Legislative Council

Tuesday, 6th September, 1955.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTIONS.

TALLY CLERKS.

(a) Strike at Fremantle.

Hon. L. A. LOGAN (without notice) asked the Chief Secretary:

Is the tally clerks' strike still in progress at Fremantle?

The CHIEF SECRETARY replied:

I do not know.

(b) Government Intervention.

Hon. L. A. LOGAN (without notice) asked the Chief Secretary:

According to today's Press, it is. Has the Government taken any steps to intervene in this strike?

The CHIEF SECRETARY replied:

No.

(c) Action to Settle Strike.

Hon. L. A. LOGAN (without notice) asked the Chief Secretary:

Will the Government attempt to do something before the wool sales start next Monday, as any stoppage on the waterfront will cause a further deflation in the price of wool? Will the Government endeavour to make sure that the strike is finished before next Monday?

The CHIEF SECRETARY replied:

It would be extraordinary for the Government to see that the strike is finished by next Monday. Naturally, the Government watches everything that is going on and will do whatever is possible, but it is quite unusual for a Government to enter into a strike. I assure the House that the Government watches the proceedings and will take whatever action it can to end the stoppage.

BETTING.

Regulations and Compliance with Act.

Hon. N. E. BAXTER asked the Chief Secretary:

Will he inform the House whether the Government, in making regulations under the Betting Control Act, 1954, has complied with Section 33, paragraph (a) of the Act?

The CHIEF SECRETARY replied:

No regulation under the Betting Control Act, 1954, has yet been made under, or conflicts with, Section 33, paragraph (a) of the Act. The remuneration and allowances of board members were fixed at the time of appointment under Section 2(2)(a) of the Act.

PRIMARY AND SECONDARY INDUSTRIES.

Financial Aid.

Hon. A. R. JONES asked the Chief Secretary:

With reference to the reply given to my questions on the 10th August, dealing with primary producers, will he inform the House to what extent the Government helped industry during the financial year ended June, 1954, as follows:—

(1) How much capital did the Government provide by way of direct contribution (as distinct from departmental scientific research and advice) to—
   (a) primary industry; and
   (b) secondary industry?

(2) How much capital did the Government provide or make available in the form of guarantee to—
   (a) primary industry; and
   (b) secondary industry?

(3) If assistance was given in either way, who were the recipients of such assistance in—
   (a) primary production;
   (b) secondary industry;
   (c) Government controlled industries?

The CHIEF SECRETARY replied:

(1) (a) Nil.
   (b) £486,439.

(2) (a) £1,870,000.

(b) £1,227,500.

(3) (a) Primary Production—

	£
Western Australian Barley Marketing Board	800,000
Western Australian Egg Marketing Board	30,000
Western Australian Potato Marketing Board	40,000
Western Australian State Voluntary Oats Pool	1,000,000
	£1,870,000

(b) Secondary Production—

Avery, L. G. & D. I. (Busselton)	500
Albany Superphosphate Co. Pty. Ltd.	450,000
Alma Engineering Pty. Ltd.	17,500
Blackwood Flax Co-op. Ltd.	95,000
Broome Freezing & Chilling Works Pty. Ltd.	17,537
Cardup Metro Bricks Pty. Ltd.	54,000
Chamberlain Industries Pty. Ltd.	549,000
Griffin Coal Mining Co. Ltd.	20,000
Kelly & Sons	20,000
Kent, L. H. (Derby)	5,500
W.A. Steel Products Ltd.	10,000
Westate Tube and Engineering Co. Ltd.	48,000
	£1,287,037

(c) Government Controlled Industries—

Midland Junction Abattoir	132,557
Charcoal Iron and Steel Industry	66,212
State Brick Works	40,000
State Saw Mills	168,133
W.A. Meat Export Works	20,000
	£426,902

In addition to the figures quoted in my reply to question No. (1), the Government provided a sum of £1,090,000 to the Rural & Industries Bank as additional capital for assistance to industry generally.

STATE HOUSING COMMISSION.

Rental Properties.

Hon. H. K. WATSON asked the Chief Secretary:

With respect to rental properties under the administration or supervision of the State Housing Commission, what were—

(a) the number of summonses for the recovery of arrears of rent;

(b) the number of notices to quit;

(c) the number of applications to the court for eviction orders,

issued or made by the commission during the period from the 1st July, 1954, to the 31st August, 1955?

The CHIEF SECRETARY replied:

(a) 192.

(b) 226. It was not necessary, however, to act on a large number of these notices as tenants either paid up arrears or made satisfactory arrangements to liquidate them.

(c) 49. Of this number it was necessary to enforce ejectment orders in 11 cases. The tenants in the other cases either vacated before enforcement of order or paid up arrears.

RAILWAYS.

Canteen Service, Geraldton.

Hon. L. A. LOGAN asked the Chief Secretary:

Further to my question on the 31st August, can he inform the House what his reaction will be, if, as a result of their investigations, railway employees in Geraldton ask for permission to start a canteen service?

The CHIEF SECRETARY replied:

Permission will be granted by the Railway Department as has been done elsewhere in the service. The canteen organisation will be incorporated under the Associations Incorporation Act, 1895-1953.

LEAVE OF ABSENCE.

On motions by Hon. F. R. H. Lavery, leave of absence for six consecutive sittings granted to Hon. G. Bennetts (South-East) on the ground of private business, and to Hon. J. J. Garrigan (South-East) on the ground of private business.

BILL—RENTS AND TENANCIES EMERGENCY PROVISIONS ACT AMENDMENT.

Standing Orders Suspension.

The CHIEF SECRETARY: I move (without notice)—

> That so much of the Standing Orders be suspended as is necessary to enable the Rents and Tenancies Emergency Provisions Act Amendment Bill to be taken on receipt of a message from the Legislative Assembly, and have precedence each day before the Address-in-reply, and to enable the Bill to be taken through all stages at one sitting.

The PRESIDENT: As this motion requires an absolute majority, it will be necessary to divide the House.

Bells rung and a division taken.

The PRESIDENT: I have counted the House and declare the motion carried by an absolute majority.

Question thus passed.

MOTION—TRAFFIC ACT.

To Disallow Road Intersection Regulations.

HON. L. A. LOGAN (Midland) [4.42]: I move—

> That regulations Nos. 190 and 191 made under the Traffic Act, 1919-1953, published in the "Government Gazette"

on the 15th December, 1954, and laid on the Table of the House on the 9th August, 1955; and amendments thereto made under the Traffic Act, 1919-1954, published in the "Government Gazette" on the 9th August, 1955, and laid on the Table of the House on the 16th August, 1955, be and are hereby disallowed.

I am moving this motion for two specific reasons, firstly, because I believe that the principle of having major roads should never have been removed from the regulations, and, secondly, in order to make a very strong protest to the Government about the way in which it is trying to bypass the will of Parliament by manipulation of the regulations. I will deal with the second phase first.

On eight different occasions—in 1938, 1939, 1940, 1941, 1943, 1944, 1946 and 1949—regulations were gazetted, laid on the Table of this House and agreed to, and all those regulations dealt with major roads in Western Australia. I repeat that on eight different occasions, regulations gazetting major roads were laid on the Table of this House and agreed to, and I want members to remember that. Last year this House sat until the 9th December, and when it closed on that date the regulations covering major roads were still in operation, as the will of this Parliament. But on the 15th December—exactly six days later—the previous regulations were revoked and new regulations promulgated and published.

Exactly six days after this House adjourned, 411 new regulations dealing with traffic were brought into being, and not one of them made any mention of major roads. The major roads were entirely forgotten, despite the fact that on eight different occasions this House had agreed to them, and that is why I am objecting to the Government ignoring the will of Parliament by the use of regulations. The only grizzle I had in regard to major roads was that they were not carried far enough. If members will recall, the distance of a major road was 120 miles from Perth and on numerous occasions road boards outside that area—the one I am particularly interested in is the Northern Road Board Association—asked for an extension of this distance of 120 miles. They wanted all highways, irrespective of the distance from Perth, to be gazetted as major roads.

I noticed in today's Press that the Road Board Association of Western Australia is again advocating a revival of the provisions respecting major roads. It should be obvious to all who travel on these highways what the new regulation means. On a highway there is no limit to speed and cars travel at anything from 50 to 70 miles an hour. Under the new regulation, a car coming out of a side lane—that is all it need be—if it is on the right of the car travelling along the highway, has the right of way and the traveller on the highway has to stop and let the vehicle from the side lane shoot out in front of him.

It is absurd that such a position should exist, as I think members will agree, on reflection. I will read the regulation in question, in order to give a better idea of what I mean. It is as follows:—

> 190 (1) When vehicles or animals travelling on different roads are approaching an intersection or a junction and, if they continued into the intersection or junction, would be likely to collide or create a dangerous situation, then, subject to the provisions of regulation 191, the driver of the vehicle or animal from whose right hand side another vehicle or animal is being driven shall check the speed of, or if necessary, stop, the vehicle or animal under his control and shall allow the other vehicle or animal to be driven into or across the intersection or junction in front of his vehicle or animal.

Just imagine the situation: A man may be doing 60 miles an hour on an open highway and he has to brake and give right of way to a vehicle coming out of a side lane!

Only the other evening in the metropolitan area I saw an instance of what can happen under this regulation, and there was very nearly an accident, which would not have been the case under the old regulation. A car was travelling into Perth along William-st., one of the main arteries of the city, when a car travelling east along Roe-st. had the right of way under this regulation and took off in front of the other vehicle. Fortunately, the brakes of both cars were good, and a smash was avoided. Surely, it is not intended that traffic travelling along a main highway shall give way to traffic coming from a side street! William-st. is one of the main arteries from the northern side of the city, and why should traffic travelling along that road have to give way to traffic coming out of a side lane or small street? But, under this regulation, drivers must give way.

There is no stop sign on the corner of William-st. and Roe-st. Even if a stop sign were erected, the problem would not be overcome, because a man travelling along Roe-st. would merely have to stop his car and then go straight on, provided there was no traffic coming on his right. So we have the spectacle of traffic along a major highway having to give way to any traffic coming from a side road. The same thing could happen with race traffic on a busy Saturday afternoon. If cars are travelling along Great Eastern Highway, they have to give way to cars coming from a side street. That would hold up cars and we would have a block of traffic for miles.

The Chief Secretary: Can you tell me why it is that every other State in Australia has found no difficulty with a regulation such as this? I refer to Sydney, Adelaide, Melbourne and Brisbane.

Hon. L. A. LOGAN: I am not concerned with what any other State does.

The Chief Secretary: I know that, but can you tell me why it is they have found no difficulty?

Hon. L. A. LOGAN: What we find praiseworthy in others let us imitate, and what we find objectionable let us ourselves amend. If we take that attitude, we will be doing all right. Because other States have similar regulations does not mean that it is a good one.

The Chief Secretary: They have never had anything different.

Hon. L. A. LOGAN: Probably they do not know any better.

The Chief Secretary: We will teach them!

Hon. L. A. LOGAN: Let us face facts as they really are. The incident I saw in William-st. was sufficient to prove to me what could happen. Our traffic is increasing every day, and yet we have a regulation which will stop that flow of traffic from moving freely. To me it seems absurd and silly that the traffic on our main arteries should have to be slowed down by this regulation.

Hon. E. M. Davies: Some of them want slowing down, too.

Hon. L. A. LOGAN: Does the hon. member think that a man driving along a main highway, such as Albany Highway, Great Eastern Highway, Shepperton-rd. or any other highway, should have to stop at every little tin-pot intersection?

Hon. E. M. Davies: You are not allowed to travel at 70 miles an hour along Stirling Highway.

Hon. L. A. LOGAN: But a person is permitted to travel at 35 miles an hour.

Hon. E. M. Davies: But not 70 miles an hour.

Hon. L. A. LOGAN: A person can travel at 70 miles an hour on any of our main highways, such as Albany Highway, Great Northern Highway, and so on. A driver can travel at 100 miles an hour along those highways if he wishes.

Hon. Sir Charles Latham: But not through a built-up area.

Hon. L. A. LOGAN: I did not say that.

Hon. Sir Charles Latham: But I did.

The Chief Secretary: He remembers only what he wants to remember.

Hon. L. A. LOGAN: We all know that when travelling through a built-up area, a driver must reduce speed to 25 miles an hour. Even that speed varies, in certain built-up areas, from 15 to 30 miles an hour. It is absurd to say that a man travelling on an open highway should have to pull up for someone coming out of a side street. Frequently, these side streets are obscured and a driver cannot even see them. The very fact that the Road Board Association of Western Australia is again asking for the revival of major roads proves that there is some merit in the suggestion I am making. That is a strong organisation which covers about 125 road boards in Western Australia, and such a body deserves some consideration by this House. The other night, the Minister for the North-West suggested, in reply to Mr. Thomson's speech on the Address-in-reply, that this House was a regulations committee. As I said earlier, this House is not being treated as a regulations committee when, after about seven or eight years, the principle is undermined and taken out of our control without giving us an opportunity of discussing the regulations.

We all know that under the Interpretation Act the Government has the right to make regulations, and under the same Act we have the right to amend or revoke them. Any regulation made must be laid on the Table of the House but the regulations to which I am objecting were printed and made public six days after the House adjourned. If ever there was need for a committee such as has been suggested by Dr. Hislop, this is it. A total of 411 regulations were affected in this case; all the previous ones were revoked and approximately 400 new ones were gazetted. But eight months elapsed before this Parliament was given an opportunity of discussing them.

The Chief Secretary: Because a man does his job, you abuse him! The previous Minister went for years and did not do a thing, and it was left for me to do. Yet you are complaining about it.

Hon. L. A. LOGAN: The Chief Secretary cannot tell me that he did not know six days before the end of the last session of Parliament that these regulations would be gazetted. He had five months, while the House was in session, to tell us about it.

The Chief Secretary: Your Minister had five years, and did not do anything.

Hon. L. A. LOGAN: Quite likely; but when he amended the regulations, they were placed on the Table of the House and we had an opportunity to deal with them.

The Chief Secretary: He did not do anything, so he did not have to place them on the Table of the House.

Hon. L. A. LOGAN: We have regulations made under most of our statutes, and in this instance I am dealing with specific regulations made under the Traffic Act. So do not let the Chief Secretary try to get out from under.

The Chief Secretary: You should not try to do that, either.

Hon. L. A. LOGAN: I am not.

The Chief Secretary: Because a man does his job, you abuse him.

Hon. L. A. LOGAN: The Chief Secretary cannot get away from the fact that on eight occasions over the last five or ten years, this House agreed to the principle of major roads. But we do not get an opportunity to discuss the revocation of those regulations until eight months after the new regulations have been gazetted. It is the principle I am objecting to, and I think I am entitled to do that. I hope the House will take into consideration what I have said and, whether our Government or the present Government did it, the principle is still wrong. If something is wrong, let us correct it.

The Chief Secretary: All right; you are wiser than everybody else in Australia!

Hon. L. A. LOGAN: I am not worried about what everybody else in Australia thinks; I am worrying about what we do in Western Australia. Surely, the members of 127 road boards cannot all be numbskulls! They have asked for a revival of the principle of major roads, and does not the Chief Secretary think there is some merit in the suggestion? If he does not, I do.

The Chief Secretary: I can tell you there are about 500 who do not want it.

Hon. L. A. LOGAN: There are not 500 road boards in Western Australia.

The Chief Secretary: I did not say in Western Australia.

Hon. L. A. LOGAN: We are dealing with Western Australia.

The Chief Secretary: I am telling you that 500 do not want it.

Hon. L. A. LOGAN: I trust the House will give some consideration to what I have said. I have been forced to move for a disallowance of these regulations to enable me to discuss them because, under the new regulations, there is not one word about major roads; they are completely forgotten. Therefore I have moved for the disallowance of the regulations to bring the matter before Parliament.

[*The Deputy President took the Chair.*]

HON. N. E. BAXTER (Central) [5.0]: I do not entirely agree with the assertion made by Mr. Logan that part of the regulation covered by his motion is not in the best interests of the State in an attempt to solve the traffic problems or that it will not help to prevent accidents. As this regulation is one controlling city traffic, I believe that the correct rule is to give way to the vehicle approaching on the right. I say that in the light of my many years experience of driving in the city.

Since the regulation was proclaimed, I have found that it has had the tendency to slow down fast drivers. Such drivers realise they have to watch the vehicle on their right instead of careering madly along. I disagree with the regulation wherein it provides that outside the metropolitan area one should give way to traffic coming into the highway from any small side road. When one gets on to the open highway it is ridiculous to provide that a vehicle should give way in such manner where, perhaps, the road is quite clear in some places for a mile ahead. One might also be driving through timber country and someone could dive out from a side road right into one's path.

That provision, therefore, is absolutely ridiculous when applied to main highways in the country. I consider that this regulation should be amended to cover the metropolitan area only and to allow for different conditions on the major roads in the country areas. That is my objection to the regulation, and I recommend to the framers of it that they delete the rule applying to drivers giving way to the vehicle on the right on main highways in the country. Therefore, I support the motion. I ask members to give serious consideration to it and agree with us on this matter.

On motion by Hon. A. R. Jones, debate adjourned.

MOTION—BETTING CONTROL ACT.

To Disallow Licensing and Registration Regulations.

HON. SIR CHARLES LATHAM (Central) [5.2]: I move—

> That regulations Nos. 24, 31, 68 and 92, made under the Betting Control Act, 1954, published in the "Government Gazette" on the 6th May, 1955, and laid on the Table of the House on the 9th August, 1955, be and are hereby disallowed.

Before proceeding to deal with the regulations, I will quote Section 33 of the Act which gives power for their promulgation. That section reads —

> The Governor may make regulations for giving effect to the operation of this Act and without affecting the generality of the foregoing, may by the regulations—
>
> (a) provide for the payment of remuneration and allowances to the chairman and other members of the board and their respective deputies.

Mr. Baxter has asked the Minister a question and an answer has been given and although I know it does not come within the scope of the motion I have moved, I want to draw attention to how loosely these regulations are drawn by the people who have that responsibility.

The Act provides for these payments and allowances to be made to the chairman and other members under a regulation and because no regulation has been completed, I contend that the payments are being made illegally. The Minister might take note of that. I pointed out the other evening that we delegate parliamentary authority to our civil servants and, as Mr. Logan has just said, the delegation of such authority operates for a lengthy period—in the case he referred to, from December until August—before Parliament again has any authority to deal with the regulations to which he drew attention. A penalty is provided against people who violate the regulations, and they are the deciding factor unless a man is taken before a court.

Certainly we have courts of justice which may interpret a regulation, but unless action is taken under the regulation itself the civil servants concerned have power to impose penalties in that respect. That is a dangerous procedure. I hope that in future when Bills are presented to this House and later become Acts, we will carefully go through the provision that allows the proclamation of regulations so that we will be fully cognisant of the authority we are delegating to civil servants.

The first regulation I have moved to disallow is regulation No. 24 which reads—

> (1) Subject to the provisions of the Act and regulations a licence shall be in one of the Forms L4, L5, L6, L7, L8, L9, L10, in the second appendix (whichever is appropriate) and shall be subject to such terms and conditions as are specified in the licence.
>
> (2) A licence shall be delivered by the licensee to the board on demand being made by it.

On turning to the appendix referred to in that regulation, we find it provides for a bookmaker's grandstand enclosure licence. This is all it provides—

> This is to certify .... of............... has been licensed as a bookmaker in accordance with and subject to the provisions of the Betting Control Act, 1954, and regulations.
>
> This licence entitles the holder to carry on the business of a bookmaker in the grandstand enclosure on any racecourse in Western Australia subject to the conditions endorsed hereon.
>
> This licence expires on.......................
>
> Conditions.

Under the word "Conditions" there is a blank. That is a shocking thing. We have given these officers authority to issue a licence and that is the way the Parliament of this State is presented with the conditions—a blank sheet! So, in fact, there are no conditions under which this licence is issued. The Chief Secretary is not present in the Chamber at the moment and, in fact, there is no Government representative in the House. However, I want the Minister to take note that these blank spaces should be filled in. Although some of us may have difficulty in interpreting what the regulations mean, we are not unintelligent, but when a blank sheet is presented to us, I consider that is shocking treatment of members of Parliament. They do not get much help from the Press. As a result of the lack of space in the Press in regard to the legislation passed in this State, we do not get much protection or benefit from the newspapers.

My whole objection to these regulations is based on the fact that no conditions are shown. The licence is supposed to be issued under the regulation, but the space reserved for the conditions is a blank. I want these regulations disallowed so that they will be sent back to the board and it can then tell the members of this House what are the conditions relating to the issue of these licences. After all is said and done, that is what Parliament authorised.

If the board does not do that, we should continue to disallow the regulations. I repeat that I hope, in the future, we will very carefully watch the powers we are handing over to civil servants and ensure, when they are given power to make regulations, that Parliament itself will know exactly what it is dealing with. As I pointed out, under the regulation I quoted, a fine of £5 is provided.

The next regulation I shall quote is No. 68, which is as follows:—

> (1) After considering the application the board may, in its absolute discretion, grant or refuse it and in the case of a refusal without assigning any reason.

Subregulation (5) of the regulation sets out—

> Where the registration is refused, the application fee shall be forfeited to the board for the benefit of the Public Revenue.

I think that is a shocking state of affairs. A person makes an application and it is passed along the normal channels. If it is refused, no reason is given for the refusal and, apart from that, the money he has submitted with his application is not returned. It is bad enough for a man to be refused a licence without having to pay for something he did not get. Accordingly, I hope the House will agree to disallow that regulation.

Hon. J. G. Hislop: What amount do they lodge with their applications?

Hon. Sir CHARLES LATHAM: It does not say, but I think the amount is mentioned somewhere in the regulations.

Hon. J. G. Hislop: It does not matter.

Hon. Sir CHARLES LATHAM: I cannot find it at the moment, but it shows the security to be given by the bookmakers. The fee for an application for a renewal is £2; for a bookmaker's employee's licence, £1, and for an application for registration of premises or renewal thereof, £2. The fees range from £2 to £15. The fee for the licensing of premises, of course, ranges from £50 to £500.

Hon. J. G. Hislop: Do they still keep that £500 if a man does not get his premises?

Hon. Sir CHARLES LATHAM: I am referring only to a bookmaker's licence; I have not been dealing with premises so far. There are quite a number of these regulations which give very little information to Parliament. There is a certificate of registration of premises and that is also a blank. Regulation No. 92 reads as follows:—

> No bookmaker shall keep open registered premises or bet or offer to bet thereon—
>
> (a) except on a day on which the the board has specifically permitted the registered premises to be open to the public; and
>
> (b) outside the hours prescribed in the certificate of registration issued by the board in respect to the registered premises.

I think this refers to the 11-mile and the 30-mile limit and beyond the 30-mile range. I do not know why a man who is entitled to bet should be prevented from doing so at a place like Bruce Rock. There should not be any differential treatment. I feel that we should refer these regulations back to the board and say that we do not want anything discriminatory in them. If a man wants to bet in some place in the North, or anywhere else, he should have the right to place a bet. If the bookmaker wishes to keep open and does not make a living it is nobody's business but his own.

I dislike the Act itself and I feel sure that members will agree with me when we have this sort of thing occurring. If the power is to be given to these people, they should tell Parliament exactly what the conditions are under which licences are issued instead of saying to Parliament, "A licence has been granted and we leave you to guess the conditions under which it has been granted." That is not good enough and accordingly I move the motion standing in my name.

HON. N. E. BAXTER (Central) [5.19]: I agree with all Sir Charles Latham has said. I opposed the institution of legalised s.p. betting in this State; but since we have it, I would like to see the operations run properly. When we have such regulations as those quoted by Sir Charles Latham, it is apparent that the Betting Control Board has written itself a blank cheque, and it is too much to expect Parliament to accept anything like that. Apart from that, I object to the principle contained in the regulations of allowing long hours for betting within an 11-mile radius of the Town Hall, while reducing the time premises may stay open up to a distance of 30 miles, and reducing it still further beyond that 30-mile limit.

Why should not an operator outside the 30-mile limit be permitted to bet under similar conditions to the people inside the perimeter? I feel sure that was not intended by Parliament when it passed this legislation. I am confident that the intention was that s.p. betting should be on an equal footing throughout the State. Parliament refused to accept the totalisator sytem within the metropolitan area and s.p. betting outside the metropolitan area, yet under the regulations we have an unequal system of betting throughout the State, and I certainly object to that.

One of the other regulations deals with the conditions which licensees are bound to carry out. If a blanket cover were given under the circumstances, licensees would not know what they had to carry out. Any conditions could be inserted, and they would have to comply with them. The conditions of one licence could be entirely different from those of another. One bookmaker could come under one set of conditions, and a second bookmaker under another set. I cannot condone such a state of affairs, so I trust that the House will endorse the motion.

On motion by Hon. F. R. H. Lavery, debate adjourned.

MOTION—TRAFFIC ACT.

To Disallow Stop Sign Subregulation.

Debate resumed from the 1st September, on the following motion by Hon. N. E. Baxter:—

> That new Subregulation (1) of regulation No. 191 made under the Traffic Act, 1919-1954, published in the "Government Gazette" on the 9th August, 1955, and laid on the Table of the House on the 16th August, 1955, be and is hereby disallowed.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [5.22]: The hon. member who moved this does not understand what the position will be if his motion is carried.

Hon. N. E. Baxter: Yes, I do.

The CHIEF SECRETARY: If he does, it is all right. What will happen if the motion is carried? He will not achieve what he has set out to accomplish. If the subregulation is disallowed, the previous one will operate, and that compels a motorist to look to both left and right when he comes to a junction, to see that the way is clear before he proceeds.

Hon. N. E. Baxter: That is not so.

The CHIEF SECRETARY: I told the hon. member that he did not understand the implication of the motion. I shall read the regulation that will apply if this subregulation is disallowed. It reads—

> Where pursuant to regulation 297 a sign with the word "stop" is marked, erected or placed on a road at the approach to a junction or intersection, a person shall not drive a vehicle or animal past that sign into the junction or intersection without first stopping the vehicle or animal and ensuring in the case of a junction (not being an intersection) that the junction and approaches thereto on either side of him, and in the case of an intersection, that the intersection and the approach thereto from his right side are sufficiently clear of traffic to allow him to drive with safety past the sign into the junction or intersection.

That is the regulation that will operate if the motion is agreed to. Under the old regulation it was compulsory to give clearance to both right and left at a junction.

Hon. N. E. Baxter: Is this what the department wants?

The CHIEF SECRETARY: No. It is desired to make everything uniform, and to make the rule of giving way to the right apply in all cases. If this motion is passed, then a motorist will have to give way to traffic on both the left and the right at a junction where a stop sign has been erected.

Hon. N. E. Baxter: You are skirting around the position.

The CHIEF SECRETARY: I am not. This is the regulation.

Hon. N. E. Baxter: Is it worded properly?

The CHIEF SECRETARY: Whether it is worded rightly or wrongly, is not relevant. This is the printed regulation and I shall read it—

> Where, pursuant to regulation 297 a sign with the word "stop" is marked, erected or placed on a road at the approach to an intersection or junction, a person shall not drive a vehicle or an animal into the intersection or junction without first stopping the vehicle or animal and ensuring that the intersection or junction, as the case may be, and the approach thereto from his right-hand side is sufficiently clear of traffic to allow him to drive with safety into the intersection or junction.

That is the new regulation and a driver need only to give way to the traffic on the right, but the old regulation, which I read previously, specifically mentions "without first stopping the vehicle or animal and ensuring that the junction and approaches thereto on either side of him . . . are sufficiently clear." The only difference between the two regulations is that the new one brings junctions and intersections into the same category.

Hon. A. F. Griffith: Will the department take a look at places where stop signs are situated?

The CHIEF SECRETARY: That is a different subject altogether.

Hon. J. G. Hislop: What is a junction?

The CHIEF SECRETARY: A junction is where roads meet on a "V" angle. An intersection is where roads cross at right angles. It appears that the hon. member in moving his motion wants to restore the old order of giving way to traffic on both left and right at junctions. I leave it to members to decide what they want.

HON. N. E. BAXTER (Central—in reply) [5.27]: The Chief Secretary is trying to mislead the House.

The Chief Secretary: I do not mind many things being said about me but I do object to that remark.

Hon. N. E. BAXTER: I realise I should not have put it that way. The Chief Secretary has a wrong conception of what the new regulation means. It is the same as the old regulation. The old regulation quoted by the Chief Secretary provides that when a person approaches an intersection where there is a stop sign, he must ensure that there is clearance both to the right and the left before proceeding. The new regulation sets out the same thing and merely adds a rider that a person must make sure that the traffic on the right is clear.

It is desirable that the regulation shall set out plainly that the rule of giving way to traffic on the right shall apply. That was the reason for my moving the disallowance of the subregulation. I did suggest the inclusion of the word "at" in one portion, and the deletion of the word "and" in another. If that were agreed to, the desired effect would be obtained. My desire in moving the disallowance is to enable the Traffic Department to amend the regulation so that it can intimate plainly what is desired.

I do not know if the Chief Secretary interprets it the same way as I do, but the fact that the word "and" is inserted in the subregulation means that, firstly, a person must ensure that the traffic on the right and left is clear, and then ensure that it is clear on the right. Surely the Chief Secretary can understand what the new regulation stipulates. I know from my observation of people who drive vehicles that they are confused by the new subregulation.

When considering this matter, I have spoken to taxi drivers. I would say that they are men who check the regulations

thoroughly with the Police Department, and they assure me that they have been told by the department—as have others from whom I have inquired—that when a motorist approaches a stop sign, he should stop and make sure that there is no vehicle approaching from his right and then proceed; and they agree that this regulation provides that the motorist must see that traffic is clear to the right and the left before proceeding. That is what I object to in this regulation, and I leave it to the House to decide whether it is correctly or incorrectly worded.

The Chief Secretary: How you can put that interpretation on it I do not know, in view of the words—

> ensuring that the intersection or junction, as the case may be, and approach thereto from his right-hand side is sufficiently clear of traffic.

Question put and a division taken with the following result:—

Ayes	9
Noes	8
Marjority for	1

Ayes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. H. Hearn	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. A. R. Jones
Hon. L. A. Logan	(Teller.)

Noes.

Hon. L. Craig	Hon. J. G. Hislop
Hon. E. M. Davies	Hon. R. F. Hutchison
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. R. H. Lavery (Teller.)

Question thus passed.

BILL—RENTS AND TENANCIES EMERGENCY PROVISIONS ACT AMENDMENT.

First Reading.

Received from the Assembly and read a first time.

Second Reading.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [5.36] in moving the second reading said: At the outset, I want to thank members very sincerely for their agreement to the suspension of Standing Orders to enable me to introduce this measure. The intention is that I shall move the second reading and that, unless anybody desires to discuss the Bill forthwith, some member will move the adjournment of the debate until next Tuesday.

The purposes of the Bill are to provide a more adequate piece of legislation and to ensure that the parent Act shall be placed on the statute book as a permanent measure. Members are aware that at present the Act is due to expire at the end of this year, and that certain eviction protections lapsed on the 31st August last.

As a result of amendments made last year, subsequent rent increases have been much higher in Western Australia than in any other State. This is evidenced by figures supplied by the Government Statistician of the house rent index for the capital cities throughout the Commonwealth for each quarter from and including the March quarter, 1954, to the June quarter, 1955. These figures are based on the weighted average of six capital cities during 1923-27, the weighted average being 1,000, and are as follows:—

	Sydney.	Melbourne.	Brisbane.	Adelaide.	Perth.	Hobart.
1954—						
March Quarter	1,318	995	1,004	1,166	1,230	1,271
June Quarter	1,320	997	1,005	1,170	1,632	1,271
September Quarter	1,326	999	1,012	1,176	1,768	1,271
December Quarter	1,330	1,002	1,019	1,184	1,779	1,272
1955—						
March Quarter	1,331	1,008	1,022	1,190	1,795	1,272
June Quarter	1,332	1,006	1,024	1,239	1,837	1,272

Members will note that whereas the average increase for all other capital cities was 24, the increase for Perth was 607. Of this figure the increase for the quarter March to June, 1954, the period during which rent restrictions were lifted, was 402, and for the June-September quarter, 1954, it was 136. Perth figures are staggering by comparison with those of the other capital cities.

If members, when they get the table I have quoted, will study it, they will find how static the position has been in Sydney. There it varied from 1,318 in the March quarter, 1954, to 1,332 in June of this year. In Melbourne the figures went from 995 in the March quarter, 1954, to 1,006 in the June quarter, 1955. The figures for Brisbane are 1,004 for the March quarter, 1954, and 1,024 in the June quarter of 1955.

In Adelaide there was a slight extra rise by comparison with the other States because the figures increased from 1,116 to 1,239. In Hobart they varied from 1,271 to 1,272, a difference of only .001 in the period of approximately 18 months. In the same period, in Perth, they went from 1,230, in the March quarter, 1954, to 1,837 in the June quarter of this year. These are remarkable figures when compared with the practically static figures of the five Eastern States capitals.

Dealing with the effect of high rents on the basic wage in this State, this is the position, since the basic wage was pegged at £12 6s. 6d. in June, 1953. Had the court given adjustments the basic wage would have been:—

September quarter, 1953—£12 10s. 7d.: an increase of 4s. 1d., rent proportion being 3d.

December quarter, 1953—£12 9s. 1d.: reduction of 1s. 6d., rent increase 1d.

March quarter, 1954—£12 12s. 9d.: increase 3s. 8d., rent proportion 4d.

June quarter, 1954—£13 6s. 5d.: increase 13s. 8d., rent proportion 10s.

September quarter, 1954—£13 10s. 4d.: increase 3s. 11d., rent proportion 3s. 5d.

December quarter, 1954—£13 9s. 3d.: reduction 1s. 1d., rent increase 3d.

March quarter, 1955—£13 10s. 7d.: increase 1s. 4d., rent proportion 5d.

June quarter, 1955—£13 16s. 6d.: increase 5s. 11d., rent proportion 1s.

Since June, 1953, the basic wage increase would have been £1 10s., of which, according to the figures supplied by the statistician, the rent increase was 15s. 9d. That would account for more than 50 per cent. of the rise. A recent survey shows that each of the other States has rent legislation on its statute books.

The main provisions of the Act in this State enable the establishment of a fair rents court to deal with applications for the determination of a fair rent. Where parts of premises are concerned, applications may be made to the rent inspector. For determinations in the metropolitan area, the Act provides for the establishment of what is termed the "Metropolitan Fair Rents Court", and all applications dealt with outside that area are the subject of local court proceedings. In broad terms, the landlord and the tenant may agree upon a rental to be charged; and if there is any disagreement, the matter may be dealt with on application to the court or the rent inspector.

The court deals with all premises, excluding those of the Crown, the State Housing Commission, McNess Housing Trust, hotel licences, premises used for grazing areas, farms, orchards, etc., those let for holiday purposes, and premises leased after the 1st August, 1954, for a fixed term of not less than three years. These are all excluded by the provisions of Section 5 of the Act. The rent inspector deals only with parts of premises. There is limited eviction protection, which I will refer to later.

The principle of agreement between landlord and tenant would seem to be a sound one, but in existing circumstances where it is still not easy for a tenant to secure alternative accommodation, there is encouragement for the "stand and deliver" attitude of certain landlords for either payment by a tenant of exorbitant rentals or eviction.

It cannot be denied that the fair rents court has its merits as the court, by its existence, provides a measure of redress for disputing parties to seek a reasonable determination. It also has a deterrent effect on some avaricious landlords who but for its existence would be tempted to fleece their unfortunate tenants. For that reason, therefore, it is desired to continue the operation of the Act and, at the same time, to rectify the defects, and to retain or extend the small measure of eviction protection it provides.

Since the formation of the fair rents court on the 24th September, 1954, some 95 applications have been lodged with the court. Some of these were subsequently discontinued, probably because the lessor and lessee had arranged a satisfactory compromise. Of those applications where a fair rent was determined, the average reduction in rents was 25 per cent. Of 140 lessees advised to approach the court for a determination—

Hon. H. K. Watson: Advised by whom?

The CHIEF SECRETARY: By the Rent Department. Of those lessees, less than one-half lodged applications. It is a fact that many lessees are afraid to initiate proceedings due to fear of subsequent eviction. They have told this to officers of the rent inspector's office. In cases brought to notice in that office, rents generally show an increase of 200 to 300 per cent. on the 1939 rents. In some cases the increase is even greater.

Turning to the Bill, the first proposal relates to the definition of "lease". It would appear that the intention of Parliament was to give to the rent inspector the power to determine rents of all apartment houses under the definition of "parts of premises".

By far the great majority of apartment-houses are, in fact, lodging-houses, the owners or lessors of which, in many cases, supply domestic services in the way of cleaning of rooms, etc.

The definition of "lease" sets out—

> "lease" includes a contract, whether made orally or in writing or by deed, or imposed pursuant to the provisions of this Act, or the repealed Act, or however made or subsisting, for the leasing or subleasing of premises to which the provisions of this Act apply, either with or without the use of fittings or furniture or other goods, or the supply or provision of any domestic service . . . . .

This would seem to cover lodging-houses as well as apartment-houses, but it has been argued that lodgers are not lessees

within the meaning of the Act despite the terms of the definition. In any event, the Crown Law Department doubts whether lodging-houses are covered by the existing provisions.

At one time the matter was dealt with under the Prices Control Act and there was an arrangement between the rent inspector and the Commissioner of Prices by which all lodging-houses were dealt with by the Prices Control Branch. This procedure was aimed at preventing duplication of action. As lodgers predominate in apartment-houses, there is, therefore, need for the authority now requested to be incorporated in this Act. Suitable amendments removing the doubts are desired and they are provided in the Bill.

After the 1st May, 1954, the date mentioned in the existing Act, lessors and lessees may agree on a rental for residential or business premises, but there is always the right of appeal to the court or to the rent inspector. If, however, a three years' lease becomes operative, the premises automatically are excluded from the operations of the Act. When this three-year period was agreed upon in Parliament, it was thought that such a term would preclude deliberate intent to evade the provisions of the Act. In practice, however, this is not the case.

It has been found that although a determination has been made, lessors, in some cases, immediately authorise their solicitor to approach the tenant demanding that a lease be negotiated over a term of three years at a rental higher than that determined by the court or rent inspector. To put an end to this practice, it is desired that a suitable amendment be provided to the effect that where the rent has been determined by the court or rent inspector after the 1st May, 1954, no lease shall be entered into for any period at a rent higher than that determined. It is emphasised that this amendment would apply only in respect of premises upon which the rent has been fixed by the court or rent inspector.

There is a provision in Section 13 of the Act which sets out that after the 30th April, 1954 and before the 31st August, 1955, if a lessor gives a lessee notice to quit, the rent of such premises on and after the date of the notice shall not exceed the amount of rent lawfully chargeable on the 28th April, 1954. This provision was intended to defeat deliberate eviction of a tenant for the purpose of seeking a higher rental, and it is desired to continue it beyond the 31st August, 1955.

It is proposed to make a further amendment to the same section, and, for the purposes of clarity, I will repeat some of the terms just mentioned. It provides inter alia—"that where after 30th April, 1954, notice to quit is given the rent charged after such notice shall not . . . exceed the amount of rent lawfully chargeable on the 28th April, 1954, . . ." This proviso is of value for the purpose of rectifying excessive rents obtained after the 30th April, 1954, by many lessors under threat of eviction or by actual eviction, in cases where the lessee would not agree, and by insistence on the higher rental from an incoming lessee. In other words, the lessor evicts a tenant paying lawful rent in order to secure unlawful rent from another tenant.

Unfortunately, the rent lawfully chargeable on the 28th April, 1954, is based on the standard rent—that is to say, the rent charged at the 31st August, 1939, or the rent first charged after that date, where the premises were not leased at the 31st August, 1939—and many offenders cannot be proceeded against, due to inability to obtain satisfactory evidence of the rental and tenancy 16 years ago. Establishing the standard rent involves, in all cases, extensive investigation almost amounting to research. In these circumstances, it is now practically impossible to secure convictions against offenders where the standard rent must be established, and unless a suitable amendment is obtained, we might just as well accept the position that no prosecution can follow.

The Bill, therefore, originally provided that the lawful rent should be the rent as charged on the 28th April, 1954, unless the contrary was proved. It was considered that no injustice could be done to lessors by such an amendment, as in most cases coming under notice which can be established, the rent charged on the 28th April, 1954, was either the lawful rent or in excess of the lawful rent, but the point is that the amendment mentioned would have ensured the provision of a basis upon which the lawful rent could be established.

What was aimed at by this provision was to discourage the lessor from evicting his tenant in the hope of obtaining an excessive rent from a subsequent tenant. However, this proposal was itself amended in another place in rather an unsatisfactory manner. It is my intention to move a further amendment, and the matter can be discussed in Committee.

The next proposal deals with evictions. Under the Act, any lessee in occupation prior to the 31st December, 1950, is entitled to 28 days' notice to quit, or such longer period as that to which he is entitled at law. A lessee in occupation after the 31st December, 1950, is entitled, at common law, to seven days' notice only or such longer period as that to which he is entitled at law. So that all lessees shall be on the same basis, the proposal in the Bill is that they shall receive 28 days' notice.

Hon. H. K. Watson: Why not level down, instead of up?

The CHIEF SECRETARY: We want to level on an equitable basis.

Hon. H. K. Watson: The State Housing Commission basis, for example!

The CHIEF SECRETARY: Never mind about that! Let us consider whether this basis is just or not. I maintain that in these times seven days is not sufficient notice for the person who must find alternative accommodation.

Hon. N. E. Baxter: Do not do as I do, do as I say! Is that it?

The CHIEF SECRETARY: Members can check with anyone who has had an eviction notice in order to appreciate how hard it was for that person to find alternative accommodation. Under present circumstances, I believe that 28 days is a fair and equitable period of notice.

Hon. A. F. Griffith: I think the existing provision was originally included by the present Minister for Housing, in another place.

The CHIEF SECRETARY: The seven days notice?

Hon. A. F. Griffith: Yes.

The CHIEF SECRETARY: He may have done it under duress.

Hon. A. F. Griffith: No, I was a private member there at the time.

The CHIEF SECRETARY: Then he may have mended his ways since then.

Hon. A. F. Griffith: It would not be a bad idea for him to do that.

The CHIEF SECRETARY: In addition to the protection I just mentioned, the Act provided that where an application was made for the determination of a fair rent to the court or rent inspector, a notice to quit could not be given until three months from date of application. If the court subsequently determined a fair rent at less than 80 per cent. of the rent charged or asked, notice could not be given until 12 months from date of determination.

These additional provisions expired on the 31st August last, and as it is desirable that they be reinstated, a suitable amendment is provided in the Bill.

It is desired to go further in this connection. The provision has achieved the object of overcoming to a great extent the unwillingness of lessees to take positive action against lessors through fear of receiving notice to quit. Unfortunately, however, the only protection granted is in cases where application is made for a determination. There is no protection for lessees who either complain or in any way assist inspectors in investigating breaches of Sections 26 and 27 of the Act. These sections deal with the interference by a lessor with the normal enjoyment of the use of the premises by the lessee, by pulling the roof down, etc., and the making of overcharges in respect of rent.

In practically all cases where the rent inspector has investigated and established overcharges resulting in refunds being made, the lessees were given notice to quit and were subsequently evicted. This was done, despite the fact that in many of the cases the investigations were initiated by the inspector and the lessor informed of this fact. Naturally, lessees are intimidated by threats of eviction and are not only reluctant to lodge complaints in respect of what are known to be serious breaches of Sections 26 and 27 of the Act, but are afraid even to volunteer any assistance to the inspector in his efforts to investigate apparent breaches.

In one case where the department had all the evidence necessary for prosecution, it was impracticable to proceed because the tenants had no protection whatever. Accordingly the Bill proposes that where an inspector serves notice in writing of his intention to exercise any power conferred on him by or under the Act upon a lessor or agent of the lessor, the lessor shall not issue or give or cause to be given notice to quit or terminate the tenancy of the premises within 28 days of service of the notice of intention.

I draw the attention of the House to the unfortunate position of a lessor, under certain circumstances, when his lessee has lodged an application for a determination of a fair rent. Immediately his application is lodged, the lessee is protected for three months, and where the court determines a fair rent which is less than 80 per cent. of the rent charged, he becomes protected from notice to quit for 12 months. There is no protection for a lessor against an undesirable tenant once the tenant has lodged an application, and an amendment is included enabling a lessor to give notice where a lessee has—

(a) failed to pay the rent for a period of 28 days from the due date of payment;

(b) failed to perform or observe some other term or condition of the lease and performance or observance of that other term or condition has not been waived or excused by the lessor;

(c) failed to take reasonable care of the premises or of any goods leased therewith or has committed waste;

(d) been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers;

(e) been convicted, or any other person has been convicted, during the currency of the lease, of any offence arising out of the use of the premises for any illegal purpose, or that a court has found or declared that the premises have during the currency of the lease been used for an illegal purpose; or

(f) become the occupant of the premises by virtue of an assignment or a transfer to which the lessor has not consented, or of which the lessor has not approved.

The Crown Law Department has advised that in the absence of proper provision in the Act, and in respect of certain sections of the Act, once notice to quit has been given the relationship of lessor and lessee ceases to exist, and the occupier is not then a lessee within the meaning of the Act. This is in accord with common law. In consequence, he cannot claim any protection under the relevant sections which deal with overcharges, interference with rights of tenants, etc., and there is provision for offences. Unfortunately, there are many complaints under these sections and in 90 per cent. of the cases offences have been committed after notice to quit has been given.

There was sufficient protection in the Act of 1953, but this was revoked by the amending Act of that year. Reinsertion of an appropriate amendment to put this matter in order is necessary. The Act expires on the 31st December, 1955, but instead of continuing for a further period of 12 months, the Bill seeks to provide for a permanent measure. We do so because, as I mentioned earlier, I do not think anyone will deny the fact that the court has done a good job, and I do not think anyone will deny the right of a lessor or lessee to approach some body in order to get a just decision.

Now that the Act has reached its present stage we believe that there should be protection for both sides and therefore, as the court has been established and has proved itself, we think the Act should become a permanent measure and that we should not have to review the position every 12 months. I move—

> That the Bill be now read a second time.

On motion by Hon. C. H. Simpson, debate adjourned.

ADJOURNMENT—SPECIAL.

THE CHIEF SECRETARY (Hon. G. Fraser—West): I move—

> That the House at its rising adjourn till Tuesday, the 13th September.

Question put and passed.

House adjourned at 6.4 p.m.

Legislative Council

Tuesday, 13th September, 1955.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

MOTION—ROAD DISTRICTS ACT.

To Disallow Petrol Pumps By-Laws.

Debate resumed from the 1st September on the following motion by Hon. L. A. Logan:—

> That amendments to Road Districts (Petrol Pumps) By-laws, 1934, made by the Department of Local Government under the Road Districts Act, 1919-1951, published in the "Government Gazette" on the 27th May, 1955, and laid on the Table of the House on the 9th August, 1955, be and are hereby disallowed.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [4.38]: There is a history to this matter; and rather than rely on my memory, and to make sure that all points are covered, I intend to read from some typewritten notes which I have before me.

On the 12th April, 1935—I would like members to note that year particularly—uniform general by-laws were gazetted for the control of petrol pumps. These by-laws were made applicable to every road district in Western Australia, and they provided that where any petrol pump was placed so that the point of delivery of petrol from the pump was situated within or was extended for delivery to within 10ft. of a street or way, the road board had complete control as to whether it would issue a permit or not. There was no appeal provided against the road board's decision, it being at the absolute discretion of the road board whether a petrol pump could be installed if it came within 10ft. of a street or way. That applied to all road districts in this State. Later I shall inform the House what applies in the other localities. These by-laws are still in force except in those road districts that have by choice accepted the by-laws which are the subject of this motion.