

Legislative Council

Wednesday, the 15th November, 1978

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

QUESTIONS

Questions were taken at this stage.

LEAVE OF ABSENCE

On motion by the Hon. R. F. Claughton, leave of absence for six consecutive sittings of the House granted to the Hon. R. H. C. Stubbs (South-East) on the ground of ill-health.

EXPLOSIVES AND DANGEROUS GOODS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th November.

THE HON. D. W. COOLEY (North-East Metropolitan) [4.39 p.m.]: The Opposition supports this Bill. The powers of the legislation are to be extended to cover cartage of dangerous goods, and the Bill also provides for classifications of goods to conform with United Nations recommendations.

It is of great value, particularly to people in the work force, to have uniform labelling of dangerous goods; because it is these people who almost invariably are called upon to handle them. Mr McKenzie, with his experience of the railways, would know of the difficulty sometimes associated with transporting by rail goods of a dangerous nature which are not properly labelled. The amendment to the third schedule to the Act makes more specific reference to labels.

All in all, this is a good Bill which provides uniformity in respect of dangerous goods. On those grounds we have no hesitation in supporting it.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.41 p.m.]: I thank the Hon. D. W. Cooley for indicating the Opposition's support for the Bill. I assure him his support is well merited; it is very necessary that we have this Bill, as he has said.

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 (Attorney General), and passed.

CONTROL OF VEHICLES (OFF-ROAD AREAS) BILL

In Committee

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

Clause 1: Short title—

THE HON. R. F. CLAUGHTON: I would like to pass a few remarks on this clause as a result of comments made during the second reading debate in respect of the opportunity of people to study the legislation. As the Attorney General quite correctly said this is the third Bill dealing with the subject that has been presented to the Parliament. On each of the previous occasions ample opportunity was given to people to study and comment on the measures. When this Bill was presented to the Parliament, for some reason that has not been made clear, the Government decided the same opportunity would not be made available to interested people. The Attorney General attempted to excuse that by saying interested people had already been given ample opportunity to lodge objections and to advise the Government of their views. However, that was equally the case when the Government introduced the preceding Bill in May, the progress of which was detailed by Mr Oliver.

When the Minister introduced the previous Bill no doubt he could have made similar statements that the Government had given people adequate opportunity to put their opinions to the Government, and that the legislation was in a form that covered all the objections and comments. Quite obviously the Minister's argument could not have been valid in respect of that Bill if an attempt had been made to force it through; and it is no more valid in respect of this Bill because a number of changes have been made, the implications of which have not been fully studied by the public and interested organisations and authorities.

So when it is claimed by the Opposition that the Government is rushing the Bill through Parliament, the claim is based on those sorts of considerations. Obviously the Government feels this is a matter in respect of which the public should be given ample opportunity to comment.

The Government has not felt an imperative need to rush through legislation in the two to three years the matter has been under consideration. Therefore, why in respect of this particular expression of the legislation do we need this rush?

The Bill might be all the things the Attorney General claims it is; it might be perfect legislation. If we accept that point of view I fail to see the value of any further debate from this side of the Chamber. We might as well accept the Minister's word that the legislation is now perfect, and needs no further comment, criticism, or change. Even the Minister would not make that sort of claim seriously for the Bill. Rather than the Labor Party trying to be flippant, I think the Minister could not really have been serious. In fact, he may be open to the criticism of flippancy himself.

Our criticism of the programming of this Bill through the Parliament is justified. Further time should be given for local authorities to make a response to the contents of the Bill. That would not have been unreasonable. If our understanding of the proposed closing date of the Parliament is true, there would have been time in this session for the Bill to have completed its progress.

The Hon. J. C. Tozer: You are better informed than we are.

The Hon. R. F. CLAUGHTON: The closing date seems to change from day to day. The information today is that the closing date has been put forward.

The Hon. D. J. Wordsworth: Perhaps you can tell us. It would help us a little.

The Hon. D. K. Dans: I suggest you ask Mr Grayden.

The Hon. D. J. Wordsworth: I suggest you ask Mr Lewis.

The Hon. D. K. Dans: He is still to come.

The Hon. R. F. CLAUGHTON: Mr MacKinnon suggested that I should advise the Chamber of the lack of progress, or the deficiencies or inefficiencies at the Government Printing Office. I would have been quite happy to do that—

The Hon. D. J. Wordsworth: You are highlighting your own inefficiencies.

The Hon. R. F. CLAUGHTON: The Government, rather, is trying to hide its deficiencies.

I do not wish to continue a criticism of the Government's legislative programme. That criticism has already been made. I do not wish to pretend to be the expert on the faults of the Government Printer. That is a role for the

Government to fulfil. I simply say that our criticism of the Government's handling of this legislation, in forcing it through the Parliament in the way that it has, deserves criticism. It would not have hurt to have held the debate on the Bill over until the end of this week. That would have given local authorities an opportunity to study the provisions of the Bill, and to make their responses.

The Hon. I. G. MEDCALF: I answered this point last night. I do not propose wasting the time of the House by discussing the same matters again. Nothing new has been raised. Mr Claughton had time to study a Bill, but unfortunately he studied the wrong Bill. He admitted yesterday that he had been studying the wrong Bill, and not the one before the House. He has had time to devote his attention to this Bill. I regret he studied the wrong Bill, but he has had today to study this Bill.

He has not said that we could have put this Bill through last night. We could have. I decided that there would be no reason for not allowing extra time.

The Government reaches a stage where it has to govern. When legislation has been around for as long as this has—for three years—and when everyone has had the opportunity of commenting *ad nauseam*, there is no point in delaying. We have received 150 comments or so from all and sundry. I do not think comments have been received from any member of the Opposition. There have been a number of comments from Government members and from local authorities and other interested parties. All comments have been examined most carefully, and as a result a number of amendments have been made.

As Mr Dans pointed out, we could never in any Bill satisfy everybody. The time is eventually reached when the Government must put the legislation forward. We are in the closing stages of our present parliamentary session. The Legislative Assembly has before it some very lengthy Bills. There is no need for me to discuss that. In fact, I would be in breach of the Standing Orders if I did so. However, it is clear that the Assembly has a lot before it. The Bills before the Assembly will come before this Chamber eventually.

It is highly desirable and a sensible move on the part of the Government to space the legislation so that we should have this Bill before us this week in order that adequate attention may be given to it by this Chamber.

I do not know what the member is complaining about. I hope he will not spend too much of the

time of the Chamber on discussing this matter in relation to the title of the Bill.

The Hon. R. F. CLAUGHTON: The Minister gave a predictable reaction to the comments I made. The fact that I picked up, in error, the previous attempt at expressing the desires or the wishes of the Government on this subject simply indicates the possibilities of confusion in the minds of people outside of the Parliament.

It is still relevant to criticise the Government for its handling of this legislation. Any person of reasonable charity would accept that a week is not long enough to obtain the views of people outside the Parliament about new legislation. It was the expectation of my colleagues in the Legislative Assembly that they would be given at least a week. The debate was adjourned for a period a day short of that. That decreased their ability to obtain a response.

I do not wish to prolong my criticism of the Government. The Minister challenged the Labor Party for not making any submissions on the Bill. I would have thought that the Parliament was the place where politicians would debate the legislation, not outside the Parliament. It would seem that the Minister is proposing a new situation—perhaps recognising that the Parliament, as a worth-while institution now, is a very questionable affair.

The Hon. M. McALEER: With reference to Mr Cloughton's remarks, I have seven shires located in my province which are vitally interested in this Bill. Those shires are Wanneroo, Gingin, Dandaragan, Coorow, Irwin, Geraldton and Northampton. All of those shires have been urging the Government to introduce the Bill, not for months but for years. They have reached the situation where they are pleased the Government is putting the Bill through as quickly as possible. Of all the shires involved, the one which is perhaps most concerned with this problem of off-road vehicles is Gingin with its problem area at Lancelin.

From such comments that I have been able to obtain on the Bill the consensus of opinion is that we are dealing with a totally new matter; we cannot be sure how it will work until it is put into practice. It is well understood that the Government is amenable to amendment of the Bill later should that prove necessary. However, the Bill is extremely welcome. The manner of its handling, which will enable its provisions to be put into effect for at least half of the coming summer, is welcome too.

The Hon. D. K. DANS: I wish to refer to the second reading speech which I made last night,

and which I read very carefully today. I hardly had to correct it. In it I made two points. Firstly, I said that we agreed to the principle of the Bill and, secondly, I said there were certain sections of the Bill which I considered to be punitive provisions. Some members opposite used terms to imply that I had not gone around my electorate—

The Hon. G. E. Masters: That you are irresponsible.

The Hon. D. K. DANS: —that I was irresponsible, and that I was creating gloom. I also made the statement that I had contacted 24 local authorities. I found some of them had not seen the present Bill, and some which have seen it have not had sufficient time to study it. One very big shire told me that it would forward post haste by hand its comments on the Bill. I do not think I made any outlandish statements in my speech.

In his reply to the second reading debate the Attorney General was quite fair when he said that not all the councils and shires had been contacted. That statement contrasted greatly with some statements made by his colleagues. The Attorney General said the Bill was not perfect, and he indicated he would move some amendments. In her contribution Miss McAleer, confirmed that.

I am not arguing with any of those statements. What I say is that despite the fact that comments were called from the parties which had been contacted—bearing in mind the Bill has been around for three years—if there were causes for differences of opinion the Government should have been all the more cautious to ensure that the final draft of the Bill was perfect. The Government considered that similar Bills had been around all that time, and as a matter of expediency it decided to bring the present Bill before Parliament. That worries me. This is supposed to be a House of Review, and we should review not only Bills but our attitudes.

The Hon. D. J. Wordsworth: You did a lot of reviewing on the last Bill!

The Hon. D. K. DANS: Committees of this Chamber should be looking at all Bills brought forward, and under a committee system the people in the community could be contacted and asked to make submissions. The Bill before us is one in which such a procedure should be followed. Even in the House of Commons a committee system operates; and in the Canadian Parliament such a system has been operating since 1922 or 1924.

Had these things been done I would not be raising objections to the very pertinent question of punitive powers being delegated to people. I am concerned about the manner in which those

people will operate in certain circumstances, in view of the kind of powers to be vested in them.

The comments that have been made today and last night point to the general confusion that exists in respect of the Bill, certainly on the Government side. The comments made by the Ministers were at variance with the comments made by members behind them.

The Hon. D. W. COOLEY: I wonder how sincere the Government is in respect of its attitude towards amendments, and how much regard it has for the comments made by Opposition members last night in respect of clauses 38 and 42. I do not think the Government takes comments by members on the side of the Chamber very seriously.

It has been claimed that the Government is amenable to amendments, but when amendments are put forward by the Opposition they are accepted on very few occasions. I agree with my colleague, Mr Dans. I do not think sufficient consideration has been given to the Bill. I do not think that the people in the community, and especially those who are affected by the Bill, know the full import of the provisions in clauses 38 and 42. If they were made aware of some of the methods proposed to be used they would be in total opposition to those clauses.

It seems the Government is amenable to accepting amendments only if pressure has been exerted on it. They have come from its own side. How much consideration is given by the Government to suggestions put forward by members on this side of the Chamber?

Members of the Opposition expressed unanimously that the Government should have a second look at the Bill. I do not think anyone believing in a democracy would go along fully with all the provisions in the measure before us. It has been explained to us that the Bill is needed, but that does not mean it should be rushed through Parliament. Some members have indicated similar measures have been around for three or four years; however, they were not in the form of the Bill which is now before us and which was transmitted from the Assembly on Thursday last. We have had only the weekend to give consideration to it.

It is an affront not only to members of this Chamber but also to people who are to be responsible for administering this legislation to find that their views are not given consideration. The Government would do well to give us more time to look at the Bill and at possible amendments.

The Hon. G. E. MASTERS: The Government is most sincere in introducing the Bill. There must

come a time when a decision has to be made, bearing in mind that we have been considering this type of Bill for a number of years, and that we have received many reports, comments, and criticisms from groups in the community, not the least of them being the local authorities. I must point out there are local authorities in my electorate which are not happy with some of the provisions of the Bill.

The Hon. D. K. Dans: You did not say that last night.

The Hon. G. E. MASTERS: I took the trouble to make inquiries.

The Hon. D. K. Dans: Today?

The Hon. G. E. MASTERS: Today and yesterday. I did that just to make sure. I know how the local authorities feel. Sooner or later we, as members of Parliament, must make a decision. Bearing in mind the comments and submissions we have received, and the deputations the Minister has received, we finally put together a Bill which we do not consider to have been rushed but which, in fact, has been put forward after due consideration. In the main, the Bill has been received by the public with relief.

Mr Dans and other members have pointed out that this Bill might not be perfect; but at least it is a start, and the Government has made an effort to overcome a serious problem confronting the community. I do not think there has ever been a Bill put through Parliament in my time which has received greater consideration. The Bill is put forward in good faith after due consideration of the points put before the Government and the Opposition. I would have thought this Bill would have been applauded generally by all members.

Clause put and passed.

Clause 2: Commencement—

The CHAIRMAN: Before proceeding with the debate on the clause, it has come to my notice that a number of members are speaking in a soft tone. It will be of assistance if they would speak a little louder as I am sure the *Hansard* reporter and the Clerks at the Table, as well as members generally, are unable to hear the speaker on his feet clearly. I ask members to bear that in mind.

Clause put and passed.

Clause 3: Interpretation—

The Hon. R. F. CLAUGHTON: In his reply to the second reading debate the Attorney General made reference to an authority that may control this legislation. I am sure he did not intend to create any confusion. As I understand the position, no controlling authority will be set up. The advisory committee will consider the

proposals for prohibited areas and permitted areas. In this clause there is reference to the Road Traffic Authority which will be the registering authority. The local authority will act as the agent for the Road Traffic Authority in respect of registrations. When a local authority agrees that the provisions of the Bill should operate within its boundaries it will be the authority that is charged with the administration of the legislation in that area. Will the Attorney General indicate whether that is the correct interpretation?

The Hon. I. G. MEDCALF: Yes. As I understand the position, the honourable member's interpretation is correct. I am sorry if I have confused the issue. The authority is, in fact, the Road Traffic Authority, but the definition includes a public authority which may be acting as agent for the Road Traffic Authority for the purpose of registration. As the honourable member has said, the task of the authority is in relation to registrations. Under the Bill other tasks are performed in other ways. I believe the interpretation given by the honourable member is quite correct.

I move an amendment—

Page 3, lines 27 to 29—Delete the interpretation of the term “owner” and substitute a new interpretation as follows—

“owner” in relation to a vehicle—

- (a) which is licensed under the Road Traffic Act, 1974, means the owner within the meaning of that Act; and
- (b) in any other case, includes any person who owns the vehicle or an interest therein or is the hirer of the vehicle under a hire purchase agreement, but where the vehicle is owned by more than one person as owner or hirer or otherwise, and one only of those persons is nominated by all such persons, by notice in writing given to the Authority, that person shall for the purposes of this Act be deemed to be the owner of the vehicle;

The amendment will clarify the definition of “owner” which appears in this clause. As the Bill stands, it refers to the person who is the owner of a vehicle for the purposes of the Road Traffic Act.

The definition includes not only the owner of a licensed vehicle under the Road Traffic Act, but also the owner of any vehicle, and it is therefore

desired to clarify the definition by being more explicit. The definition in the amendment is designed to spell out the purposes referred to in the Road Traffic Act. It is substantially the same as the definition extracted from the Road Traffic Act, but it sets out the definition in explicit form so that it is not necessary for anyone to consult the Road Traffic Act to see what it means.

The definition of “owner” now would include the owner of a vehicle which is licensed under the Road Traffic Act, but in the case of a vehicle not licensed it includes any person who owns a vehicle, has a share in it, or is the hirer under a hire-purchase agreement, and where there are several owners, the person who is nominated by all the various owners to be the owner for the purposes of the Act.

The amendment does not change the definition of “owner”, but spells it out more explicitly to make it more easily understandable.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4 put and passed.

Clause 5: Council's responsibility—

The Hon. R. F. CLAUGHTON: Under the clause the councils will become responsible for the administration of the legislation and there has been some misunderstanding about the way in which it will apply. In his reply to the second reading debate the Minister made it quite clear that in circumstances where there are areas which the committee or Minister feels are important enough to be protected, a declaration will be made regardless of whether or not the local authority objects. Therefore, the local authorities are not as free as some people may believe. Certainly it was the impression gained by members who spoke during the second reading debate.

The Hon. G. E. Masters: There is an advisory committee which will be taken into account.

The Hon. R. F. CLAUGHTON: I do not dispute that. I said that the committee or the Minister would make the decision. They would decide that an objection from a local authority was of no avail if the committee considered an area should be protected. That is the point I am making.

Not all local authorities will be represented. As I understand it there will be two representatives of local authorities, but there are far more than two local authorities in the State.

The Minister has said that the licence fees will be paid into a fund to be established, the administration costs will be extracted, and

whatever be the surplus, if any, it will then be apportioned out amongst the local authorities. However, there is no guarantee there will be a surplus, or if there is one that it will be sufficient to cover the costs of the local authorities for the administration of the legislation.

Among other things a local authority is required to do is the marking of the boundary of a declared area. We do not know what will be a sufficient marking of the boundary or what the likely cost will be, but it is a responsibility which has been placed upon the local authorities. Of course, if the boundary is not marked as being a prohibited or permitted area there is room for a great deal of dispute in the policing of the legislation.

It would have been more satisfactory if there had been greater assurance to the local authorities concerning the reimbursement to which they would be entitled in respect of the legislation. Perhaps in the implementation of the legislation and the setting of the fees, the Government would have that particular aspect kept in mind. I do not think there is a great deal of confidence to be gained from the comments made by the Government so far which would lead us to believe there is a guarantee of that being done.

The Hon. I. G. MEDCALF: On the question of the exemption of local authorities, it is true that Mr Gayfer asked me a question regarding the matter Mr Cloughton has now raised. I made it quite clear that a local authority could not simply opt out. It must be subject to the Minister's approval. In fact, this comes under clause 4 to which I will hark back in deference to the honourable member.

Clause 4 is the one which provides that areas of the State may be exempted or excluded. It is not so much the exclusion of the local authority, but the exemption or excision of an area or part of the State which comes under clause 4, and if an area is exempted then the local authorities in that area are not involved. However, it is perfectly true that the discretion rests with the Minister. It is he who decides whether or not an area will be exempted, and not the local authority itself. If that is not clear to anyone let me make it thoroughly clear now.

On the question of costs, I also mentioned last night that it is likely that if a local authority acts as agent under clause 5 it will be remunerated and I indicated it would probably be remunerated on the basis of the present arrangement which applies when a local authority acts as agent for the RTA. As the honourable member said, that is not expressly spelled out, but it is a voluntary act

on the part of the local authority to act as agent. It does not have to so act, but if the local authority agrees to act as agent it is pretty clear that it will do so on the same basis of remuneration as it is now being remunerated in respect of the same service under the Road Traffic Act.

The honourable member referred to what I said last night; that is, from the general expenses will first be deducted the administration costs, and the balance will be paid into a Treasury account. The Minister has indicated that if there is any surplus it is likely it will be paid over to the local authorities. I do not know that we can say what that will be. We are in an unknown area in regard to fees. It is difficult to say what they will be.

The Hon. R. F. CLAUGHTON: When you talk about administration costs, does that include the administration costs of the local authority?

The Hon. I. G. MEDCALF: Yes, certainly.

The Hon. R. F. CLAUGHTON: That is what I misunderstood.

The Hon. I. G. MEDCALF: There is a further item I did not mention last night because it escaped my memory. A third area of funds is available to local authorities; that is, the fines and penalties recovered under the Bill. Whether or not the local authority institutes the prosecution, the fines and penalties are paid to the local authority. This applies also whether or not the authorised officer making the complaint is an officer of the local authority. I did not mention that last night, but it will be dealt with under clause 43.

The Hon. D. W. COOLEY: I am a little concerned about subclause (5) in respect of the employment of authorised officers. It is something I did not realise last night when I was speaking during the second reading debate in respect of the powers under clause 38. Could the Minister tell me whether the Local Government Act refers to a different situation?

In the first place I suppose the council will decide which officers are fit and proper. Secondly, the word "may" is used. Will it be mandatory that they be employed for a reward or will it be possible for such people to be drawn from ordinary citizens and used by the council to enforce the provisions of clause 38? If it is possible for the council to use people in a voluntary capacity, the situation will be worse than we envisaged.

The Hon. I. G. MEDCALF: This reference is designed to give the council the authority which it does not have at the moment to employ persons who will be authorised officers for the purposes of clause 38. Whereas in clause 38 there is a

reference to officers of local authorities being authorised officers, that does not mean the council may employ separate people other than those under clause 38. It refers back to clause 38. Clause 5 is designed to give the council the authority it has under the Local Government Act to do other things and to appoint the authorised officers referred to in the Bill.

One would normally expect that as it is giving the council authority to employ, it will give the council authority to expend money or pay wages or salaries to the authorised officers. If the council were to employ anyone and not pay a salary, the position would still be covered by the clause.

In the normal course one would expect that to cover officers to whom remuneration was payable by the local authority. It would still authorise the local authority to employ somebody without perhaps paying a salary; an arrangement may be made to pay expenses. This will let the council do everything it is authorised to do under clause 38.

The Hon. D. W. COOLEY: In effect then the provision extends the categories contained in clause 38?

The Hon. I. G. MEDCALF: It is not intended to, as I understand the situation. This clause is to give the council the necessary authority to proceed. Where a council employs persons they must be fit and proper persons, but it does not extend the category of persons. We take it that all authorised officers must be fit and proper persons.

The Hon. G. W. BERRY: Under the interpretation clause, the expression "authorized officer" means a person to whom subsection (1) of section 38 of the proposed Act will apply.

Clause put and passed.

Clauses 6 to 9 put and passed.

Clause 10: Under age drivers—

The Hon. R. F. CLAUGHTON: During my second reading speech I referred to the matter of young people having authority to use off-road vehicles, and I said I believed they would be given authority to use very powerful machines. I feel there is considerable danger in this provision, and we should include in the Bill some limitation on the sort of vehicles young people can use. By interjection we were told that the matter had been looked at and it was found not possible to include it in the legislation. An Opposition member interjected to say that the Road Traffic Act was amended recently to include a special category in respect of motorcycles.

The Government should have spent more time in an effort to frame the best possible legislation

for the public generally. The words used in this provision give legal authority to children as young as eight years of age to use quite powerful machines. The Government should undertake to give further consideration to this matter. If it is possible to include such a provision in the Road Traffic Act, it should be possible to do so in this case.

I am not against young people being given the right to use vehicles under supervision. I believe it is an excellent opportunity to inculcate responsible attitudes in the handling of vehicles at an age when children are receptive to such instruction. Many of our problems in respect of young drivers arise because they have control of a vehicle for the first time at an age when they are inclined to disregard the hazards that exist and to have over-confidence in their own powers and abilities. If we can train young people to become competent drivers at an early age, we would have more chance of the 17 and 18-year-olds exhibiting a more responsible attitude on the roads.

The Hon. I. G. MEDCALF: I should like to point out to the Chamber that this clause does not give any authority to an under-age person to do what the honourable member has suggested. It is a negative provision, making it an offence for anyone knowingly to permit a person under the age of eight years to have charge of an off-road vehicle.

The Hon. R. F. CLAUGHTON: It is a legal sanction for those of eight years and over.

The Hon. I. G. MEDCALF: But no express authorisation is given. The honourable member's comments are correct only by implication of what is not said. The clause may tacitly give some authority, but certainly there is no intention that any express authority should be given to young people to have charge of off-road vehicles.

The Government was faced with the awkward situation that submissions were made to permit children below the age of eight years to have the control of off-road vehicles. The honourable member referred to the Road Traffic Act, but under that Act offences apply in relation to roads. They do not apply in relation to the permitted use of off-road vehicles.

While I am the first to admit there can be some danger with regard to vehicles in permitted areas, nevertheless we cannot ignore the awkward fact that many parents and guardians permit children of less than eight years of age to have charge of off-road vehicles. It may seem strange to some members, but representations were made along these lines. We have taken the view that no person should knowingly permit anyone under the age of

eight years to have charge of a vehicle. We have not expressly said it is lawful for older children to have charge of such vehicles, but we have not made it unlawful. Many recreation clubs encourage children to drive these vehicles in a responsible manner, and this is an excellent idea. We have tried to accommodate ourselves to the situation which actually exists.

The Hon. R. F. CLAUGHTON: It seems to me that the Minister criticised some remarks he thought I had made. I understood that this provision applied to children eight years and above, and not to those below eight years. However, I was not talking about that. The Minister agreed reluctantly that the clause gives a sort of legal sanction to children of eight years or more to use any off-road vehicle.

The Hon. I. G. Medcalf: No, I did not say that; I said by implication.

The Hon. R. F. CLAUGHTON: We are using different words.

The Hon. I. G. Medcalf: We are not giving any legal sanction.

The Hon. R. F. CLAUGHTON: It is implied though.

The Hon. I. G. Medcalf: By omitting it, some people would assume it is lawful.

The Hon. R. F. CLAUGHTON: It is not prohibited. The Attorney General is arguing about an issue with which we are in agreement. I agree also that perhaps children below the age of eight years could be permitted to use off-road vehicles of a specified power.

The Hon. G. W. Berry: You could have babies in motorised prams—something like that.

The Hon. R. F. CLAUGHTON: That is a possibility I had not considered. I can see no objection to children below the age of eight years, in association with an organisation or club, using suitably powered vehicles.

The Hon. I. G. Medcalf: We do not agree with that.

The Hon. R. F. CLAUGHTON: I am expressing my belief that the Government has not expressed itself in the most desirable way. Surely a clause could be drafted to fit in with the wishes of the people to whom the Attorney General referred. We could allow children under eight years of age to use certain vehicles under supervision. I am suggesting that further study of this problem is desirable.

Clause put and passed.

Clause 11: Responsibility of owners—

The Hon. I. G. MEDCALF: I have an amendment on the notice paper to this clause, but I would like to explain it briefly first. The amendment really represents a clarification and a grammatical alteration rather than a change of any substance. The object of this clause is to provide a joint liability so that if an under-age driver damages property, or kills or injures someone, then the owner and the under-age driver are jointly liable. It is to provide an additional means of recourse for a person who suffers injury or some property loss, and it will provide additional means of recourse to his estate in the event of that person being killed.

The amendment on the notice paper is simply to express in better form the same thought I have just put to the Committee. It already is in clause 11; strictly speaking, we need not amend it. However, for greater clarification I suggested—and Parliamentary Counsel agreed—that it is better to express it in this way.

I move an amendment—

Page 9, lines 28 to 34—Delete the passage commencing with the word “vehicle” down to and including the word “vehicle” and substitute the passage “vehicle by some other person under the age of eighteen years and lawfully in possession of the vehicle, be liable in respect of the probable consequences of the driving and use of that vehicle, otherwise than on private land by consent, as though he had formed a common intention and acted jointly with that other person”.

The Hon. R. F. CLAUGHTON: I support the amendment. This provision allowing liability to be placed on the owner of a vehicle will have a double effect. Conceivably, it will induce caution on the part of owners in respect of the persons they allow to use their vehicles. I can also envisage some very difficult circumstances arising from the operations of this clause. Perhaps a third party insurance scheme would better fulfil the requirement in the event of a person seeking to recover financial compensation for damage which has been caused. One cannot get blood from a stone, and if the young owner has no assets it does not matter how earnestly one pursues or sues him; nothing will be recovered in respect of the damage his vehicle has caused.

I would like to see this responsibility of owners set down on the licence form so that there is an opportunity to make everybody aware that such a responsibility is attached to the licensing and the use of the vehicle. It is often the case that we make laws and nobody becomes aware of them. It is very seldom that anyone reads an Act of

Parliament until it is too late. Too often a person gets himself into trouble and then becomes familiar with the law.

It is much like the benefit which was available to pensioners; the people most concerned did not necessarily know such a benefit was available to them. People do not necessarily read Government material. If this requirement is quite distinctly stated on the licence form, or if the licensing officer has an obligation to draw to the attention of the person acquiring the licence that he has certain responsibilities under the licence, we may achieve the desired effect.

The Hon. W. M. PIESSE: I support the remarks made by Mr Claughton; I believe people licensing off-road vehicles should be made aware of their responsibilities. Too often, people—particularly young people—do not read the fine print and do not realise the full implication of the responsibilities they are taking on. I hope this suggestion will be taken up with the Minister.

The Hon. I. G. MEDCALF: I believe this to be a good suggestion, and I will certainly draw it to the attention of the Minister. I agree that we must give as much publicity as possible to this kind of thing. I do not doubt that, even apart from putting it on the licence form, it is important that, somehow, publicity be given to these responsibilities.

It is quite true the public does not read Acts of Parliament; the people do not wait on the streets for the next copy of *Hansard* to come out. Therefore, it is something to which we should draw people's attention in a practical way when they are seeking to register their off-road vehicles.

The Hon. D. W. COOLEY: Some relation exists between this clause and the one we have just passed. Despite what people may say about giving children the opportunity to drive high powered vehicles—whether it is with tacit approval or otherwise—I am one who is very much opposed to that proposition. I have seen the consequences of giving children high powered vehicles. I do not think that in one of those cases I have known, particularly in regard to trail bikes, the rider has not met with some sort of injury or has caused injury to other people.

We were told last night that allowing young children to drive off-road vehicles would give them a sense of responsibility and lead to their becoming better drivers at the ages of 17, 18 and 19. That could be so, but in many instances it would simply give them the sense of being bikies, racing their vehicles all over the place.

The Hon. I. G. Pratt: Who said that?

The Hon. D. W. COOLEY: If Mr Pratt will be quiet for a while, I will explain it.

The Hon. I. G. Pratt: Who said that?

The Hon. D. W. COOLEY: If Mr Pratt had listened last night instead of sitting on his backside making caustic comments he would have heard it said. He should shut up for a while. Mr Pratt is a cynical critic of everything which is said from this side of the Chamber. He never makes a contribution to the debate unless he is driven into a corner by someone on this side.

The Hon. I. G. Pratt: I am asking you who said it?

The Hon. D. W. COOLEY: Just be quiet and listen.

The Hon. I. G. Pratt: Stick to the facts. Nobody said that last night.

The Hon. D. W. COOLEY: Mr Chairman, would it be better if I sat down and Mr Pratt made my speech for me?

The CHAIRMAN: Order! The Hon. D. W. Cooley has the floor.

The Hon. D. W. COOLEY: Thank you, Mr Chairman; I was expecting some sort of protection from you.

It is true clause 11(2) provides that the owner of an off-road vehicle shall be jointly liable for any damage caused. However, I draw members' attention to subclause (2), which appears to create a loophole in the law. Let me instance the situation of a well meaning father who allows his eight-year-old son to ride an off-road vehicle, with the intention of making him a better driver when he obtains a licence at the age of 17 or 18. Generally, that child is well supervised whenever he rides the trail bike or whatever it might be.

However, let us suppose that one day while his father is not present he jumps on the trail bike and starts tearing around the place and does damage to property or causes personal injury to a bystander. Clause 11 will provide that injured person with no protection at all. This Bill should provide adequate protection to people subjected to some sort of injury, whether to person or property, by irresponsible juveniles or, in some instances, infants. After all, we are talking about children of eight years of age. They are scarcely out of the cradle, yet they are allowed to ride these sorts of machines.

The Minister said that not everybody reads Acts. I can assure him that lawyers read Acts and, when that injured person attempts to claim some sort of compensation against the owner of the off-road vehicle subclause (2) will provide the loophole which will absolve the parent or owner

from any responsibility in respect of damages. How in the name of goodness can any injured person expect to recover damages from an eight-year-old child? It is quite ludicrous to think he can. The Minister should examine subclause (2) with a view to clarifying the legal responsibility of the owners of these off-road vehicles.

The Hon. I. G. MEDCALF: It is true subclause (2) contains a defence. However, if we examine the defence we will see it is not easy to establish. The parent—or the owner—must say he did not know and could not reasonably be expected to have known and had used all due diligence to prevent the use to which the vehicle was put. That is a fairly stringent requirement. They are not in the alternative; any person defending an action for compensation must be able to prove all three requirements.

Anyone could say he did not know the vehicle would be used in such a manner. However, he must also establish he could not reasonably be expected to have known—in other words, the child who took the vehicle had never before used it, or was not in the habit of using it. He would then have to establish he had used all due diligence to prevent the use of the vehicle—in other words, that he had kept it in a locked shed or had put a chain around it. I am aware that some of these vehicles do not have keys, but if the vehicle involved in the accident had keys the person defending the action probably would have to establish he had removed the keys. So, it is a fairly stringent requirement.

I also draw members' attention to the fact we are talking now about vehicles which are used off the road. It does not matter whether they are registered under the Road Traffic Act or this legislation; all such vehicles would be encompassed by this provision.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 12 to 37 put and passed.

Sitting suspended from 6.02 to 7.30 p.m.

Clause 38: Authorized officers—

The Hon. D. K. DANS: As I said during the second reading debate, clauses 38 to 42 cause me the greatest amount of concern, because here we are repeating the extension of power into hitherto unknown areas. I am fully aware of the problems faced by the Government.

It seems obvious to me that with all the money we have spent on education there must still be wide areas we are overlooking. It is a sad reflection on our society that in order to get people to conform with a minimum standard of

behaviour we have to resort to the proliferation of all kinds of power.

Under this Bill we are dealing simply with off-road vehicles. Anyone in the community, irrespective of his political stance, who has the future of this country at heart must become alarmed at this drift.

In order to make this very obnoxious Bill work we are to appoint a large number of people and grant them wide powers. It is quite reasonable for members of the Police Force to be included. I will not differentiate between the RTA and the Police Force. Subclause (2) reads as follows—

(2) The Minister may appoint any person who is or acts in the office of—

- (a) an inspector, under the Environmental Protection Act, 1971;
- (b) a forest officer, under the Forests Act, 1918;
- (c) a wildlife officer, under the Wildlife Conservation Act, 1950;
- (d) a ranger, under the National Parks Authority Act, 1976;
- (e) a member of the staff of the Museum or an honorary warden, under the Aboriginal Heritage Act, 1972;
- (f) an inspector or honorary warden, under the Waterways Conservation Act, 1976;
- (g) an inspector, under the Fisheries Act, 1905; or
- (h) a prescribed officer of a public authority.

There are quite a large number of inspectors involved with policing the Environmental Protection Act, the Wildlife Conservation Act, and some of the other Acts.

I would like the Minister in his reply to indicate who will fall under the category of a prescribed officer of a public authority. This clause is all-embracing as far as possible appointments are concerned, and it could have a draconian effect. Subclause (3) reads as follows—

(3) The council of a municipality may by resolution appoint—

- (a) any officer of the council; and
- (b) where the Minister by notice published in the *Government Gazette* authorizes the council to do so, any member of that council.

In subclause (5) we see the words "the Minister may appoint any person to be an honorary inspector". The point I make is that the number of people to be involved is quite large. It seems to

me that if all those people are appointed there are sure to be some among them who will abuse the powers they have.

It is understandable that a police officer could apprehend anyone anywhere who was breaking the law. Will a shire ranger have similar wide-ranging powers? Subclause (4) reads as follows—

(4) A person who is appointed as an authorized officer pursuant to subsection (2) or subsection (3) of this section—

(a) has within the area of jurisdiction entrusted to him by the appointment the duties and powers of an authorized officer under this Act, and may exercise such powers within that area;

Does that mean if a shire ranger noticed a beach buggy or trail bike being driven or ridden in an area next to his shire, he would be able to act?

The Hon. T. Knight: This happens now in the shires.

The Hon. J. C. Tozer interjected.

The Hon. D. K. DANS: Later on I shall refer to the powers of building surveyors.

The Hon. J. C. Tozer: They cannot go into the next shire.

The Hon. D. K. DANS: I challenge Mr Tozer to tell me that health surveyors have powers commensurate with the powers contained in this Bill. The powers held by fisheries inspectors and honorary wardens have been brought to the notice of Ministers of both Liberal and Labor Governments. Their powers worry me at times. This sort of power is being proliferated now. This just happens to be a personal worry of mine. It seems that we are continually having to regulate society by imposing all kinds of fines or terms of imprisonment. This is a dangerous situation to be getting into and history proves this sort of thing does not work. There must be something wrong when we cannot get the community to show the right kind of attitude.

The Hon. I. G. MEDCALF: I have listened with great interest to the comments of the Hon. Des Dans. I do not agree with his comments in so far as they relate to this Bill, but I do agree in so far as they relate to the general philosophies of the community. Many sad reflections can be cast on the standard of education and the fact that we have to police our laws to the extent we do. It is a most lamentable situation and I wonder what would happen if we took away our Police Force. No matter what people say about the police at times, it would be difficult to contemplate removing them from our community.

It must be accepted that subclause (1) (a) states that an authorised officer will be any member of the Police Force.

The Hon. D. K. Dans: I accept that.

The Hon. I. G. MEDCALF: As Mr Dans mentioned, police jurisdiction applies throughout the length and breadth of this State; the police are not limited to a shire area. Clause 38(1)(b) states, "any person appointed as such pursuant to subsection (2)". A point that has tended not to be stressed during debate on this Bill is that the Minister may appoint a person. He does not have to appoint anyone from the categories listed, but he may appoint someone if the Minister sees fit. Subclause (2) merely sets out the potential rather than the actual authorised officers.

The criticism is frequently heard in Parliament that when we set up a new organisation such as this—and I refer to any Government—we appoint a whole host of new people who are given new duties. Quite deliberately, the Government has decided it will use existing resources in so far as it is necessary to appoint any of the people referred to in subsection (2). There is no obligation on the Minister to appoint any of the persons listed. I have been given no indication that the Minister has any particular category in mind. He has named a number of officials who are already in existence and already employed by the State to carry out certain functions. I emphasise the word "may"; it is purely a discretionary power. Before appointing someone the Minister will make sure the person is a fit and proper candidate to carry out the duties mentioned in this Bill. I give that assurance, in so far as one can answer for the actions of any future Minister.

With regard to paragraph (h), referring to a prescribed officer of a public authority, that is included simply because there are probably a number of other people who have not been mentioned but who are Government officers of various kinds and have to contend with specific offences. However, they have not been mentioned in this Bill. For example, there are noise inspectors under the Noise Abatement Act, public health officers working for the Public Health Department, and Westrail officers. There are quite a number of other people who, in one way or another, may be suitable to be appointed as authorised officers.

The Government has left open to itself, under the provisions of paragraph (h), the opportunity to prescribe someone else in a State Government authority who can act as an authorised officer if so prescribed. It could be that the Government will appoint someone under paragraph (h) before

it appoints anyone under the provisions of paragraph (e), or under any other heading.

With regard to members of councils, subclause (3) sets out that the council of a municipality may appoint any officer of the council. We go back to the point mentioned by Mr Cooley—clause 5(5)—which sets out that a council may employ fit and proper persons to be authorised officers. The person must be fit and proper. If a council appoints an officer of the council then that person must comply with clause 5(5).

The council may appoint one of its officers, but that officer may have limited jurisdiction within an area allotted to him. It would be the shire area, plus any extra land incorporated, because that extra land does not belong to any shire. For instance, I refer to Kings Park which, no doubt, would be incorporated in the City of Perth. Someone has to look after Kings Park and, clearly, we should not have one authority looking after the river foreshore and another looking after Kings Park. Council control would also include the foreshore between high and low water marks. But, that officer's jurisdiction is restricted to the areas of his appointment just as officers appointed under subclause (2) are restricted to an area of jurisdiction. These two groups—those appointed from the Government section, and those appointed by the council—have their limited jurisdictions which are defined in the instruments of their appointment.

Turning again to subclause (3), the council may by resolution not only appoint an officer, but also any member of the council. It can appoint a member of the council only if the Minister gives permission for the council to do so.

The Hon. D. K. Dans: If the council appoints any officer, it can do so without the approval of the Minister, but if it appoints a member of the council then such appointment has to have the Minister's approval.

The Hon. I. G. MEDCALF: That is so. The Minister has to tell the council it is authorised to appoint any member of its council. The reason behind the provision is that it was felt, particularly in some country towns and perhaps in some remote localities, it might be necessary to appoint a council member who lives in a particular area. Just as councils appoint members in country districts, and make them responsible for bushfire control, a council may appoint a member of the council who has a particular responsibility in the area and who knows the area well and possibly lives adjacent to it. So, there is the opportunity for the council to come in. This method of appointment is not likely to be used in

the metropolitan area. Clearly the Minister will have to accept the responsibility if he allows the council to appoint one of its members. He will have to take the rap if there is one.

With regard to the last point mentioned by Mr Dans, relating to subclause (4), it states that a person who is appointed as an authorised officer, pursuant to subsection (2) or subsection (3) of proposed section 38—

- (a) has within the area of jurisdiction entrusted to him by the appointment the duties and powers of an authorized officer under this Act, and may exercise such powers within that area;

Paragraph (b) sets out that the authorised officer cannot operate outside his area unless he is in hot pursuit.

The Hon. D. K. Dans: That is where it goes bad.

The Hon. I. G. MEDCALF: Unless the authorised officer is actually chasing somebody. It is specifically set out in paragraph (b)—

- may exercise the powers conferred upon him by this Act in relation to any person or vehicle which he has reason to believe is concerned in a contravention of this Act notwithstanding that such person or vehicle is not then within the area of jurisdiction entrusted to him—

And here is the condition—

- if that person or vehicle was pursued from that area . . .

That is, pursued from his own shire area. That is a little different from the old American cowboy film where, when the bandits reached the State border and crossed it, they became safe! An authorised officer will be able to continue in pursuit if he is pursuing an offender from his own area.

It may seem strange to have this pursuit provision but I think members will appreciate there is a requirement to allow a person to be pursued, because from what I have heard these types of vehicles are able to move away fairly fast. When off-road vehicles operate in an area, they disappear like emu chicks when an inspector appears.

I believe this is a necessary power, otherwise as soon as an authorised officer came to the boundary of his area he would have to give up. That could be very difficult and that is the reason I believe the provision is justifiable.

The Hon. D. K. Dans: I realise the problems, but if one considers this matter for a few moments one will see that it is getting bigger and bigger. I

accept the explanations provided by the Minister; they certainly are valid in relation to this Bill. However, the social consequences, and what people think of this measure, are quite different things.

I have no doubt that the Minister may or may not appoint any of those people mentioned in subclause (2), and I am sure the Minister, by notice published in the *Government Gazette*, will be able to authorise a council to appoint a member of the council. The council will have a right to appoint officers of the council, in addition to those other people, and the whole procedure is getting bigger and bigger. I do not know of health inspectors who go over border lines in hot pursuit, and I do not know of building inspectors who have this kind of power.

The Hon. J. C. Tozer: But hygiene is not a mobile sort of thing.

The Hon. D. K. DANS: No, but there is a great deal of difference between a health inspector and the people we are talking about.

The Attorney General has told the Committee that an authorised officer will have the power to pursue a person into another area. I imagine that he will be able to keep following that vehicle as far as it travels. I pose the question: What happens when the pursued vehicle reaches a main highway? Does the authorised officer take upon himself the same power as an RTA patrolman? One can imagine future Sunday afternoons in some areas.

The Hon. I. G. Medcalf: I think you would find the RTA would join in.

The Hon. D. K. DANS: As I understand the situation most RTA officers are home on Sundays, because they are not allowed to earn overtime. Again, the offenders will be out and about during the weekends, and the authorised officers will be incurring penalty rates—as they are entitled to—and the costs will mount and mount.

I now come to the next episode which worries me. Paragraph (c) states that a person who is appointed as an authorised officer may, for the purposes of the proposed Act and in the course of his duty, enter on any land or using only such force as is necessary, may enter a vehicle for the purpose of removing it. A magistrate would have to have the knowledge of Solomon to interpret “such force as is necessary”.

An authorised officer could be of a small build, and he may find it necessary to use an axe to enter a vehicle.

The Hon. G. E. Masters: I think that is exaggerated.

The Hon. D. K. DANS: I am using an exaggerated example. That officer could argue he used the necessary force to enter a vehicle because he was not very strong. This is the kind of legislation which is continuing to roll up all the time. I am not pointing the bone at any particular Government, but we do not fully understand or fully pursue legislation sometimes. Paragraph (d) states that a person appointed as an authorised officer—

shall be issued with a certificate of his appointment as an authorized officer in the prescribed form, evidencing the area of jurisdiction entrusted to him under this Act, which he shall, on reasonable demand, produce for inspection by any person.

I do not want to seem to be smart, but would it not be a fairer and easier proposition to approve the appointment of special constables? They would have all the powers of the police. One could well imagine an over-enthusiastic man, with the best of intentions, coming across four or five vehicles being driven illegally. It would be difficult for an untrained person to try to apprehend the drivers of those vehicles. This will lead to assaults.

Every member of this Committee knows that police patrolmen, travelling by themselves, are extremely reluctant to apprehend a vehicle for a traffic breach when the vehicle has four or five young people in it. The patrolman usually calls for reinforcements, and I do not blame him.

These are some of the dangers inherent in the Bill, and they are real dangers. So do not let us try to minimise them. I hope I am not overstating the case. If I am, it is only for the purpose of informing members and at least putting it into *Hansard* so that people reading it will know this Chamber has had a look at the Bill and has examined all its implications.

The Bill is designed to make people comply with very simple laws in respect of off-road vehicles which, for want of a better name, are fun machines. Already we can see an increase in the number of these vehicles and we do not have to think very hard to realise what the cost will be. It would be very difficult for me to envisage to what extent local authorities will get back the money they invest in authorised officers. The hills will be alive with much more than the sound of music at weekends.

I would like the Minister to tell us how the control will be exercised, whether the officers will be given any instruction in handling people, and

whether they will be instructed to some degree in diplomacy and how to persuade people to comply with the law without getting themselves into difficult situations. This is a very important part of police training, and the situation these people will be in will be no different; in fact they will be worse off than a patrolman who, when apprehending someone in the early hours of the morning, usually calls up reinforcements.

If all the people using these vehicles were responsible people, this Bill would not be here. The law has been broken. I have heard of some of the damage that has been done and some of the terrible experiences families have had, particularly with trail bikes in the bush and beach buggies in the dunes. Not all of the users of these vehicles are irresponsible, but I am raising in this Chamber the possibilities of, firstly, the abuse of power, secondly, danger to those trying to persuade people to comply with the law, and thirdly, the costs involved.

The Hon. I. G. MEDCALF: In relation to the first question the Leader of the Opposition raised, as to how far the authorised officer will be able to proceed when he leaves his area, it will be a matter of discretion, but under the Bill he is permitted to proceed in hot pursuit.

The Hon. D. K. Dans: Anywhere he likes?

The Hon. I. G. MEDCALF: Yes. There is no restriction so long as he is pursuing the other person. However, if he were to come out on a main road and the beach buggy were to go through a town, in the normal course we would expect the RTA to join in. Any RTA officer on patrol in the Williams district, for instance, would probably join in—they are always around when I go through there. In many other districts I could name they would be out chasing the beach buggy on the road, and I think the authorised officer would probably drop out.

The Hon. D. K. Dans: He would if he had any discretion.

The Hon. I. G. MEDCALF: Probably. But it is not right to assume they will be badly trained people, as the Leader of the Opposition suggested. Admittedly, there are badly trained people in all walks of life.

The Hon. D. K. Dans: Perhaps I should have said "ill-trained".

The Hon. I. G. MEDCALF: The aim is to get well-trained people. I do not believe for a moment that just anybody will be appointed as an authorised officer. I think qualifications of some kind will be required. I do not mean formal qualifications, but qualifications by way of training and experience. I have no information on

this aspect but I believe they would have a course of instruction, as the Leader of the Opposition suggested, to familiarise them with the requirements of the legislation, for one thing.

They will be operating in a new sphere and they will not be able to go along and settle things any way they like. It will be a very difficult assignment and they will have to deal with some very difficult people. Anyone who might think it would be a sinecure being an authorised officer would have another think coming. I agree it will be necessary for the authorised officers to have a course of training. Of course, that is not the sort of thing that would be put in the legislation but it would clearly come within the administration of the legislation and no doubt within the regulations. I am sure the matter will be carefully examined.

The phrase "using only such force as is necessary" is not being used here for the first time. It is a time-honoured, well-hallowed phrase which is used in innumerable Acts and is quoted with authority by the courts in many circumstances. If someone is trying to enter one's house one can repel that person only by using such force as is necessary, which is a matter of very nice judgment in the middle of the night. It is an expression which is well known to the courts but it takes some interpreting. That is one of the matters on which some caution and tact would need to be exercised. If an authorised officer came along with an axe and starting chopping into a car, I think it would be an unusual event.

Finally, I agree wholeheartedly with the comment of the Leader of the Opposition that this Chamber should look at every aspect of the matter. There is no reason that we should not examine all these extreme cases. In fact, I think it is a very good exercise, and it is one in which I indulge all the time. I have already examined a number of extreme cases in connection with this Bill. However, we must bear in mind that it is almost impossible to put into words all the situations which may occur between people.

The Hon. D. K. Dans: It would be a very big book if you did.

The Hon. I. G. MEDCALF: Therefore we must have something which is fairly standard and tries to cater for the average situation. I believe that the provisions to which reference has been made must be given a trial and that they will work out reasonably, so long as it is appreciated that the Minister will have the final say as to the people he appoints from these various groups.

The Hon. R. F. CLAUGHTON: As has already been indicated, potentially tens of

thousands of people may be authorised under this legislation.

The Hon. G. E. Masters: That is a gross exaggeration.

The Hon. R. F. CLAUGHTON: It is not. Tens of thousands of people are potentially capable of being authorised under this legislation. Starting with the Police Force and the RTA, we already have thousands of people.

The Hon. G. E. Masters: You are giving the impression that there will be a myriad authorised officers.

The Hon. R. F. CLAUGHTON: Mr Masters said the statement I made was not true, but it is true.

The Hon. W. R. Withers: He said it was wildly exaggerated.

The Hon. R. F. CLAUGHTON: Members may prefer not to believe it, but that is the situation. I do not think there is any room for criticism for stating the plain facts. I am sorry members feel uncomfortable about a statement of the plain facts.

The Hon. G. E. Masters: I am far from impressed by such a remark.

The Hon. R. F. CLAUGHTON: Perhaps the honourable member has not considered that particular aspect.

The Hon. G. E. Masters: Of course I have.

The Hon. R. F. CLAUGHTON: Why is he protesting about it?

The Hon. I. G. Pratt: Do you think there would be in excess of 20 000?

The Hon. R. F. CLAUGHTON: Yes, when we take into account all the people listed here, who include those employed under the Environmental Protection Act, the Forests Act, the Wildlife Conservation Act, the National Parks Authority Act, members of the staff of the Museum, people employed under the Aboriginal Heritage Act, the Waterways Conservation Act, the Fisheries Act, prescribed public officers who may be in any number of unknown areas, all the persons employed in local authorities throughout the whole of the State, and all the persons who are councillors. That potentially runs into tens of thousands.

The Hon. G. E. Masters: The Bill says the Minister "may appoint". That is the important point. I know there is potentially a large number.

The Hon. R. F. CLAUGHTON: The statement I made is quite true. However, it was simply an opening remark; it was not intended to be the substance of my remarks. But obviously members

opposite are quite uncomfortable about it. Their reaction can be interpreted only that way.

The Hon. O. N. B. Oliver: It is an exaggeration.

The Hon. R. F. CLAUGHTON: It is not an exaggeration.

The Hon. Neil McNeill: It is only your repetition of Mr Dans' argument that is causing discomfort.

The Hon. R. F. CLAUGHTON: As I was saying, that was only an opening remark. If we accept that only a small number of those potential tens of thousands are authorised, the Minister will still be asked to authorise under the further provisions of the Bill a considerable number of persons. We are asked to believe the Minister will make a close examination of the qualifications of all those persons to ensure they will be fit and proper persons in the terms of the legislation. I do not think it is reasonable to believe the Minister will be able to make that kind of examination.

When we further understand that some of these provisions are designed to cope with remote places where a smaller number of persons would be available for selection and the difficulties of assessment would be even greater, we can see the problems with which the Minister will be presented. Furthermore, the persons authorised will be given very extensive powers. In paragraph (c) of subclause (4) no clear indication is given of the reasons for which the authorised officer may exercise the power to enter on any land or, using only such force as is necessary, enter a vehicle for the purpose of removing it.

It may be important because he believes the vehicles are being used in a manner detrimental to the environment or are being used dangerously; or he may believe them to have technical faults. The technical aspects are not laid down in the Bill. We are giving these authorised officers wide powers, and the training the Minister has suggested may not be sufficient to encompass technical aspects. It is all very well for the Minister to say they will undergo a course of training; the Bill does not indicate that will be so.

The Hon. I. G. Medcalf: He must have reasonable cause before he enters the vehicle.

The Hon. R. F. CLAUGHTON: True enough. He may believe the vehicle is mechanically dangerous; he may have reasonable cause in his mind to believe that, but lacking technical expertise he may be grossly wrong.

The Hon. I. G. Medcalf: No. He must have reasonable cause, for which he will stand judged if he is wrong.

The Hon. R. F. CLAUGHTON: The Minister may claim that is so, but it is the honest belief of the officer that will be tested in court, not his technical knowledge. No matter how we might try to skirt around this problem, I do not think it can be avoided. That is the only way in which the provision can be interpreted.

The Hon. I. G. Medcalf: He cannot just smash open a vehicle unless he has good grounds for believing something should be done about the vehicle, otherwise he is liable for what he does. Bear in mind his grounds for belief are subject to challenge.

The Hon. R. F. CLAUGHTON: In those circumstances he need only claim he had an honest belief; and until he enters the vehicle or perhaps has it taken away for inspection he has no way of testing his belief. On the other hand will he say, "I have no mechanical knowledge, so I will do nothing about it because my knowledge would not stand up in court"?

The Hon. I. G. Medcalf: No. He must have reasonable cause for believing the vehicle is defective in some way or other, or that there is some other offence in connection with the vehicle. It may be an abandoned vehicle.

The Hon. R. F. CLAUGHTON: It may be.

The Hon. I. G. Medcalf: We are dealing with real cases, not imaginary ones. There are abandoned vehicles.

The Hon. R. F. CLAUGHTON: If the vehicle is abandoned local authorities have powers to remove it under the Local Government Act.

The Hon. I. G. Medcalf: You hope so.

The Hon. R. F. CLAUGHTON: It is a common occurrence.

The Hon. I. G. Medcalf: Local authorities have power to remove vehicles. We are giving this power to remove vehicles within the various prohibited areas.

The Hon. R. F. CLAUGHTON: Simply because somebody believes the vehicle is abandoned?

The Hon. I. G. Medcalf: We are creating areas that people may not enter.

The Hon. R. F. CLAUGHTON: Surely the reason for the provision in the Bill is that the authorised officer believes the vehicle has been used illegally, is in a prohibited area, or is mechanically unsound, rather than that the authorised officer believes the vehicle has been abandoned. Surely some of the reasons the officer would wish to force open and enter a vehicle are that he believes it has been used illegally or is mechanically dangerous, and he wishes either to

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test it or to remove it so that it cannot be used again.

The Hon. I. G. Medcalf: Are you really saying that he should not enter the vehicle?

The Hon. R. F. CLAUGHTON: I am sorry the Minister has lost the thread of what I am saying. Under this provision we are giving to people power to enter a vehicle in the honest belief that it is either mechanically unsound or dangerous; and we are giving that power to persons who may not have the necessary knowledge.

The Hon. I. G. Medcalf: Are you saying this should be done by the local authority?

The Hon. R. F. CLAUGHTON: This person may be employed by the local authority.

The Hon. I. G. Medcalf: You say it should be done under the Local Government Act; is that it?

The Hon. R. F. CLAUGHTON: No, the Minister said it might be an abandoned vehicle.

The Hon. I. G. Medcalf: You have said there is power under the Local Government Act to do this.

The Hon. R. F. CLAUGHTON: Yes, in respect of abandoned vehicles.

The Hon. I. G. Medcalf: That is not the only situation; it could be one of a dozen situations.

The Hon. R. F. CLAUGHTON: I did not propose that situation; the Minister proposed it.

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

The Hon. R. F. CLAUGHTON: I do not know how many times I have to tell the Minister.

The Hon. I. G. Medcalf: I think you should make your point clearly.

The Hon. Neil McNeill: I can assure the Minister if he is having trouble his problem is shared by everyone else.

The Hon. R. F. CLAUGHTON: I think the Minister is being deliberately obtuse, because the thread of his questioning is to attempt to lead the argument away from the point I was making. I think he understands my point perfectly well.

The Hon. I. G. Medcalf: If you make your point in one sentence I will understand it.

The Hon. R. F. CLAUGHTON: If it were simple there would be no need to explain my point at length.

The Hon. I. G. Medcalf: What about explaining it instead of talking about it?

The Hon. R. F. CLAUGHTON: Could the Minister get up and answer my point in one sentence?

The Hon. I. G. Medcalf: If I know what your proposition is.

The Hon. R. F. CLAUGHTON: The Minister is being deliberately provocative and obtuse. I believe he well understands the fact that wide powers are contained in this measure—far wider than it appears on the surface; otherwise this provision could not be effective.

The Hon. I. G. Medcalf: Are you saying there are wide powers in the Bill?

The Hon. R. F. CLAUGHTON: No, in subclause (4)(c). I am saying that a person authorised under the Bill can enter a vehicle if he has an honest belief without having the necessary knowledge to support that belief. The Minister said he must have grounds that could stand up in court, but I say he would need to have only an honest belief that something was wrong, and that is all he would have to demonstrate in court.

The Hon. I. G. MEDCALF: We must be practical about this. If a vehicle is abandoned or is being operated in an apparently dangerous condition or is in a prohibited area, then I believe it is necessary that the authorised officer should have some power to remove the vehicle. It may not be possible for him to remove the vehicle without entering it. Therefore, "entering" means opening the door—if it has a door—and getting into the vehicle.

The Hon. D. K. Dans: If not, use an axe!

The Hon. I. G. MEDCALF: From what I have seen of these vehicles it may not be difficult to enter some of them. Some do not have doors, mudguards or roofs and it would not be difficult to enter them. However, assuming we have something like an armoured car it may be necessary to apply some force and in doing so the authorised officer must take great care that he uses only such force as is necessary and no more. If he uses more force than is necessary he is answerable for any damage he does. In those circumstances I believe authorised officers would be careful.

I believe Mr Cloughton is drawing a long bow and this problem will not arise in the average case. It could be that it might be necessary to use an axe at times, but I do not think that situation would arise often and there is not much point in discussing very extreme cases, although there is no harm in pointing them out.

The Government believes an authorised officer must be armed with powers to carry out his duties, otherwise why have authorised officers? We are not dealing with ordinary vehicles but with vehicles most of which cannot be licensed.

These vehicles are all shapes and sizes. I understand there is even a kind of hovercraft now being used as an off-road vehicle. There are all sorts of problems associated with this, because we cannot categorise all off-road vehicles. Some undoubtedly would be dangerous and unlicensable, because the RTA has condemned them. Such vehicles cannot even be taken out of one's garage without a permit from the RTA.

If Mr Cloughton has ever had experience of a vehicle condemned by the RTA he would know some of them are extremely dangerous. They are not condemned to give the RTA something to do but because their brakes or steering or other parts are faulty. Many such vehicles are used as off-road vehicles and are in a worse condition now than when they were condemned. Probably one would need an engineer's ticket to start some of them, but once they are started they may be very dangerous. That is the kind of situation this clause is designed to cover.

We cannot say we will have authorised officers without giving them the power to enter vehicles. They will have the restraint upon them that they may use only such force as is necessary. I believe that is a reasonable proposition.

The Hon. R. F. CLAUGHTON: Under an earlier clause vehicles may be licensed on the basis of a declaration that they conform.

The Hon. I. G. Medcalf: They cannot be licensed under the Road Traffic Act, but they may be registered under this legislation. They do not come up to RTA standards.

The CHAIRMAN: Honourable members, I request that you raise your voices a little so that they are audible throughout the Chamber. I find it very difficult to hear some speakers.

The Hon. R. F. CLAUGHTON: I should have said that under an earlier provision in the Bill a vehicle may be registered on the presentation of a declaration that it conforms with the requirements. We do not yet know what the requirements will be. The Minister has been telling us of the great variety of vehicles possible. There will be problems with setting standards. It is conceivable that a person could enter an office and have his vehicle registered on one day, and have it stopped while using it the next day. An authorised officer could stop it under this provision, and the owner would not have the ability to argue a particular case in support of his continued use of it.

If there were a provision in the Bill that an authorised officer may stop a vehicle or require that a vehicle be no longer used and, without making a judgement about the vehicle, place a

sticker on the vehicle so that the owner would have to take it for inspection by a person trained to make the proper examination, there would be no problem. That would be more acceptable than the way it is laid down in the Bill. The authorised officer, who may have no or very little mechanical knowledge, has powers under the Bill, and he can make the judgment on the spot. If the type of provision I have envisaged were incorporated into the Bill, a lot of our objections would be removed.

There was a further point I wished to make on this clause. It slips my mind at the moment.

I will ask a further question of the Minister. I am not clear, on my reading of the Bill so far, on this aspect. The authorised officers are officers appointed by the council. The authority will relate to lands that are permitted or prohibited by declaration under this Bill. I was wondering whether the power also extended to land that was not in those two categories—private land or Crown land. Does the power of the officer enable him to take action on that third category of land? I have not been able to determine that from a study of the Bill.

These registered vehicles are not permitted on the highways. They are registered for off-road use. Any person using a vehicle on a highway or on a gazetted road would be infringing the traffic code. If it was on Crown land, would the powers of the authorised officer extend to that case, since it is neither prohibited land nor permitted land? I ask this question, because this is one of the difficulties in my electorate. The shire rangers, who are council officers—I would like them to be authorised under the provisions of this Bill—were not able to take action against off-road vehicle users operating on Crown land. I ask whether that aspect is covered in this Bill.

The Hon. W. R. WITHERS: I am rather concerned about this debate. I am not concerned about the Bill. It appears to me that the depths to which the member has been digging are reaching the extremes of absurdity. If we were to debate to the extremes that the member has been debating tonight, we could be here for months or even years on this Bill.

The Hon. K. D. Dans: Do not say things like that!

The Hon. W. R. WITHERS: I will go to the point of absurdity to make my point. I will refer to the definition of "vehicle" under this Bill. It is referred to in this clause. "Vehicle" means a vehicle that is propelled by an engine or other mechanical source of power. All legislation, surely, is meant to be administered by people of common sense. However, if we were to go to the

extremes of absurdity and if we were to play with semantics, as I have just done, and refer to the dictionary, we would find that a person on a pogo stick could be considered to be riding a vehicle. We would have to go through all this nonsense in relation to somebody riding a pogo stick.

The Hon. D. K. Dans: You and I would not get far on a pogo stick.

The Hon. W. R. WITHERS: I agree. I would not even attempt to ride one.

Members are well aware that a pogo stick is simply a stick with a spring on it and two pieces of metal out the side for the rider to place his feet on. I am sure that the architects of the Bill—

The Hon. D. W. Cooley: Do you need a licence for that?

The Hon. W. R. WITHERS: It would appear that the definition of "vehicle" in this Bill would apply to a pogo stick.

The Hon. R. F. Cloughton: The member is trying to introduce a degree of humour into an otherwise serious debate.

The Hon. W. R. WITHERS: If we are to extend the debate to degrees of nonsense, we will be here for a year debating such things as whether a pogo stick is a vehicle under the definition in the Bill—which incidentally it is.

The Hon. I. G. MEDCALF: I will comment briefly on Mr Withers' remarks. This is a problem. The definition of "vehicle" is very wide. There has to be an engine; but there could be any number of different situations. I have mentioned that hovercraft are being advertised and sold, I understand, as off-road vehicles.

The Hon. D. K. Dans: You would have a very big debate on that.

The Hon. I. G. MEDCALF: I doubt whether they even have wheels.

The Hon. D. K. Dans: Are they a flying machine or a vehicle?

The Hon. I. G. MEDCALF: They do not have brakes. They do not need them.

The Hon. D. W. Cooley: They would be off-road.

The Hon. I. G. MEDCALF: There are many different vehicles. There are dune buggies and beach buggies, and various kinds of fun bikes—motor cycles which are adapted for what they call motocross, which is a kind of sport. The vehicles are adapted for various cross-country purposes, with all sorts of tyres, and so on. There are vehicles without any warning devices on them; vehicles without headlights; vehicles without

doors. As I say, I believe there are vehicles without wheels.

In answer to Mr Claughton, I believe that an authorised officer is appointed for an area. The police officers are appointed for the whole State; they can operate anywhere. Police officers can arrest people on roads, or on private property. The authorised officer, on the other hand, is appointed for the shire area, plus the odd bits around it that are contained in his area, as I explained. Therefore, if an offence is committed outside a permitted area or a prohibited area, the authorised officer has authority to enforce the law.

An off-road vehicle can only use permitted areas. It cannot use any other area. However, some of the vehicles in use are licensed under the Road Traffic Act. Those vehicles can enter other areas besides the permitted areas. They can enter Crown land. They cannot enter the prohibited areas.

The Hon. R. F. Claughton: They are also licensed.

The Hon. I. G. MEDCALF: Yes.

The Hon. R. F. Claughton: We are talking about the ones that are only registered.

The Hon. I. G. MEDCALF: Off-road vehicles are only allowed in the permitted areas, and nowhere else—unless the owner of an off-road vehicle is required to report to the nearest police station or such-and-such a garage for an inspection of the vehicle. Normally, off-road vehicles can only be ridden or driven in the permitted areas.

If an off-road vehicle is used outside the permitted areas, the authorised officer who has jurisdiction in that shire area can enforce such of the provisions of the Bill as may be enforceable in that area. He may stop the vehicle, enter it, ask the driver for his name and address, and inspect the vehicle to see whether it has a plate on it. I believe the authorised officer is entitled to do that on private land, if the vehicle has entered private land. The officer is entitled to do that on Crown land which is outside the permitted areas.

The Hon. K. D. DANS: I wish to obtain some information from the Minister. Members should bear in mind that the Opposition supports the Bill. However, the further we refer to this Bill, the more convinced I am that it is another brick in the monument to Parkinson's law. While Mr Medcalf gives his explanations, members in this Chamber must be starting to think of the terrific cost which will be involved in the enforcement of this Bill. It will be great. I do not know of any other solution to the problem; but when one

considers that some of the vehicles we are discussing may be worth only \$100, and authorised officers will not work at weekends for nothing, there will be a problem. There needs to be an exploration of where the money will come from to pay the costs in certain shires. It could be an extremely costly business, having to enforce the law in an area where there are not many ratepayers. Such areas will be where these vehicles will be operating.

It will be expensive to try to enforce the law. Such enforcement should come naturally to our citizens, but for some unknown reason it does not. We will experience a number of strange situations.

The vehicles are, in the main, fun machines which people use for recreational purposes on weekends. There are some exceptions, of course.

I wish to refer to subclause (8) which reads as follows—

(8) An authorized officer may require any person to permit him to examine and test drive a vehicle—

The Hon. W. M. Piesse: "In the possession of that person".

The Hon. D. K. DANS: "In the possession of that person". I was coming to that. I do not think an officer could go and say, "You have a garage full of vehicles. I want to test drive them. The subclause continues—

—in the possession of that person and may require that person to unlock or open any such vehicle and to deliver any key relating thereto,

This is a very wide power and I doubt whether one would find such a power in the Criminal Code. I do not think such power is even given to the police. I certainly do not know the criteria which will guide the authorised officers who have to apply the provisions of the Bill.

The situation becomes more complicated as we go through the clauses. I agree with the Attorney General that an authorised officer should be specially chosen. Such officer would need to undergo rigorous and long training.

I should like also to hear from the Attorney General as to how many of these vehicles are abroad. Mr Masters said there was a massive number.

The Hon. G. E. Masters: You really like that word, I do not think you could make a speech without it now.

The Hon. D. K. DANS: The Hon. Gordon Masters is the person who used it first.

The Hon. G. E. Masters: But you are using it consistently.

The Hon. D. K. DANS: I should like to know what the member meant by "massive". This is a Draconian clause and well-trained people will have to implement it.

The Hon. J. C. Tozer: And a massive number.

The Hon. D. K. DANS: I agree with the honourable member; it will take a massive number of people to implement the Bill. We probably do not know how many off-road vehicles there are, because they are not registered. However, the Attorney General should have some indication of the number. It was said in the Attorney General's second reading speech that some of these vehicles are worth \$100. I cannot imagine they are worth \$100 only, because one does not get much for \$100. The cost of implementing this Bill will be tremendous and that is a better word than "massive".

The Hon. I. G. MEDCALF: Nobody has suggested that certain costs will not be involved in implementing the Bill. However, I do not believe there is any reason to think the costs will be tremendous. It is true that I said some of these vehicles have been valued at a figure as low as \$100.

The Hon. D. K. Dans: I am not holding you to answer for that.

The Hon. I. G. MEDCALF: However, I believe most of them would be worth a little more than that. I imagine if a vehicle was considered to be unsafe by the RTA and did not have much commercial value it would acquire additional value if it were stripped down, painted, and jazzed up a little. That is what goes on, as the honourable member knows. I do not believe the cost will be as high as the honourable member has suggested. Nobody knows exactly what the cost will be.

I do not believe anyone could tell the honourable member the number of beach buggies in Western Australia. A census has not been taken; but according to reports from local authorities they feel justified in complaining about the number of these vehicles in their areas.

The Government believes it must take action and for that reason we have introduced this legislation. We believe it will be the means of bringing the situation which we are faced with presently under control.

We must bear in mind under subclause (8) that the power to examine and test drive a vehicle is not being exercised in connection with an ordinary vehicle.

The Hon. D. K. Dans: That is the point I am making.

The Hon. I. G. MEDCALF: The vehicles tested may be a danger to others and they may be unsafe. Reference was made in the clause to the fact that an authorised officer, where he has reason to believe any vehicle is so constructed or in such condition that it is likely to cause danger to any person or damage to property, may take certain action. Also if the officer believes the vehicle does not comply with the requirements laid down in the regulations regarding noise, for example, he may take action. If a vehicle is emitting sparks from its exhaust pipe and creating a fire hazard as some of them do, it must be stopped. That vehicle must be tested and we cannot allow it to continue to be driven.

The authorised officer must have the power to stop and examine these vehicles on the spot. The action he may take is laid down in subclause (8) and I invite the attention of members to it. He may attach to the vehicle a notice, which is commonly called a yellow sticker. He puts a yellow sticker on the vehicle, because he believes it is likely to injure persons or damage property. In other words, it is either a menace to other people using the area for their own legitimate purposes, or it might be liable to start a bushfire. It may not have an identification plate so it can be driven anonymously and nobody knows the owner of it. The vehicle may be unsafe or dangerous.

In those cases we must give an authorised officer the power to act. What is the use of having a Bill which officers are supposed to police if they do not have the powers to exercise their duties? These powers must be provided when dealing with these types of vehicles. We are not talking about vehicles which comply with the requirements of the RTA—vehicles which have headlights and brakes, and are liable to be tested by the RTA. We are talking about all sorts of indiscriminate vehicles which may appear in an area and about which nobody knows until they arrive. They appear out of nowhere.

Clearly an authorised officer who is given the task of implementing this Act has to have the power to stop and examine such vehicles and, if necessary, test drive them. If the vehicle is considered to be unsafe or dangerous, he must have the power to put a yellow sticker on it.

The Hon. D. W. COOLEY: The Minister drew an analogy between the sheriff pursuing a bandit over the border and controlling these off-road vehicles. However, in most of the movies I have seen it does not matter how bad the villain may

be; the sheriff usually extends to him the courtesy of bringing him back on his own horse whether he is dead or alive. However, under this Bill an authorised officer may pursue, stop, and detain any vehicle he believes to be driven in contravention of the provisions of the Act. He may cause the vehicle to be placed in safe custody and he can leave the baddie standing like a shag on a rock out in the desert somewhere.

The Hon. W. M. Piesse: He cannot drive home the vehicle if it is unroadworthy.

The Hon. D. W. COOLEY: The person may be driving the vehicle in a permitted area and behaving in a legitimate manner. One of these so-called authorised officers, the warden of the Museum, for instance, may come along and say, "You are in a vehicle which I think is not roadworthy or not suited for this purpose." The authorised officer may take the vehicle and leave the driver standing there without access to alternative transport. Someone said this could occur at Bremer Bay; but at least the people down there are friendly.

The Hon. T. Knight: He has to have his on-road vehicle to get there in the first place.

The Hon. D. W. COOLEY: He might be 20 or 30 miles away from his on-road vehicle. However, this could occur under the Bill. If we made a few amendments and stopped at subclause (8), this provision would be acceptable to everybody in the Chamber. That would give the authorised officer power to stop a person he believes is driving a vehicle in contravention of the Act. The officer may take the driver's name and address and pass on the information to people who are authorised to take action at law against the driver. However, the Bill contains a provision whereby the officer may use such force as is necessary. I suppose that includes physical force. If the driver said he would not allow the authorised officer to enter his vehicle, the officer may need to use physical force. Perhaps the member of the Museum staff might not have that force at his disposal to enter the vehicle.

The Hon. G. E. Masters: You have Museum staff on the brain.

The Hon. D. K. Dans: If he had his axe he would not have any problems.

The Hon. D. W. COOLEY: The authorised officer has then the power to examine and test drive the vehicle whether or not the driver likes it. The officer may require the driver to unlock the vehicle.

The Hon. I. G. Medcalf: That is better than taking an axe to it, is it not?

The Hon. D. W. COOLEY: The authorised officer should not have that power. He may then attach a notice to the vehicle prohibiting the use of it. Where do these authorised officers obtain the knowledge and expertise required to implement the provisions in the Bill? A member of the staff of the Museum if he has been duly appointed by the Minister may approach a vehicle and put a sticker on it saying it is not roadworthy. He may have no experience in this regard.

The Hon. N. E. Baxter: RTA officers may take such action.

The Hon. D. W. COOLEY: That is correct; but surely we do not intend to turn Western Australia into a police State where every Tom, Dick, and Harry has the authority to apprehend people, seize their vehicles, and take all sorts of actions which are not provided for under other Acts. In relation to the interjection by Mr Tozer regarding public health officers and noise abatement officers, I agree we should give authority to these officers to take action when someone is contravening the Act they administer. Health officers are experts in their particular field; but a number of the people who will be appointed as authorised officers under this particular clause are not experts in the field of testing vehicles or saying whether they should be driven in one way or another.

There may be a legal explanation for this, but having taken this unheard of action in respect of seizing people's vehicles, using force, and taking away keys, we turn to subclause (13) and examine the provisions set out there. Even the basest criminal who is taken into custody and has his possessions removed is given a receipt for them. If anything is missing or damaged after he has been sentenced, the Crown has a responsibility to reimburse him.

Under this provision the vehicle may be removed from the owner and stored in the most ungodly place. If someone damages the vehicle the person who apprehended the driver is not responsible and the Crown is not responsible for any of the damage.

The Hon. T. Knight: Do you think he needs to be worried about that kind of thing 30 miles from Bremer Bay?

The Hon. D. W. COOLEY: They would not be completely safe at Bremer Bay either, if I know some of the people Mr Wordsworth knows down there.

What if it eventually transpires that the person whose vehicle was seized was apprehended wrongly, that the authorised officer made a mistake, and when that person goes to pick up his

vehicle he finds it has been damaged? As I read this provision neither the Crown nor the authorised officer is responsible for any damage that is done.

The Hon. W. M. Piesse: If the vehicle is seized with reasonable cause.

The Hon. D. W. COOLEY: They do not have to have reasonable cause for many of the things they do. An authorised officer can stop, seize, and claim any vehicle which he has reason to believe contravenes or was used or driven in contravention of the legislation. It is a matter of his state of mind. We come back to the member of the staff of the Museum who apprehends a vehicle and, in his state of mind, thinks it reasonable that the vehicle should be taken off the road; he impounds it, the vehicle is damaged, and the owner has no redress. Despite what the Minister says, there are "bombs" in the sand dunes, but some of these kids put a lot of money and time into their vehicles, and if a vehicle has a little defect it is taken away. It is a rank injustice.

The Hon. I. G. Medcalf: What would you do if a member of the Museum was chasing you with an axe?

The Hon. G. E. MASTERS: I am rather sad at the way the debate has deteriorated. It is a very important Bill to most people in this Chamber. We have heard all sorts of suggestions and wild statements.

I thought the Leader of the Opposition was in a more conciliatory mood today, after the rash statements he made last night. He started off in a reasonable manner, and then we had a fellow running around with an axe trying to smash vehicles. We had Mr Claughton talking about tens of thousands of inspectors running around the bushland looking for vehicles. Now we have Mr Cooley with someone standing in the middle of the desert.

These gross exaggerations are not worthy of this Bill. The suggestion that all inspectors in various departments will be made authorised officers is ridiculous. The Bill will not be enormously costly. All we are doing is giving extra powers and duties to certain officers. It is not true that extra costs will be involved. The shire ranger is already working in the district, and the fact that he will be able to take action against the owners of these vehicles is merely an extension of these powers. We do not need extra officers.

I suggest members of the Opposition should take the Bill a little more seriously and, rather than criticise it, make suggestions as to how we can implement the legislation. If we cut out many of the propositions in clause 38 the Bill will be

ineffective. If that is what members of the Opposition want they should make it clear, rather than criticise without making alternative suggestions.

The Hon. GRACE VAUGHAN: There does seem to be a rather punitive connotation about the Bill, which worries me somewhat. Does subclause (13) mean that the authorised officer is not personally responsible? I can understand the subclause being included for the purpose of protecting him. We do not imagine he will be infallible. Some people will make mistakes by being a little rough or having heated exchanges about the confiscation of vehicles, and so on. Does subclause (13) mean the authority will also not be liable for any damage done?

When a vehicle is confiscated in good faith, any of a number of things could happen, such as the tow truck dropping it off or someone else running into it. Is subclause (13) intended only to exclude the authorised officers or does it mean no authority will have any responsibility for confiscated vehicles?

The Hon. I. G. MEDCALF: I will comment first of all on the points raised by Mr Cooley. He asked, in relation to subclause (11), what right an authorised officer has to go up to the driver of a vehicle, when the vehicle is entitled to be where it is and the owner has not broken the law, and seize and detain the vehicle. The answer is that the vehicle is not licensed under the Road Traffic Act or registered under this legislation and the identity of the driver cannot be established to the satisfaction of the officer. The vehicle has no identification plate, neither an RTA plate nor a plate under this Bill.

The Hon. D. W. Cooley: If I took my car out on the road the RTA would not seize my vehicle.

The Hon. I. G. MEDCALF: The RTA officer would stop a vehicle if it did not have a licence plate.

The Hon. D. W. Cooley: He would stop me but he would not seize the vehicle.

The Hon. I. G. MEDCALF: We are dealing here with a substandard vehicle in an off-road situation—an isolated situation, probably in one of the permitted areas—which is distinct from a vehicle in a town or on a road. Here there must be reasonable cause, and there is an indication because the vehicle has no identification plate. But that is not enough on its own; in addition the driver will not state his identity. In such a case the authorised officer who is in an isolated situation must have some power to take action. It is of no use putting a yellow sticker on the vehicle;

we can imagine what would happen to the yellow sticker.

That is the reason for the provision. It could not be said the driver is a legitimate driver, such as the driver of a motorcar out on the road, the registration plate of which had fallen off.

In respect of subclause (13), an authorised officer cannot just do as he pleases. He cannot act negligently. He must have reasonable cause to do what he is doing, and not be acting only on his own belief, as Mr Cloughton suggested. A reasonable cause is one which is liable to be found reasonable if tested in a court at some future date. In other words, it must be something which, in accordance with the average man's understanding, is reasonable. He cannot behave in an unreasonable manner. He cannot go up to a vehicle with a plate on it and say it has not a plate on it. He cannot take any such action if the driver is complying with the requirements of the law. It is an important safeguard that he must have reasonable cause.

There is not in this Bill a clause such as the one we find in many Acts. I can well remember arguing when we were in opposition about some of the draconian clauses—

The Hon. D. K. DAns: That is a dreadful word.

The Hon. I. G. MEDCALF: I have used it only once, and I am referring to Bills brought in by the Labor Government, and the draconian clauses in some of those Bills.

The Hon. R. F. CLAUGHTON: It is not true.

The Hon. I. G. MEDCALF: Would the honourable member like me to mention some of the Bills? Some of them were amended in this Chamber but others were not. In one instance an extra clause was added at the end of a Bill which stated that nothing done by any person in connection with the carrying out of his duties under the Act would render him liable for any proceedings or action for negligence or otherwise howsoever, nor would any prerogative writ lie against any such person. The Bill now before us does not contain such a clause. Here the officer must have reasonable cause, otherwise he is liable. It is not as bad as the honourable member thinks it is.

In answer to Mrs Vaughan, the authority's liability does not come into this. Mr Cloughton made this clear in his earlier comments when he asked, "How far does the authority act?" It acts only in relation to the registration of vehicles. The authority as such is responsible only for registration. The rest has to be carried out by the authorised officers appointed by the Minister, the local council, or the Police Force. They carry out

the duties which are given to them and they must act with reasonable cause, otherwise they are liable.

The Hon. D. K. DAns: I want to correct a few misunderstandings on the part of Mr Masters. First of all, I do not think I made any rash statements last night. I treat this Bill very seriously.

The Hon. D. J. WORDSWORTH: You had gas chambers last night!

The Hon. D. K. DAns: I treat this Bill very seriously and I believe we need to know what is in legislation.

In answer to the Attorney General, I made the statement earlier tonight that all Governments had brought in Bills of this nature and that punitive powers had expanded almost daily. I might also say that up to date we have not objected to the Bill in principle. We are now dealing with clause 38 and we have not voted against one clause yet, but we are seeking some explanations.

I fail to see how this Bill will not be expensive to implement in terms of money. Certainly we will be using officers in the course of their normal business, but not at weekends. Mr Masters, of all people, should know what the penalty rates are at weekends. Bearing in mind that some of these vehicles may be worth only \$100 or \$200, three or four officers working on penalty rates over the weekend will entail a fair amount of expense to the local shire council or whoever employs them. I am fully aware of all the problems confronting the Government. The Government could have banned off-road vehicles altogether.

The Hon. I. G. MEDCALF: That would have displeased a large number of people.

The Hon. D. K. DAns: I am fully aware of that. I sympathise with the Attorney General when he says this Bill is not perfect. It is exploratory legislation, if that is the right term, but we must know what it means. Even when we were in Government I was afraid of putting extra power into people's hands if it could be avoided.

Subclause (8) refers to the test driving of a vehicle, and I will again use an extreme example. The driver of an off-road vehicle may be apprehended by an inspector appointed under the Fisheries Act.

The Hon. I. G. MEDCALF: And he might be drunk too.

The Hon. D. J. WORDSWORTH: He could be a criminal, you know.

The Hon. D. K. DAns: That is so. One former member of the New South Wales Parliament was

ultimately hanged in England. Some of this gentleman's political opponents in Sydney disappeared—he fixed them properly, and not in the ballot box! The point I am making is that I do not know what yardstick an inspector will use when he test drives a vehicle. From the answers given by the Attorney General, it appears that he does not know this either. He told us that these vehicles could not pass an RTA test, so that cannot be the standard. In my opinion no criteria will be laid down; a decision will be made by the officer who tests the vehicle. He could say that the vehicle is not a fit and proper vehicle to be operating in the area concerned. However, the officer operating in the next prescribed area—for want of a better term—might hold a completely different view of that vehicle. The way these vehicles are constructed, it would be almost impossible to lay down hard and fast rules.

I do not want to be a pettifogger, but I would like to know what the officer will do. Will he attach a yellow sticker to a vehicle which does not meet certain requirements? We do not know what the prescribed requirements are.

The Hon. I. G. Medcalf: They will be laid down.

The Hon. D. K. DANS: The subclause states that he may attach to the vehicle a notice in the prescribed form.

The Hon. I. G. Medcalf: That is what is commonly known as a yellow sticker.

The Hon. D. K. DANS: Will it be the same type of yellow sticker used by the RTA?

The Hon. I. G. Medcalf: In relation to the prescribed requirements, yes.

The Hon. D. K. DANS: But we do not know what they are.

The Hon. I. G. Medcalf: No, but we will.

The Hon. D. K. DANS: A person may construct a beach buggy and spend hundreds of dollars to add certain features.

The Hon. I. G. Medcalf: Because it is difficult we cannot shirk our responsibility, can we?

The Hon. D. K. DANS: I am not saying that; I am just looking for some guidance. It is clear that once a sticker is placed on a vehicle, the vehicle cannot be used except to present the vehicle for further inspection. As a vehicle cannot be driven on a highway unless it is licensed with the RTA, it would need to be put on a trailer to take it to the inspection area.

The Hon. I. G. Medcalf: That is right.

The Hon. D. K. DANS: We are nearly up to clause 39, and we still do not know to what extent

the officers will receive instruction or training. We certainly do not know what the requirements will be. I am still of the opinion that this legislation will be extremely difficult and expensive to enforce. I am still very much opposed to all the punitive provisions. Also, I am not in favour of this power being placed in the hands of people who may or may not be authorised officers. As members would realise, a fair amount of friction will arise in relation to the delegation of power to authorised officers. What would happen to the owner of a vehicle who refuses to give his name and address? If there is no registration number on the vehicle, the driver would tell the authorised officer where to go.

If there are no police officers around, what does the authorised officer do? Is he empowered to restrain the driver by force?

The Hon. I. G. Medcalf: No.

The Hon. D. K. DANS: There is no power of arrest in the Bill.

The Hon. I. G. Medcalf: Would you like it?

The Hon. D. K. DANS: No, I certainly would not.

The Hon. I. G. Medcalf: You should be pleased it is not in the Bill.

The Hon. D. K. DANS: The Bill certainly goes too far now. The fact is that the authorised officer would have to let the driver go; he could not do a thing about it. If the vehicle was worth only about \$100, the driver would never be seen again.

The Hon. I. G. Medcalf: What is your suggestion?

The Hon. D. K. DANS: I do not know. The Attorney General is in charge of the Bill.

The Hon. I. G. Medcalf: Our suggestion is here in front of us, but you have not got one.

The Hon. D. K. DANS: The Bill does not prescribe how the vehicle is to be inspected. I would like to state once again: I understand the difficulties the Government is facing, but if I am still here in a year's time I believe we will have discovered that it is very expensive legislation. It is very doubtful that it will do the things the Government hopes it will do. I am fully aware that this is a consensus Bill, but nonetheless I am entitled to try to determine some of the matters not spelt out in it. I agree with the Attorney General that some things cannot be spelt out.

Many pieces of legislation we have passed extend power to wardens, fisheries inspectors, and so on, but none of them had the possibilities that this Bill has of arming a large group of people with all the powers of the police. In my opinion

some of these authorised officers will have greater power than that of a police officer.

The Hon. I. G. MEDCALF: I will answer the last point first. These officers will not have the powers of a police officer, and we have already mentioned that they will not have the power of arrest.

The Hon. D. K. Dans: That is right.

The Hon. I. G. MEDCALF: A police officer can arrest without warrant. These officers will not have many of the other powers that police officers have.

In regard to subclause (8), surely no-one would expect us to spell out in the Bill the mechanical defects that would put an off-road vehicle off the road.

The Hon. D. K. Dans: That would be impossible; that is the point I am making.

The Hon. I. G. MEDCALF: We are applying the same criteria that applies in regard to the Road Traffic Act. The vehicles must comply with the prescribed requirements. That is there in black and white. If an authorised officer finds an off-road vehicle that does not comply with the prescribed requirements for off-road vehicles—and no doubt there will be many of these involved on the kind of off-road vehicle involved—

The Hon. D. K. Dans: And the kind of officer looking at it.

The Hon. I. G. MEDCALF: The authorised officer will examine the vehicle, and if it does not measure up to the prescribed requirements, the officer will be required to take certain action. One such action would be to place a yellow sticker on the vehicle. The yellow sticker will say, "This vehicle cannot be driven until inspected by an authorised inspector", or "This vehicle must be taken to a garage for inspection". The conditions can be laid down on the yellow sticker.

The Hon. D. K. Dans: That is a little open-ended.

The Hon. I. G. MEDCALF: It is only open-ended in the sense that the requirements have not been prescribed.

The Hon. D. K. Dans: I made that point.

The Hon. I. G. MEDCALF: It has never been the practice to prescribe the requirements in a Bill. These will be set out in the regulations. Subclause (8) will apply in three cases. The obvious one is where the vehicle is liable to cause damage to person or property. If an officer believes that a vehicle may set fire to the bush because of sparks coming from its exhaust—or more likely perhaps because there is no exhaust at

all—he would put a yellow sticker on it. Perhaps he may find a vehicle has no brakes, or that its steering is defective. Clearly a vehicle presents a danger to the public if it is likely to cause fire to surrounding bushland or property.

The Hon. D. K. Dans: An individual officer would use his own judgment, and that could vary.

The Hon. I. G. MEDCALF: How do we ever decide anything without using our own judgment? How else could these vehicles be controlled, say, in the middle of a prohibited area?

The Hon. D. K. Dans: I have already referred to the training of these officers, and I will not go into it again.

The Hon. I. G. MEDCALF: I do not see any alternative to this kind of arrangement.

The Hon. D. K. Dans: I am supporting it; I am just seeking explanations.

The Hon. I. G. MEDCALF: Good. We have already mentioned the case of a vehicle which may cause damage to people or property. Another case is where a vehicle does not comply with the prescribed requirements because of a mechanical defect. If an officer turns on the engine of an off-road vehicle and it makes a shocking noise, the officer could put a yellow sticker on it. The vehicle does not necessarily have to be found in a prohibited area. In other words, it may not comply with the requirement in relation to mechanical condition or noise emission. The legislation does not say noise emission, but obviously that will be one of the things prescribed.

The third condition is that the vehicle may be unsafe, and dangerous to life and limb of the public or of the person driving the vehicle. Admittedly, this is in the opinion of the authorised officer. However, I do not believe there is any alternative; in the final analysis, everything comes down to the judgment of the policeman on the spot, or the authorised officer or the inspector in connection with any matter.

The Hon. D. K. Dans: I would not mind if it was a policeman. However, I am a little worried about all these officers who will be authorised; they may not have the same kind of training and judgment.

The Hon. I. G. MEDCALF: They may not, but I reject the suggestion that there would be tens of thousands of them; that is drawing a long bow.

The Leader of the Opposition referred to the honorary inspectors who are not authorised officers. In fact, they will be less than authorised officers; they will not be as high up in the hierarchy.

The Hon. D. K. Dans: I mentioned them in relation to this Bill and the fisheries legislation.

The Hon. I. G. MEDCALF: These honorary inspectors will have limited tasks. They will be permitted to do only certain things. So, there will be specific categories of people. The authorised officers will be in a higher category and will have higher requirements in the way of the formal or informal qualifications which may be required.

Subclause (11) details the action an authorised officer may take when he believes a vehicle is being used in contravention of the legislation. We have dealt with the first part of this, but not with the second part. I said earlier that if we are going to authorise an officer to stop, seize and detain a vehicle, that action will be taken only against somebody who, ostensibly and apparently, is acting illegally. The vehicle may not be registered or it may not carry a licence plate; the driver may refuse to reveal his identity as he is required to do under the legislation. If that happens, the authorised officer may seize and detain the vehicle.

We did not deal with the last line of subclause (11); namely, that the matter then will be dealt with "according to law". The Bill provides it will have to be brought before a justice and dealt with in the ordinary way under the Justices Act. In other words, there must be a proper legal examination of the matter. I refer members to the wording of subclause (15), on page 38 of the Bill. The people we are talking about are those who do not obey the instructions on the yellow stickers placed on their vehicles. If a person obeys the instructions on the yellow sticker his vehicle will not be seized. If it is seized, the matter must be brought before a justice under the Justices Act.

The Hon. D. K. Dans: I think that is normal.

The Hon. I. G. MEDCALF: It is quite normal. Subclause (16) states as follows—

Where a vehicle is taken before a Justice under subsection (15) of this section any person claiming to be the owner of that vehicle may appear before that Justice and make such representations as he may think fit.

That might be the first time anyone sees the owner—when the vehicle is in danger of being detained and dealt with according to the law. At any rate, it must be dealt with properly in accordance with the law. It is a proceeding under the Justices Act, and it is appealable.

As I said earlier, the Bill contains none of those draconian provisions which appear in a number of other Acts—which shall be nameless—which came in during the period 1971 to 1974.

The Hon. D. W. COOLEY: Why do we differentiate between a vehicle licensed under the Road Traffic Act and one registered under the provisions of this Bill? If a vehicle is registered under the Road Traffic Act and is not carrying registration plates and the driver refuses to identify himself, as I understand it the RTA officer has no authority to seize or detain his vehicle. The Minister suggested it was for reasons of remoteness. However, the driver of a vehicle registered under the Road Traffic Act may be on the Nullarbor Plain or "at the end of the earth" at Meekatharra. The RTA officer cannot seize his motor vehicle.

The Hon. I. G. Pratt: He can seize you.

The Hon. D. W. COOLEY: No he cannot. Shut up for a while and allow me to speak. Mr Pratt is like a flea on a dog's back.

The Hon. I. G. Pratt: If you were a sensible person I would ask for a withdrawal.

The Hon. D. W. COOLEY: I am trying to get a sensible answer from the Minister; I am sure I would not get one from Mr Pratt. My understanding is that under this legislation, a vehicle registered under the Road Traffic Act may be detained and seized by an RTA officer if the driving of it off the road constitutes an offence; however, if it is out on the road adjacent to that area, the RTA officer would have no authority to seize it. It is a little confusing in the light of the powers to be given to these authorised officers—who certainly are not law enforcement officers—to seize vehicles.

The Hon. I. G. MEDCALF: I draw Mr Cooley's attention to subclause (12) which states that any member of the Police Force may do certain things. Members of the Police Force are authorised officers, but subclause (12) does not relate to all authorised officers. If a person takes action in respect of subclause (12) he must be a member of the Police Force. In other words, only a member of the Police Force—not the other people—may stop, seize and detain a vehicle pursuant to subclause (12), if the vehicle in his opinion is so constructed or is in such condition that it is likely to occasion danger to any person or damage to any property, and he may cause the vehicle to be conveyed to a place of safe custody.

The Hon. D. W. Cooley: That is when it is in use otherwise than on the road. What if it is on the road? Does he still have that right?

The Hon. I. G. MEDCALF: No, but he can condemn a vehicle or order it to be impounded because it represents a menace to other road users. It cannot be driven; usually it is directed to a place of safe custody. I cannot tell Mr Cooley

whether the Road Traffic Act gives the RTA the power to sell it.

The Hon. N. E. Baxter: They have that power.

The Hon. I. G. MEDCALF: If the vehicle is left there indefinitely, they have that power.

I believe this is a very valuable provision and indeed is the ultimate safeguard in the case of such dangerous vehicles. The police will have their prescribed requirements, just as they do now under the Road Traffic Act, except that they will be more comprehensive under this Bill owing to the number of different kinds of vehicles with which they are dealing.

The Hon. R. F. CLAUGHTON: The Minister stated that only the police have the power to stop, seize, and detain pursuant to subclause (12). Subclause (4)(c) provides that an authorised officer other than a police officer has the power to enter on any land, etc., and enter a vehicle for the purpose of removing it. So, it is not just a police officer who will have this power.

The Hon. I. G. Medcalf: That is true. He can, for the purposes of the Act, enter and remove a vehicle. If he is allowed to do that elsewhere in the Act, he can do that. That is a general statement, not a specific clause. It is a general statement that, for the purposes of the Act, in the course of his duty he may enter land or, using such force as is necessary, enter a vehicle for the purpose of removing it. However, he must have the authority to move it under another clause. You will find he has the authority under subclause (11).

The Hon. R. F. CLAUGHTON: In other words, an authorised officer may stop, seize, and detain any vehicle.

The Hon. I. G. Medcalf: That is the one he can use.

The Hon. R. F. CLAUGHTON: The point I was making is that it is not just a police officer who has this authority.

The Hon. I. G. Medcalf: Only in the case of a dangerous vehicle. If it is dangerous or unsafe, the action must be taken by the police. However, if it is one of these other provisions it can be done by an authorised officer.

The Hon. R. F. CLAUGHTON: I accept the Minister's explanation.

Clause put and passed.

Clauses 39 to 48 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

House adjourned at 9.45 p.m.

QUESTIONS ON NOTICE

CULTURAL AFFAIRS

Art Gallery: Mrs Berkman's Paintings

434. The Hon. R. F. CLAUGHTON, to the Minister for Lands representing the Minister for Cultural Affairs:

In reference to the cancelled exhibition of paintings from the collection of Mrs Berkman, New York, USA—

- (a) was a member of the Art Gallery Board authorised by the Board to negotiate with Mrs Berkman to have the paintings exhibited in Western Australia;
- (b) was the Board Member, Mr Mark Saunders, reimbursed or a payment made to him of any kind in respect of the costs of his visit to the United States during which he met Mrs Berkman; and
- (c) if so, what was the amount of such payment?

The Hon. D. J. WORDSWORTH replied:

- (a) Yes.
- (b) A portion of the costs of one of the three overseas visits undertaken by Mr Saunders was reimbursed to him after prior consultation with the Minister for Cultural Affairs and Treasury officers.
- (c) \$3 912.50 was approved by the WA Art Gallery Board on the 27th April, 1978.

STATE ENGINEERING WORKS

Retrenchments

435. The Hon. D. K. DANS, to the Leader of the House:

- (1) Over the past 12 months, how many workers have been retrenched from the State Engineering Works in North Fremantle?
- (2) Are any further retrenchments contemplated?

The Hon. G. C. MacKINNON replied:

- (1) Formal retrenchments have been 10 in the past 12 months.

- (2) No further retrenchments are contemplated immediately. However, work is very short in the blacksmith, boilermaking and carpenter shops, and if work continues to decline up to five blacksmiths, 20 boilermakers and 25 carpenters may have to be retrenched.

LIQUOR

Licensing of Premises

436. The Hon. W. M. PIESSE, to the Leader of the House representing the Chief Secretary:

In view of the fact that profits from licensed accommodation are generated in the licensed section of such a business, what consideration (if any) is given to licensing premises with provision for accommodation, within a certain distance of taverns?

The Hon. G. C. MacKINNON replied:

Many operators make a profit by providing accommodation not allied to the sale of liquor. The types of licence normally combined with the provision of accommodation are hotel, limited hotel and restaurant licences, sometimes combined with a lodgers' permit.

Applications for licences for premises providing accommodation are dealt with in accordance with the sections of the Liquor Act, 1970-1977, relevant to the type of licence sought.

If such premises are near an existing tavern then in addition to other relevant matters, consideration is given to the provisions of section 111 of the Act which charges the court with the duty of effecting rationalisation of licences.

TRAFFIC

Great Eastern Highway-Hardey Road

437. The Hon. F. E. McKENZIE, to the Minister for Lands representing the Minister for Transport:

- (1) Further to my question 379 on the 25th October, 1978, is the Minister aware that a right hand turn from Hardey Road into Great Eastern Highway on the Kewdale side has been banned at all times?
- (2) As the right hand turn creates traffic congestion only at peak periods, will he have the sign withdrawn and replaced with a traffic light signal which will operate only at peak periods?
- (3) Would it not be a more satisfactory solution to have Hardey Road widened at the intersection so that an exclusive right hand turn lane is provided similar to that which operates at the intersection of Garratt and Guildford Roads, Bayswater?
- (4) In view of the present unsatisfactory position which exists at the intersection, will the Minister have the Main Roads Department carry out the necessary work as suggested?
- (5) If not, why not?

The Hon. D. J. WORDSWORTH replied:

- (1) Yes, as a result of investigations following the honourable member's previous question.
- (2) It is considered desirable to retain the permanent right turn prohibition because of increased traffic.
- (3) Such a solution is not practicable at this stage since acquisition of private property would be involved. In any case, drivers requiring right turns have other alternatives available.
- (4) and (5) Answered by (2) and (3).