitional provision. Stockbrokers—

The Hon. N. McNEILL: I move an amendment—

Page 122, After line 20—Add the following subclauses—

(2) A stockbroker's representative who is not the holder of a dealer's representatives licence, is not guilty of an offence under this Act by reason only that he is employed by, or acts for or by arrangement with, a person who immediately before the commencement of this Act was a stockbroker within the meaning of the Securities Industry Act, 1970, and does an act on behalf of that person in relation to a business of dealing in securities carried on by that person during a period, not exceeding three months, after the commencement of this Act and before the date on which he becomes the holder of a dealer's representatives licence, or his application for a dealer's representatives licence is refused, whichever first occurs.

(3) In subsection (2), "stockbroker's representative" means a person who would under the Securities Industry Act, 1970, have been a dealer's representative but for the fact that he was in the direct employment of, or was acting for or by arrangement with a stockbroker within the meaning of that Act.

(4) A stockbroker's investment adviser who is not the holder of an investment advisers license, is not guilty of an offence under this Act by reason only that he is employed by, or acts for or by arrangement with, a person who, immediately before the commencement of this Act, was a stockbroker within the meaning of the Securities Industry Act, 1970, and in that capacity performs any

of the functions of an investment adviser during a period, not exceeding three months, after the commencement of this Act and before the date on which he becomes the holder of an investment advisers licence, or his application for an investment advisers licence is refused, whichever first occurs.

(5) In subsection (4), "stockbroker's investment adviser" means a person who would, under the Securities Industry Act, 1970, have been an investment adviser but for the fact that he was in the direct employment of, or was acting for or by arrangement with, a stockbroker within the meaning of that Act.

(6) The Governor may—

(a) by Order in Council exempt any member of a stock exchange from compliance with all or any of the provisions of sections 59 and 60, subject to such terms and conditions as are specified in the Order; and

(b) by like Order, vary or revoke any order made under this subsection.

(7) Any reference in this Act other than in sections 59 and 60 to a trust account shall, unless the contrary intention appears in an Order in Council made under subsection (6), be construed as extending to a trust account required to be maintained by the terms or conditions of such an Order.

(8) Any person who, with intent to defraud, contravenes or fails to comply with any term or condition of an Order made under subsection (6) that is applicable to him is guilty of an offence and is liable to a penalty not exceeding $5 000 or to imprisonment for a period not exceeding two years, or both.

(9) Any person who contravenes or fails to comply with a term or condition of an Order made under subsection (6) that is applicable to him is guilty of an offence. .

Clause 133 of the Bill contains transitional provisions dealing with stockbrokers.

Under the present Act, stockbrokers are not required to be licensed: and clause 133 is intended to defer the application of the prohibition contained elsewhere in the Bill against stockbrokers acting without a license for a period of three months, to enable brokers to apply for a license.

This clause does not presently deal with a stockbroker's employees or with investment advisers who are partners in a member firm of stockbrokers but who are not themselves members of the exchange, and the new subclauses (2), (3), (4) and (5) which I have moved to include will allow such persons a similar period in which to apply for licenses as dealer's representatives or investment advisers.

The new subclauses (6), (7), (8) and (9) which I have moved to include are intended to enable the Governor by means of an Order-in-Council to exempt any member of a stock exchange from compliance with all or any of the provisions of clauses 59 and 60 of the Bill, subject to such terms and conditions as are specified in the order. Clauses 59 and 60 deal with dealers' trust accounts, the payment of moneys into such accounts, and the purposes for which moneys may be withdrawn.

Members may be interested to know that clauses 59 and 60 of the Bill, those being the clauses from which exemptions may be granted subject to the terms and conditions which I have explained, have been prepared on the assumption that it is feasible for dealers, including stockbrokers, to maintain trust accounts in the same way as trust accounts are maintained by solicitors, land agents, and the like.

It should be pointed out that there are fundamental differences between a stockbroker's operations and those of a solicitor or ordinary agent in relation to clients' funds. For example, when a broker accepts a buying order from his client and buys shares from another stockbroker selling on behalf of another client, the buying broker is personally liable under the rules of the stock exchange to accept delivery of, and to pay for, the securities which he has bought on behalf of his client, quite irrespective of whether his own client has put him in funds, or may, for example, have even died or become bankrupt.

The rules of the stock exchange in this regard are quite clear. If a buying broker does not pay for scrip delivered to him within one hour of delivery from the selling broker, the buying broker is automatically suspended from membership of the stock exchange.

Members will be aware that no such situation arises with respect to solicitors or land agents. A solicitor or a land agent does not settle on behalf of his buying client until the buying client has paid to the solicitor or land agent the total funds necessary to effect settlement. On the other hand, a stockbroker is obliged to pay for securities bought for his client irrespective of whether the client has first put him in funds.

A considerable amount of work has already been done by the Stock Exchange of Perth in examining the feasibility of adopting a strict trust accounting system on the same lines as that used by solicitors

and land agents, and it does appear that there are real practical difficulties in adopting the strict trust accounting provisions contained in sections 59 and 60 right from the commencement date of the Bill.

The amendments which I have moved to clause 133 permitting exemptions to be granted from the trust account provisions are designed to enable brokers to carry on in this State under terms and conditions which will certainly be no less stringent than the trust account requirements which they presently adhere to under the existing Securities Industry Act.

It is not intended that the exemptions from sections 59 and 60 will be granted for a period longer than is necessary to have a complete re-examination made of accounting practices in stockbrokers' offices with a view to the devising of a system which strikes the best possible balance between the interests of the investing public and the efficient and economical operation of the stockbroking industry.

It is anticipated that the examination of accounting practices and trust account requirements for stockbroking offices will not be confined to this State but will extend to the Stock Exchanges of Sydney, Melbourne and Brisbane; the Stock Exchange at Perth, has indicated to me personally that it would welcome participation by Government officials in the investigation.

In all the circumstances, it seems that the amendments which I have moved to clause 133 of the Bill which deal with trust account requirements, offer the only practical solution to the problem which would otherwise be caused by the immediate implementation of clauses 59 and 60 in their present terms.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 134 and 135 put and passed.

Title—

The Hon. N. McNEILL: I simply use this opportunity, very quickly, within the light of the very considerable number of amendments to state what I believe needs to be stated in case there may be people within the Committee, or in industry generally, who feel that there may be, as a consequence of the amendments, some loss of uniformity with the legislation of other States. I want to assure them that is not the case and while I believe Western Australia is the first State to implement this particular provision it is, in fact, for the purpose of maintaining uniformity. The intention will be carried through, not only in the spirit but in actual fact, in all the other States. The purpose is to maintain and retain uniformity which has been our objective right throughout the process of this legislation.

Title put and passed.

*Sitting suspended from 3.49 to 4.07 p.m.*

*Report*

Bill reported, with amendments, and the report adopted.

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and returned to the Assembly with amendments.

## QUESTIONS (3): ON NOTICE

1. TRANSPORT

*Karawara Bus Service*

The Hon. CLIVE GRIFFITHS, to the Minister for Health representing the Minister for Transport:

(1) Further to the answer to my question of the 22nd October, 1975, concerning the provision of a bus service into the new State Housing Commission development at Karawara, would the Minister advise—

(a) whether the route of the service has now been decided;

(b) whether the commencement date has been decided; and

(c) what is delaying the availability of a final road system in the area?

(2) What means of transport does the Minister suggest those residents in the estate without private vehicles use in proceeding to—

(a) their places of employment;

(b) the nearest shopping areas; and

(c) visit doctors or hospitals to receive treatment, as many are currently required to do?

(3) Does the Minister agree with the current State Housing Commission policy of providing housing for people in areas not serviced by public transport?

The Hon. N. E. BAXTER replied:

(1) (a) Yes.

(b) No.

(c) Finance, but an early decision is expected.

(2) The service being provided will connect with Victoria Park services and also travel to the city.

(3) All Housing Commission development areas are served by public transport. Services are provided as soon as road surfaces have been completed and a reasonable number of residents introduced into an area.

2. CENSORSHIP

*Films*

The Hon. G. W. BERRY, to the Chief Secretary:

(1) Does the Chief Secretary consider such films as "Sexual Freedom in Denmark" to be suitable for viewing at drive-in theatres?

(2) If not, is any action contemplated?

The Hon. N. McNEILL replied:

(1) No.

(2) No action is possible at the present time but the legislation is currently under review.

3. LAMB MARKETING BOARD

*Delay in Payments*

The Hon. D. J. WORDSWORTH, to the Minister for Justice representing the Minister for Agriculture:

(1) Is the Lamb Board behind in its payments?

(2) If so, at the end of the first week in November—

(a) what was the longest delay that any producer was experiencing;

(b) what number of consignments are beyond the normal ten days which stock firms allow for their stock sales;

(c) how many lambs does this involve;

(d) what is the approximate total value of the outstanding amounts;

(e) what arrangements have been made so that consignees are not financially embarrassed while awaiting payments;

(f) what information have consignees received on the grading of their lambs killed and their skin value so that market decisions can be made on future consignments?

(3) If payments are delayed because of a faulty computer—

(a) what arrangements were made to farm out the work so that payments could be made on time;

(b) were stock firms asked to help out with their experience and staff who are expert in this field?

(4) Will interest at normal stock firm rates be credited to those who are unfortunate not to have received payment but were fortunate enough to make other arrangements financially?

(5) What action has the Minister taken to alleviate the difficulties being experienced by producers considering that the Government is enforcing the marketing of lambs through the agency of the Lamb Board?

The Hon. N. McNEILL replied:

(1) Yes. The Board has been experiencing considerable difficulties with the programming of its new computer operation which is apparently not uncommon in the introduction of this type of accounting procedure. The Board's former system was inadequate to cope with the huge increase in accounts being handled this year.

The Board has given wide publicity to the problems and has advised every producer delivering lambs of the situation.

(2) As at the end of the first week in November:

(a) The longest delay was 19 days. That is five days behind the normal 14 days.

(b) The Board's policy is and always has been to make payments in 14 days not 10 days as referred to in the question. The number of consignments affected by late payment for the week ending 7th November:—

Metropolitan abattoirs; 207.
Country abattoirs; 61.

Figures shown here include all lambs killed at Albany where payments were within one day of due date.

(c) The number of lambs involved was:—

Metropolitan abattoirs; 34 552.

Country abattoirs; 9 725.

(d) The approximate value of the lambs including skins was $309 900.

(e) The Board has no indication of financial embarrassment being caused to producers.

(f) In the case of producers who deal directly with the Board, advice as to weight and approximate grading, and any further details on request, is telephoned direct to the producer by the Board as soon as the killing returns are received from the abattoir in the Board office. The same information is supplied at the same time to the head offices of the stock firms for producers who book through

the agents, and is subsequently available through country branches.

The Board has given wide publicity to this procedure through the ABC country programmes, news media and by circular to producers.

(3) (a) The farming out of work in order to regain lost computer time has been virtually impossible as no time has been available until the last few days on a similar machine, and until the "teething" problems encountered in the Board's programmes were rectified there was no point in using other computers. Certain of the Board's programmes which have been rectified are now being processed through an alternative machine, but this does not assist the processing of producer account sales which can only be handled by the Board computer.

(b) The stock firms have been aware of the problem since the outset and meetings have been held with both the accounting staff and operations committee. However little could be done as there was no way by which the stock firms could assist until the killing returns were processed as only the Board's programme and computer were designed to handle the system.

The suppliers of the Board's computer are also aware of the situation, and have made every effort to assist in rectifying the programming.

(4) This is a matter for the Board to decide.

(5) The Minister for Agriculture has been kept informed of the situation regarding delays in payment and has been kept advised of the action taken by the Board to overcome its difficutlies. While the situation has been far from sastisfactory the Minister is satisfied with the measures adopted by the Board and the efforts of the Board staff to meet the circumstances which have arisen quite beyond their control. The situation is not believed to be as serious as the questions suggest, which is verified by the figures shown above. If there are specific complaints regarding delays of 6 weeks these should be directed either to the Minister or the Board, and if delays have occurred elsewhere the cause will be found.

## COMPANIES ACT AMENDMENT BILL (No. 2)

*As to Committee: Suspension of Standing Order 253*

**THE HON. N. McNEILL** (Lower North—Minister for Justice) [4.14 p.m.]: I move—

That for the consideration in Committee of this Bill, Standing Order 253 be suspended in order to expedite its progress.

**THE HON. R. THOMPSON** (South Metropolitan—Leader of the Opposition) [4.15 p.m.]: I have no objection to that course but for this Bill only.

Question put.

The PRESIDENT: There being an absolute majority present and no dissentient voice, I declare the question carried with the concurrence of an absolute majority.

Question thus passed.

*In Committee*

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 7 amended—

The Hon. N. McNEILL: I move an amendment—

Page 10, lines 15 to 21—Delete paragraph (a) and substitute the following paragraph—

(a) shall have the same powers in Western Australia in relation to any such book in Western Australia as he would have had if he had been authorized under subsection (6), the reference in that subsection to this Act were a reference to that declared law and the book were a book referred to in that subsection; and .

This amendment is deserving of some explanation; it is the only amendment I propose to move in relation to this Bill, and is as a consequence of the same circumstances which related to the Securities Industry Bill just dealt with.

The amendment to clause 5 seeks to substitute a new paragraph (a) in the proposed new subsection (7b) of section 7 of the principal Act.

The purpose of paragraph (a) of the proposed new subsection 7 (7b) is to enable a person authorised under a declared law to inspect books or bankers' books in relation to a corporation, to have the same powers of inspection in this State as he has under that declared law.

The amendment seeks to overcome a technical deficiency in the provisions of

paragraph (a) of the proposed new subsection, as it presently appears in the Bill.

As originally drafted, the proposed paragraph (a) would enable a person so authorised to inspect such books for the purpose of ascertaining whether the Act in this State is being complied with—for example, in relation to the foreign or recognised company provisions contained in divisions 2A and 3 of part XI of the principal Act. But the intention was to enable the person so authorised to inspect such books for the purpose of ascertaining whether the corporation has complied or is complying with the provisions of the declared law under which such person was originally authorised to inspect the books relating to the corporation, and the amendment seeks to give effect to that intention.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 164 put and passed.

Title put and passed.

*Report*

Bill reported, with an amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and returned to the Assembly with an amendment.

## EVIDENCE ACT AMENDMENT BILL (No. 2)

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and passed.

## POLICE ACT AMENDMENT BILL (No. 2)

*Second Reading*

**THE HON. N. E. BAXTER** (Central—Minister for Health) [4.25 p.m.]: I move—

That the Bill be now read a second time.

While this Bill is rather lengthy, many of its clauses contain brief amendments related to monetary penalties, the deterrent value of which has been much dissipated by inflation in the monetary system.

The Bill accordingly increases the statutory maximum fines and penalties so as to relate them to their actual worth. They have not been revised since 1965. I might mention that, in most cases, the relationship between fines and imprisonment has been kept to a ratio of approximately one month's imprisonment to a $100 fine.

Weaknesses have also become apparent in the section relating to the unlawful use of drugs. Some doubt has been expressed about the widely held belief that there is only one species of cannabis—that is, sativa. Defence counsels have produced evidence from botanists who claim that there are several species. Should this argument be accepted by the courts, a serious problem would arise in relation to our present definition of cannabis. Thus, it is proposed to amend the definition to include any plant or part thereof of the genus cannabis.

The Bill also includes a definition of cannabis resin to overcome legal problems an analyst might encounter in proving he has analysed a specific quantity of cannabis resin. This substance is invariably contaminated with some other matter.

At the present time, a person can be stopped and searched only if he is suspected of being in possession of drugs which he has obtained as a result of theft. Some dangerous drugs are virtually impossible to steal: cannabis, cannabis resin, tetrahydrocannabinol, lysergic acid, diethylamide and heroin are examples of such drugs. They are almost totally prohibited, and any such drugs smuggled into the country would fall into the same category.

The provisions in the Bill will give the police greater power to stop, search and detain persons in vehicles reasonably suspected of possessing or conveying dangerous drugs.

The Act is to be expanded to allow a police officer or officers other than those nominated on a search warrant to search premises for drugs. This will enable another police officer to take over from the original police officer when unavailable.

The Bill also gives definite powers of search. For example, where some person drives his motor vehicle onto a property, the property being the subject of a search warrant, the searching officer will also have the authority to break open the car, if he reasonably suspects it may contain drugs.

The Bill also expands the power of the search warrant by allowing for the seizing of money found on persons where it is evident that such money has been obtained from the sale of drugs, or is an integral part of a transaction in dangerous drugs. Needless to say, the police would need to be satisfied that there was sufficient evidence as to the source or usage of the money to substantiate their action in court.

Perhaps I can illustrate the effect of this proposed legislation by quoting an example. A foreigner who had arrived in Perth two weeks previously was arrested, and in the lining of a suitcase the detective found about one and a half pounds of high grade cannabis which the man had smuggled into the country. It was obvious that the cannabis was only a portion of what he had in his possession. He was also carrying a substantial sum of money in Australian currency.

There was ample evidence to show that he had obtained this money from the sale

of drugs in Perth, but no action could be taken with regard to it under existing legislation, and the police were compelled to return it to him.

Amusement machine parlours have proliferated over recent years, and are still on the increase. Many have developed into trouble spots and require regular attention by the police. Problems are also being experienced in identifying machines which, contrary to the Act, may offer some advantage or reward to a winner.

These are to be more adequately controlled, by limiting the times during which they may operate to the hours between 8.00 a.m. and midnight on days other than a Sunday, Christmas Day or Good Friday, and from 10.00 a.m. to 8.00 p.m. on Sundays.

It is sometimes necessary to inspect a machine internally to prove that a machine is a gaming machine. Although the present legislation permits the police to seize suspected machines, they have no statutory authority to open them. As this is sometimes necessary if they are to verify their suspicions, the Bill proposes that such internal inspection may be made.

Some terms which are quite outmoded are still retained in the parent Act. Some of these are—

an idle and disorderly person;

a rogue and vagabond; and

an incorrigible rogue.

It is of interest to note that their continued retention was brought to notice by Mr Hartrey in another place. Their proposed deletion poses no legal problem, and will not affect the provisions of the sections in which they appear. The Bill therefore proposes accordingly, and also provides a monetary penalty, in addition to the prison sentence already prescribed for offences committed under the relevant sections.

It is an offence under the Police Act for unsentenced persons to break out of or escape from legal custody. However, there is no provision in the Act which makes it an offence to assist the escapee, whereas the Criminal Code provides heavy penalties for assisting an escaped sentenced prisoner. A new section is to be inserted into the Police Act to rectify this anomaly.

It is of interest to note that the courts recently ruled that a small steel mallet carried by a demonstrator constituted a defensive weapon, as distinct from an offensive weapon, and accordingly acquitted the man of a charge of carrying an offensive weapon. The legal position now appears to be that any demonstrator or other person can, under the law as presently written, carry an undefined weapon of some kind without committing an offence, so long as he does not use it in attack and claims he is carrying it for his own defence.

It is accordingly proposed to amend the Police Act to make it an offence to carry any article made, intended, or adapted for use to cause injury. It is hoped that this amendment will resolve this unusual problem.

I commend the Bill to the House.

**THE HON. R. THOMPSON** (South Metropolitan—Leader of the Opposition) [4.33 p.m.]: This Bill has been on the notice paper in another place since the autumn session of Parliament. Originally it contained some provisions which have since been deleted. Had they not been deleted possibly a great deal more controversy would be aroused and we would be spending more time on the clauses.

To a large degree the Bill deals with increased penalties; the carrying of weapons which was considered previously to be defensive rather than offensive; the carrying of a tool which is now classified as an offensive weapon; search warrants; allowing people, other than those in a search party, to take over a search without a new warrant; amusement centres; escaping from legal custody; and the deletion of words which appear quite frequently in the Police Act. I refer to terms such as—

an idle and disorderly person;

a rogue and vagabond; and

an incorrigible rogue.

When the Bill was before the other place I researched it quite thoroughly but I did not find very much to complain about, because some of the penalties to be increased apply to police officers for certain action which they take, and these penalties are being brought into line with current monetary values. Some of the increases in the fines range from 60 per cent to several hundred per cent.

It seems that every day we learn something new. In May last I marked section 64 of the Police Act when I was going through the Bill. I have seen many instances where that provision could be applied and fines could have been imposed, because that section deals with the issue of a challenge to fight. For the benefit of members I shall read out the section—

> Every person who shall send or accept, either by word or letter, or publish any challenge to fight for money, or shall engage in any prize-fight, shall upon conviction thereof by any two or more Justices, forfeit and pay a sum of not more than forty dollars,

The amount of the fines is to be increased to $250. To continue—

> or may be imprisoned, with or without hard labour, for any term not exceeding three calendar months; and the convicting Justices may, if they shall think fit, also require the offender to find sureties for keeping the peace.

Frequently we have seen prize fights taking place on a winner-take-all basis, where the purse is $1 000 to $2 000. No doubt all of us have seen reports of such prize fights in the Press from time to time.

Under section 64 of the Police Act it is an offence to issue or accept such an offer of a prize fight. However, I cannot recall reading about any person who was prosecuted or convicted of the offence of offering or accepting a wager in a prize fight.

Some of these fights take place at the Royal Show or country agricultural shows wherever there is a boxing tent. This represents a challenge to fight. Usually the spruiker stands outside the tent and cries out, "Will anyone challenge this man? There is a $10 prize."

Here we have an antiquated provision in the legislation, and I suppose it dates back to the times when duels and not prize fights were the fashion.

The Hon. N. E. Baxter: Even if only a trophy is offered, it is still a prize fight.

The Hon. R. THOMPSON: Yes. When I became Minister for Police I paid particular attention to this provision. At the time I did not think any more about it, because the penalty was rather light. Seeing that it is proposed to increase the fine to $250 I think the provision should not be retained in the Act.

The Hon. N. E. Baxter: I will pass your comments on to the Minister so that he can keep the matter on record for the next amendment to the Police Act.

The Hon. R. THOMPSON: The Bill contains many provisions to increase the existing penalties in the Act. Some of these seem to be reasonable, but others seem to be unreasonable because of the large percentage of increase.

Under section 18 of the Act it is an offence for any person to harbour a police constable during his working hours, and it is an offence to invite a police constable to have a drink during those hours. The penalty is a fine of $100. Of course, one would not harbour a police constable unless the constable wanted to be harboured, but yet one could be charged.

Another provision stipulates that any person who accepts a bribe is punishable by a fine of $500. I could make a long speech on some of the provisions in the Act which should not be retained. It is about time the Act was overhauled. I feel I would have to accept some of the criticism for any delay in updating the Act, because for several months I was Minister for Police. However, I did not have the time to examine the Act thoroughly. I consider that now is the time for the Act to be updated to bring it into conformity with modern practices.

Today we do not have many police constables on the beat, and mostly they go out in patrol cars. They are able to enjoy greater comfort than the patrolmen enjoyed in the days when these provisions were first inserted into the Act.

I support the Bill, but I think some review of the legislation should be made to bring it up to date. I am of the opinion that we have an excellent Police Force in Western Australia, and possibly it is the best of any in Australia, although from time to time we hear criticism of it. If one is aware of what the police officers have to undergo at times in dealing with the general public, one would not level any criticism at them. They have a difficult job to perform, and I compliment them for performing it efficiently.

**THE HON. N. E. BAXTER** (Central—Minister for Health) [4.41 p.m.]: I thank the Leader of the Opposition for his comments, and I appreciate his acceptance of the Bill. I will convey the comments he has made to the Minister for Police, and suggest that the Minister look at section 64 with a view to amending it. I will also convey the honourable member's comment to the Minister that the whole Act should be examined to determine whether other sections should be deleted or amended so as to bring the Act up to date.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by the Hon. N. E. Baxter (Minister for Health), and passed.

## BUILDERS REGISTRATION ACT AMENDMENT BILL

*In Committee*

Resumed from the 22nd October. The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. I. G. Medcalf (Honorary Minister) in charge of the Bill.

Postponed clause 3: Section 4 amended—

The CHAIRMAN: Progress was reported after the clause had been partly considered.

The Hon. I. G. MEDCALF: When we last discussed this clause I indicated that I would discuss with the Minister responsible for the Bill the question raised by Mr Pratt in connection with the type of dwelling which an owner-builder was entitled to erect. I am pleased to report that as a result of discussion with the Minister and the board the Minister will not insist on the amendment in the Bill and the provision in the Act will remain as it is. However, there will be one proviso; that is, that owner-builders will be brought under the control of the legislation. Then, if an owner-builder, who is at present exempt from the provisions of the Act, erects a building which is unsatisfactory and it is subsequently sold, the purchaser will have recourse under the Act. That is the purpose of an amendment to clause 11, appearing on the notice paper. Under the amendment owner-builders will be in much the same category as other

builders and will be subject to the conditions of the Act. I therefore move an amendment—

Page 2, lines 6 to 13—Delete paragraph (a).

This is the paragraph which proposes to delete the existing definition of the type of dwelling which an owner-builder can erect, and insert another one. Because of the arguments raised in Committee previously, the Government has agreed to delete this provision with the proviso that owner-builders be brought under the Act.

Amendment put and passed.

The Hon. R. F. CLAUGHTON: I move an amendment—

Page 2—Add after line 18 the following paragraph—

(c) by deleting the word "eight" in line seven of the penalty provision set out at the end of the subsection and substituting the word "twelve".

The Minister has indicated that he will accept the amendment which increases the daily penalty from $8 to $12.

The Hon. I. G. MEDCALF: The Government accepts the amendment.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Postponed clause 4: Section 4A amended—

The Hon. I. G. MEDCALF: I move an amendment—

Page 2, lines 20 to 27—Delete paragraph (a).

I will not elaborate on this amendment any more than to say that the argument I submitted just now applies equally to this clause. It is purely a corollary of what we have been discussing.

Amendment put and passed.

The Hon. R. F. CLAUGHTON: I move an amendment—

Page 2—Insert after paragraph (a) in lines 20 to 27 the following new paragraph to stand as paragraph (b)—

(b) by deleting the word "twenty" in line nine of subsection (1a) and substituting the word "thirty".

This deals with the value of a building which a journeyman builder can erect and the proposal is that the value be increased from $20 000 to $30 000.

Amendment put and passed.

The Hon. R. F. CLAUGHTON: I move an amendment—

Page 3, line 9—Delete the word "Two" and substitute the word "Four".

This amendment is designed to increase a penalty from $200 to $400. The penalties were fixed a considerable time ago and my amendment is in line with recent adjustments made in other pieces of legislation.

The Hon. I. G. Medcalf: It is quite acceptable.

Amendment put and passed.

Postponed clause, as amended, put and passed.

New clause 8—

The Hon. R F. CLAUGHTON: I move—

Page 5—Insert after clause 7 the following new clause to stand as clause 8—

8. Section 10A of the principal Act is amended by:—

(a) deleting the word "twenty" in line 13 of subsection (3) and substituting the word "thirty"; and

(b) deleting the word "Two" in line one of the penalty provision set out at the end of subsection (4) and substituting the word "Four".

This new clause is consequential upon the previous amendment relating to the value of buildings which may be erected by journeymen builders, and I think it should therefore be acceptable to the Committee.

The Hon. I. G. MEDCALF: The Government accepts this proposed new clause.

New clause put and passed.

Title put and passed.

Bill reported, with amendments.

## ADJOURNMENT OF THE HOUSE: SPECIAL

**THE HON. N. McNEILL** (Lower West—Minister for Justice) [5.03 p.m.]: I move—

That the House at its rising adjourn until 10.30 a.m. tomorrow (Thursday).

Question put and passed.

*House adjourned at 5.04 p.m.*

# Legislative Assembly

Wednesday, the 12th November, 1975

The SPEAKER (Mr Hutchinson) took the Chair at 10.00 a.m., and read prayers.

## QUESTIONS

*Postponement*

**THE SPEAKER** (Mr Hutchinson): I wish to advise members that in view of the early start today questions will be taken at 2.15 p.m. this afternoon. As there are a number of questions on the notice paper, I would ask Ministers to endeavour to deal with them as expeditiously as possible.