Mr J. T. Tonkin: Has the State Government made a decision on what it will do?

Sir Charles Court: We are quite prepared to go a long way to helping on this, but we have to get the answer from the major contributor.

Mr J. T. Tonkin: Be specific.

Mr T. D. EVANS: I would like to take the Premier up on this matter. About four months ago there was a threat that some 300 men were to be retrenched. A meeting was held and both Mr Brodie-Hall and myself were present. At the meeting it was agreed that an approach would be made to the Commonwealth Government and also to the State Government, having regard to the fact that, in 1971, because the mines then operating were told that they probably would have to close after a period of 12 or 18 months, Mr Brodie-Hall approached the Tonkin Government with the proposal that the Chamber of Mines desired to introduce a pay severance scheme. The Chamber of Mines also intended that an approach should be made to the then Commonwealth Gorton Government as well as the State Government and it stated that the Chamber of Mines itself would contribute. This approach was made to the State Government and we agreed to the proposal on that basis; that is, that we would certainly contribute the cost of one-third of a pay severance scheme. Mr Brodie-Hall told us, however, that the Commonwealth Gorton Liberal Government would not have a bar of that scheme.

A further approach was made by Mr Brodie-Hall to the State Government asking whether it would agree to a similar scheme on a 50-50 basis between the Chamber of Mines and the State Government. An agreement was reached and we contributed some $300 000 to the Chamber of Mines. However, at the time the pay severance scheme was due to get under way, some dramatic changes occurred on the world market and that scheme did not come into being. In view of the fact that an agreement was arrived at on the basis that some thousands of dollars would be made available—I think the sum was $100 000—pending a decision by the Australian Government, was that money ever made available?

Sir Charles Court: It was made available to the company, but it did not call on it. It was there just like your money was lying there. The State Government did not hold back at all.

Mr T. D. EVANS: The company did not call for it?

Sir Charles Court: No.

Mr T. D. EVANS: I did intend to speak on other subjects, but time does not permit me to be as diverse as I would like to be. In the circumstances I conclude by placing the greatest possible emphasis on the present plight of the goldmining industry. I am certainly glad to hear from the Premier that the State Government will render any assistance that can be offered, devoid of politics, if possible.

Again, I make an earnest plea to the Minister to give some consideration to the Government being required, under the Mining Act, to have a continuing interest and a continuing obligation in mining leases, once they are granted. This is in the interests of those whose livelihood and businesses depend on the continuance of the industry without fear of retrenchments and the goldmines being under threat, every now and again, of having to close, as our 70-year history of the goldmining industry has shown.

Debate adjourned, on motion by Mr Sodeman.

House adjourned at 5.55 p.m.

Legislative Council

Tuesday, the 4th November, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (3): WITHOUT NOTICE

1. TOWN PLANNING

Stephenson Avenue

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Urban Development and Town Planning:

Further to my question of the 30th October, 1975, requesting deletion of portion of Stephenson Avenue from the Metropolitan Region Scheme—

(1) Is the Minister aware of his powers under section 25 of the Metropolitan Region Town Planning Scheme Act?

(2) Would the Minister now agree that the immediate step he may take is the making of an order requiring the authority to take whatever action is necessary to achieve the requested amendment to the scheme?

(3) If the Minister so agrees, would he also make an order requiring recommendation of an alternative route for this important regional link to Fremantle as requested in my earlier question?

The Hon. N. McNEILL replied:

I am grateful to the Hon. R. F. Claughton for some prior notice of this question. The answer is as follows—

(1) Yes.

(2) and (3) In association with the West Coast Highway study, existing and proposed traffic routes, including the Stephenson Controlled Access Highway are being examined. Until results of these studies are known, it would be quite inappropriate for the Minister to consider making an order under section 25 of the Metropolitan Region Town Planning Scheme Act.

2. ABORIGINES

Shelter: Shortage of Funds

The Hon. R. J. L. WILLIAMS, to the Minister for Community Welfare:

(1) Did the Minister read the article in this morning's copy of *The West Australian* under the heading, "Native shelter short of funds"?

(2) Is the Minister aware of any approaches for funds that have been made by the New Era Aboriginal Fellowship, the Alcohol and Drug Authority, or the Department for Community Welfare?

The Hon. N. E. BAXTER replied:

I thank the honourable member for prior notice of this question. The reply is as follows—

(1) Yes.

(2) I am unable to find any record of an application for funds to either the Alcohol and Drug Authority or the Department for Community Welfare of recent date. I am informed that there is an amount of $9 500 available to New Era Aboriginal Fellowship with the Department of Aboriginal Affairs, Perth, when signed acceptance of conditions contained in a letter of advice dated the 29th August, 1975, is received by the department.

3. TOWN PLANNING

Scarborough: ALP Signs

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Urban Development and Town Planning:

Further to my question of the 30th October, 1975, regarding town planning appeals, as the Minister's answer is inconsistent with the other evidence, will he table the photographs to which he referred in his answer to question (1)?

The Hon. N. McNEILL replied:

I am again grateful to the honourable member for prior notice of this question. The answer is as follows—

The photographs have not been retained because they did not relate to the planning considerations of the appeal.

QUESTIONS (3): ON NOTICE

1. NEW LAND FARMERS

Financial Assistance

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

As the report of the Industrial Assistance Commission on new land farms in Western Australia recognised a real need for revised and additional sources of finance for settlers on newly developed blocks, and while not recommending assistance by way of a special superphosphate subsidy separate to other primary producers, did recommend that the Australian Government—

1. discuss with the Western Australian Government the terms and conditions and financing of re-establishment assistance to new land farmers wishing to leave their properties;

2. review with the Western Australian Government the administration of the Rural Reconstruction Authority to provide adequate coverage of new land farms which were substantially under-developed;

3. examine with the Western Australian Government the Reserve Bank and Commonwealth Development Bank the most appropriate method of restructuring existing debts and of structuring future borrowings of new land farmers;

what actions or approaches have been made along these lines by—

(a) the Federal Government;

(b) the State Government;

(c) the Rural Reconstruction Authority;

(d) the Reserve Bank; and

(e) the Commonwealth Development Bank;

to implement these recommendations?

The Hon. N. McNEILL replied:

The Commonwealth Government has not yet announced its acceptance or rejection of the various recommendations put forward by the Industries Assistance Commission.

The Minister for Agriculture has been pressing the Commonwealth Government at Agricultural Council meetings for a favourable decision on assistance for new land farmers.

The Western Australian Department of Agriculture has approached the Industries Assistance Commission for further detailed information—but that was unavailable. This department has also examined statistics of the Rural Reconstruction Scheme, which shows a similar success rate of applications from new land shires as compared with predominantly long-settled shires, despite a higher ratio of applications to total number of holdings in the new land shires. Liaison with bank managers and farm management consultants has resulted in an easing of eligibility criteria for new land farmers for assistance under the existing scheme.

The Rural Reconstruction Authority continues to lend to new land farmers who fit eligibility and viability criteria, and has assisted the Western Australian Department of Agriculture with the survey of previous lending mentioned.

The State Government is not aware of any consequent action taken by the Reserve Bank or the Commonwealth Development Bank, nor would this be expected until the Commonwealth Government responded to the recommendations.

The State Government is also studying the position that will develop if the Government does not adopt the IAC proposals or takes a long time to make a decision, to see how far we can go on a scheme of our own to expedite funds to needy cases.

2. REGIONAL ADMINISTRATOR

Next Appointment

The Hon. J. C. TOZER, to the Minister for Justice representing the Premier:

As an unwitting error in framing question 8 of the 29th October, 1975, resulted in the Premier providing me with information which I did not necessarily seek, I now ask the amended questions—

(1) Which region will have the third Regional Administrator appointed?

(2) Approximately when will such appointment be made?

(3) To whom will the appointee be responsible, and which Cabinet Minister will administer the operations of the post?

The Hon. N. McNEILL replied:

(1) to (3) Progress for the establishment of further regions is reaching finality, and an announcement is anticipated in the near future.

3. BUILDING BLOCKS

Karratha

The Hon. J. C. TOZER, to the Minister for Health representing the Minister for Lands:

(1) Which residential allotments in the first cell in Karratha have been sold by auction?

(2) On what date or dates did such auction, or auctions, take place?

(3) Where did the auction, or auctions, take place?

(4) Did the price received at auction exceed the standard premium ruling for the particular allotments?

(5) What happened to this excess, if any?

(6) Have any residential allotments in Karratha been released and allotted, then surrendered and then re-offered on an "across the counter" basis at an unchanged premium?

The Hon. N. E. BAXTER replied:

(1) Karratha Lots 74, 75, 86, 88, 95, 96, 97, 98, 100, 103, 124, 125, 138 and 154.

(2) 25th November, 1969.

(3) Roebourne.

(4) Of the 74 lots submitted for sale, only bidding for Lot 75 exceeded the upset price of $50.00; this lot realised $70.00 being an excess of $20.00.

(5) The excess of $20.00 was credited to revenue in the normal way.

(6) Karratha Lot 660 was surrendered as the purchasers claimed they bought the wrong lot; this lot was re-offered to a subsequent applicant in February 1975, at the original price. All other surrendered lots were allocated to Government departments.

METROPOLITAN REGION TOWN PLANNING SCHEME

Disallowance of Plan: Motion

THE HON. LYLA ELLIOTT (North-East Metropolitan) [4.47 p.m.]: I move—

> That in accordance with the provisions of section 32 of the Metropolitan Region Town Planning Scheme Act, 1959-1974, Plan No. 13/4 forming part of the amendment to the Metropolitan Region Town Planning Scheme, laid on the Table of the House on Tuesday, the 7th October, 1975, be and is hereby disallowed.

My reason for moving this motion is twofold: Firstly, when the 1974 amendments were presented to the public in order to allow objections, it would appear the public were misled by the plan placed before it; and secondly, property owners were prejudiced by the use of the arbitrary powers under clause 15 of the schedule to the Act to alter the alignment of the Beechboro-Gosnells controlled access highway.

Under section 31, the Act sets out the processes through which amendments to the scheme must go to ensure that the public are fully aware of what is proposed, and to protect the individual's right of objection and appeal. The amendment on the Table of the House at present was proceeding in accordance with this provision of the Act when the Minister used his powers under clause 15 to alter a portion of the scheme. As I understand this clause, it does not provide for public objection, and I quote as follows—

> 15. (1) Where the Authority relocates or alters the route of a regional highway or road or railway or the boundaries of any other reservation under this Part the Authority shall prepare copies of a plan showing such relocation or alteration and the land to be excluded from or included in the altered reservation, and the plan shall indicate the zone or zones in which any land no longer required for the reservation shall be included.
>
> (2) Such plan shall be certified and sealed with the seal of the Authority and when the plan is approved by the Minister it shall be certified by him and, subject to subclause (3) of this clause, the plan shall become part of the Scheme without any further action being necessary under the Scheme Act.
>
> (3) Notice of any such relocation or alteration shall be published in the *Government Gazette* as soon as practicable after the plan relating thereto is so certified, and the relocation or alteration shall take effect and have the force of law on and from the date of such publication.

It is difficult for me to understand why it was necessary to have the clause 15 amendment at all. When the MRPA knew it would be submitting plans for the 1974 amendments, why did it not include the clause 15 amendment in those plans so that instead of its being treated as a matter which merely required the Minister's signature and gazettal to become law, it would have been subject to objection and scrutiny by Parliament?

I could understand it if it involved a minor relocation of a road, merely involving Crown land; but surely when private properties are involved, the people concerned must be afforded every opportunity to object and have their objections considered by Parliament.

When I raised this question during the debate on the Metropolitan Region Town Planning Scheme Act Amendment Bill, Mr Medcalf in replying on behalf of the Minister for Urban Development and Town Planning said that it took a considerable time to establish the owners of property affected by the clause 15 amendment. In fact, I understand the time involved was something like eight months, so quite a bit of land must have been involved. It is all very well to refer to the amendment as a minor one; it might be considered minor by the officers of the MRPA, but when a man's home is involved it is obviously not a minor matter to him, and he should be given every opportunity—along with other people—to object to the proposal.

In dealing with the case of Mr A. C. Uren, of 60 Wyatt Road, Bayswater, which I raised during the debate on the Bill, Mr Medcalf stated that Mr Uren was advised that his objections would be considered, but that he had declined to accept this opportunity.

Mr Uren states that on or about the 5th or 6th August, 1974, when he inspected map 13/4 which was displayed for public inspection, an officer of the MRPA informed him that if he lodged an objection, the authority would dismiss that objection by using its statutory powers pursuant to clause 15 of the schedule.

However, on the 13th August, 1974, he lodged objections which appeared as Nos. 1 and 6; two days later—the 15th August—the Minister signed the clause 15 amendment, which appeared on the 23rd August, 1974, in *Government Gazette* No. 63.

Subsequently, on the 3rd November, 1974, Mr Uren lodged a further objection which appears as No. 956; his objection on this occasion related to the manner in which clause 15 had been used to disallow objections which properly could be heard under section 31 of the Act. Within three weeks of lodging his objection he was given notice of Supreme Court action being taken against him by the authority. Perhaps this indicates why he did not follow up his objections with the authority.

I earlier pointed out that it appeared the public had been misled when the plan originally was placed before it, and the Minister has confirmed this to be a fact. In his reply to me, Mr Medcalf quoted a statement by the Minister which conceded there had been an administrative error in that the clause 15 amendment was not shown on the overlays to the amending maps. He said that the overlays referred to by Mr Uren did not form part of the amendments, but were designed to assist the public to understand the amendments. Mr President, how on earth could they assist the public to understand the amendments if they were incorrect?

In view of the information I have placed before the House, and the possible injustice to the landholders involved, I ask that the particular section of the amendment in question be disallowed. This will enable the entire process to be carried out correctly and ensure that justice not only is done but also is seen to be done to the people involved.

The Hon. R. F. CLAUGHTON: Mr President, I second the motion.

THE HON. N. McNEILL (Lower West—Minister for Justice) [4.56 p.m.]: I intend to take what may appear to be a somewhat unusual step in proceeding immediately to debate Miss Elliott's motion. I do so for a number of reasons, the first of which is a desire to complete the "approval" of the amendments to the scheme which were placed before the Parliament in October. I am aware that Miss Elliott gave notice of her motion on the day prior to the expiry date, during which period if the House had failed to disallow the amendments the scheme would have continued to operate. So, we are faced almost with a deadline in this matter.

However inasmuch as the motion refers to plan No. 13/4, it was understood it would relate particularly to the circumstances of Mr A. C. Uren; that being the case, I have been supplied with information and am in a position to acquaint the House of the sequence of events and the circumstances relating to this matter.

I have with me copies of the document titled, "Metropolitan Region Planning Authority—Region Scheme Amendment 1974—Submissions and Reports on Objections", in which is recorded Mr Uren's objections to which Miss Elliott has referred. Those documents have been tabled in the House and are available for any member to read.

Although the matter has been previously discussed by Miss Elliott, and replies have been given in this place, it still is necessary for me to recapitulate a little, even to the extent of repeating some of the advice conveyed to her on that occasion.

Mr Uren first approached the MRPA in June, 1968, requesting it to purchase his four lots on the corner of Wyatt and Hardy Roads, Bayswater; the lots in question are numbered 228, 229, 238, and 239.

The MRPA tried unsuccessfully to negotiate the purchase of the lots until November, 1970, when F. A. Nankivell and Company, acting as agents for Mr Uren, wrote to the MRPA stating that Mr Uren would be prepared to settle at a certain figure. I have the figure in front of me, but I do not think I should state it. The MRPA agreed to settle at that figure. The MRPA therefore had a binding agreement with Mr Uren, which fact was accepted by the Parliamentary Commissioner for Administrative Investigations who later looked into the matter on receipt of a complaint from Mr Uren.

Notwithstanding this Mr Uren changed his mind and negotiations commenced again. In June, 1971, the MRPA obained a new valuation from the property and valuation officer at a certain figure. The valuations used in this report do not always refer to the same area of land. Changes were made to the land requirements for this highway which altered the land being negotiated for. Probably this is an area to which Miss Elliott has referred.

Mr Uren objected to this valuation and tried to establish he had an offer at a higher figure from the property and valuation officer. There then followed lengthy correspondence from and to Mr Uren, the MRPA, the Minister, and the Premier.

In June, 1972, the Parliamentary Commissioner for Administrative Investigations (Mr Dixon) advised the MRPA and the Minister of a complaint received from Mr Uren. Correspondence continued and in April, 1973, Mr Dixon submitted his preliminary findings. I do not think that I should necessarily mention these at the moment, although I am prepared to do so.

In May, 1973, following discussions with Mr Dixon the MRPA decided on advice from Mr Dixon to resume lots 228, 229, and 238, but to defer making a decision regarding an *ex gratia* payment. The then Minister (Mr Davies) approved the resumption on the 31st May, 1973.

Notice that land had been resumed was published in the *Government Gazette* on the 13th July, 1973, and an advanced payment at the valuation by the property and valuation officer was made to Mr Uren.

Since July, 1973, the property and valuation officer has tried unsuccessfully to settle Mr Uren's claim for compensation and action is now being taken to refer the question of such compensation to a judge under section 41C of the Public Works Act.

Of course, in respect of this question we are simply dealing with one portion of the

total plan, and the remarks are confined completly to the consideration of plan No. 13/4.

Inasmuch as the proceedings and the negotiations have been going on for a considerable period, and there have been what appear to me to be very genuine attempts on the part of all parties concerned to reach agreement, there is little if any merit in asking Parliament at this stage to agree to Miss Elliott's motion for the disallowance of this plan.

Perhaps I should indicate some of the matters to which Mr Uren has referred in his objections. In doing so, it is necessary for me to relate to the entire scheme of which plan No. 13/4 is a part.

As a result of detailed study of the route of the Beechboro-Gosnells controlled access highway, the authority decided in August, 1973, to amend the Metropolitan Region Scheme pursuant to clause 15 of the scheme. This is a simple procedure for amending routes of roads which requires only a resolution of the MRPA and notice in the gazette.

About the same time the MRPA was considering a series of amendments to the scheme affecting 18 of the 28 maps comprising the scheme. It was envisaged that the clause 15 amendment referred to above would have been gazetted prior to advertisement of the series of amendments which were being made under section 31 of the Act. Once again, this refers to material which Miss Elliott has already mentioned.

However, the gazettal of the clause 15 amendment was delayed due to the need to advise each owner affected in accordance with MRPA policy and time taken to establish the owners' comments was longer than anticipated. As a result the clause 15 amendment was gazetted on the 23rd August, 1974, seven days after the last of three *Gazette* notices inviting objections to the series of amendments being made under section 31.

The section 31 amendments comprised the 18 maps showing the amendments with an overlay to each map to assist the public in defininig the amendments. The amended route of the Beechboro-Gosnells controlled access highway was shown on sheet 13/4 on the assumption that the clause 15 amendment would have been finalised. Because of this it was not highlighted on the transparent overlay to that sheet, but as has been stated the clause 15 amendment was not finalised until after objections had been invited to the section 31 amendments.

Mr Uren submitted three objections to the section 31 amendments—

Objection No. 1 relating to lot 239;

Objection No. 6 relating to lot 238;

Objection No. 956 relating to clause 15 amendment.

Mr Uren has, since these amendments were gazetted, made a number of claims.

It is appropriate that comment should be made on each one of those claims. The first one was by gazetting the clause 15 amendment, the MRPA had prevented his objections being heard and considered. This was the point which Miss Elliott endeavoured to make.

I have been alvised that the MRPA has acknowledged that it made an unintentional administrative error. However, to ensure Mr Uren was given a fair hearing it advised him that notwithstanding the clause 15 amendment it was prepared to hear his objections and if sufficiently cogent reasons were supplied by Mr Uren to amend the alignment of this highway; but Mr Uren failed to do this and the MRPA decided to dismiss the objection.

The second part of the objection was that the clause 15 amendment was invalid. The legal opinion that has been obtained does not confirm that view.

The third point that Mr Uren made was that his objections could not be heard as court action was pending. The statement with which I have been supplied in relation to this objection is that the court action relates only to the assessment of compensation following the resumption of lots 228, 229, and 238. Mr Uren was advised that this did not affect his right to be heard and he was approached three times to be heard by the authority on his objections. He declined to present himself at the hearing. It should also be noted that objection No. 1 relates to lot 239 which is not the subject of court action.

Then it was claimed by Mr Uren that the overlay to plan No. 13/4 was false. In respect of that point I have been advised that it was not intended to include the realignment of this highway within the amendments being made under section 31. It should be noted the overlay does not form part of the amendments but is a device to assist the public. I emphasise that it is a device to assist the public.

A further objection raised by Mr Uren was that plan No. 13/4 which was tabled in Parliament was incorrect, because the realignment of the highway was uncoloured. The comment I have received on this objection is that the clause 15 amendment has amended the scheme in respect of this highway, and the latter does not form part of the amendments now before Parliament.

In conclusion I would point out that the MRPA, at Mr Uren's request, has endeavoured to negotiate since the date in 1968 to which I have referred for the purchase of his property, but without success. This culminated in resumption action in October, 1973. Compensation is still to be resolved, but court action is being taken in this regard.

I again admit that the authority has made an error in the sequence of the amendments to the Metropolitan Region Town Planning Scheme, but nevertheless it

has endeavoured to ensure that Mr Uren had the opportunity to present his case. I should stress once again that he decided not to do so.

Finally, from a legal point of view, the advice I have been given is that the MRPA has acted quite properly, and within its powers, in the action it has taken. I admit this is a statement of the sequence of events, but I believe it to be a correct recital of the events which have taken place in respect of this matter affecting Mr Uren. In the light of all the steps that have been taken and the negotiations that have been attempted and entered into, I ask that the motion be not agreed to. I oppose it.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [5.11 p.m.]: I do not think the Minister has adequately answered the points which I made in moving the motion. He spent a great deal of time in telling us about the negotiations in which Mr Uren had been involved relating to blocks of land, prior to this particular question arising. I do not think that is altogether relevant to the motion before the House.

The Minister said that the MRPA decided in August, 1973, to introduce the clause 15 amendment. It would appear to me to be quite a substantial alteration to the Beechboro-Gosnells controlled access highway which involves quite a bit of land. I repeat what I said when I moved the motion: I cannot understand why this matter had to be dealt with under clause 15 which rules out any objections. Why was it not included in the overall amendments presented in 1974?

I do not think the Minister has answered that point; therefore I believe what the Minister has said does nothing to reduce the suspicion in the minds of people like Mr Uren that the Minister was indulging in some action to overcome the legal rights of property owners.

The Minister does not deny that an error occurred in the overlays to the maps. In fact, he admitted there was such an error. I do not wish to cover all the ground that I covered in moving the motion. I merely want to stress again that the Minister has not adequately answered the points which I have raised. I hope the House will agree to the motion.

Question put and negatived.

Motion defeated.

MAIN ROADS ACT AMENDMENT BILL

Third Reading

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

LIQUOR ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.15 p.m.]: I move—

That the Bill be now read a second time.

Earlier this year the Government announced that it proposed to introduce a number of amendments to the Liquor Act in the present sitting of Parliament, and the amendments so proposed are contained in the Bill now before the House.

I shall now proceed to outline the principal changes in the liquor laws which the Bill would effect.

The first change of real consequence is a proposal in clause 5 of the Bill to remove the limitation on the number of bottles of beer which a hotel or tavern licensee may sell on a Sunday. Members are undoubtedly aware that the Act presently restricts the sale of bottled beer on Sunday to two bottles per person, and clause 5 would remove that limitation entirely, but would nevertheless still prohibit the sale of kegged beer on Sunday.

The next important amendment is contained in clause 6 of the Bill which, if enacted, would permit tavern licensees to obtain caterers permits. Under the present law, a caterer's permit may be obtained only by the holder of an hotel license, and such a permit enables a hotel licensee to sell and supply liquor away from his licensed premises at such other premises and on such days and during such hours as the court has endorsed on his caterer's permit. The Government has received representations that caterers' permits should also be obtainable by the holders of tavern licenses and the clause so provides.

Another amendment contained in the Bill which would place tavern licensees in the same position as hotel licensees, is contained in clause 7. That clause, if enacted, would enable tavern licensees to sell and supply liquor with or ancillary to a meal between the hours of 10.00 p.m. and 12.30 a.m. on a weekday, and between the hours of 12 noon and 3.00 p.m., and 5.30 p.m. and 10.00 p.m. on Sundays or Christmas Day, if the tavern licensee has a separate dining room on his premises, and the meal is served in that dining room.

The next amendment of consequence is contained in clause 8, and deals with theatre licenses. After considering representations made to it, the Government decided to include in this Bill a provision which extends the hours during which theatre licensees may sell and supply liquor for consumption on the licensed premises. It is proposed to extend from one hour to two hours the period before and after any live performance during which the theatre licensee may lawfully sell liquor. Members may note, however, that the amendments will restrict theatre

licensees to selling liquor within the period previously explained between noon and midnight on any day, and this is to take account of occasions when live performances may be playing at a theatre more or less continuously from, say, 10.30 or 11.00 o'clock in the morning.

I now turn to the provisions of the Bill which propose to create a new class of permit called a voluntary association's permit, which will be available in certain circumstances to licensed clubs outside the metropolitan area. The Government has received a number of representations both from licensed clubs and service organisations in which the Government has been asked to seek amendments to the Liquor Act which would permit service organisations, such as Rotary, Apex, and Lions Clubs to hold meetings and functions on licensed club premises when there is no hotel in the area available for the meeting or function, or where the facilities provided by the hotel are unsuitable. Clause 9 of the Bill would amend the Liquor Act to make provision accordingly.

Sections 42 and 43 of the Liquor Act presently require the holder of a function permit or an unlicensed club permit to purchase liquor to be sold and supplied pursuant to the permit from a hotel, tavern, wine house or like licensed premises, except where the site of the function for which the permit has been granted is more than 24 kilometres away from the nearest hotel, tavern, wine house or other licensed premises. Clauses 10 and 11 of the Bill would reduce that distance to 8 kilometres.

The Government has received representations from a variety of sources, including the Law Society and the Australian Hotels Association, to the effect that the present Act is unsatisfactory in so far as it does not permit objections to be made to applications for the extension or alteration of licensed premises. It has been pointed out that where the extensions or alterations are substantial in nature or extent, the effect of granting applications upon other licensees may be just as substantial as would be the granting of a new license. Accordingly, clause 12 of the Bill provides that where the court is of the opinion that any application for the variation or alteration of premises is of such a nature as I have referred to, then the application is to be subject to the same objection procedures as apply to an application for a new license or for a provisional certificate for a new license.

The Association of Store Licensees has made representations that it is not uncommon for a succession of applications to be made for the grant of new licenses in approximately the same area, even when the first such application is refused by the court on the grounds that the reasonable requirements of the affected area are already sufficiently met, despite the fact that it may be unlikely, where one application has been refused, that an application made soon thereafter would be granted, if the premises for which licenses are sought are similarly located. The Association of Store Licensees has pointed out that the licensees who would be affected by the granting of any of the applications are still forced to object and thereby incur substantial legal and other costs. Clause 13 attempts to deal with this problem by providing that where the court has refused an application for a store license it shall refuse to hear and determine any other application made in the succeeding 12 months if the affected area for the purposes of the application is, in the opinion of the court, substantially the same as the affected area determined by the court in relation to the first and unsuccessful application.

The last major amendment in the Bill is contained in clause 16. The clause would amend section 131 to permit a person who has actually purchased kegged beer on a weekday—that is Monday to Saturday—to take the kegged beer away from the hotel or tavern where it was purchased on a Sunday, so long as the sale is recorded in the prescribed manner by both the licensee and the purchaser on the day on which it occurred, and the removal of the kegged beer on the Sunday takes place during the hours on which the licensee is able to trade on Sunday. The purpose of the amendment is, of course, to permit the purchaser to utilise the chilling facilities of the hotel or tavern licensee concerned, and to remove the necessity for him to take the kegged beer off the premises on a weekday to other cold storage facilities when the beer is intended to be consumed on a Sunday.

There are a number of minor amendments contained in the Bill; one of which would delete from the fourth schedule the fees specified therein for permits and transfers of licenses, and would provide that such fees may be prescribed by the regulations.

There are also amendments to sections 6, 128 and 129 intended either to reflect changes in other acts, or to correct technical errors in the present Act. There is also an amendment to section 129 to increase the penalty presently imposed by that section on persons who fail to leave licensed premises when ordered so to do, or who re-enter licensed premises, having left pursuant to such an order.

I would also add that during the period of the last 18 months, certainly, and even prior to that, a considerable number of representations have been made for amendments to the Act, and in respect of which I think it is appropriate to refer to amendments since 1970, and to the report of the committee of inquiry which was conducted, and in that recognition appreciate that some further updating of the Liquor Act would be required.

I do not claim that the Bill placed before the House completely covers all such

representations but, nevertheless, in a genuine attempt to at least resolve some of the more pressing problems which have arisen, and in order to meet the convenience of those varied representations that have been made, it has been decided to introduce the Bill at this time.

I think it will be conceded that while the amendments are important in themselves, they are not of tremendous magnitude in terms of drafting or alteration to the Act itself. However such other matters as may need attention are about to receive consideration by the Government and may, at some future time, be the subject of further amendments to the Act.

I would further indicate that it is recognised the Liquor Act has been traditionally one of those Statutes dealt with by Parliament on a nonparty basis; and that is my understanding in this instance—that, although the Bill is brought before Parliament with the amendments sponsored by the Government it is nevertheless recognised that party affiliations do not necessarily apply and that the measure will, in fact, receive consideration on a completely nonparty basis.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

BILLS (2): RECEIPT AND FIRST READING

1. Family Court Bill.

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

2. Public Service Arbitration Act Amendment Bill.

   Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Honorary Minister), read a first time.

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [5.28 p.m.]: I move—

> That the Bill be now read a second time.

When introducing the first amending Bill to the Industrial Arbitration Act in this House, I mentioned the reasons which could cause one or more further amending Bills to be introduced.

This second amending Bill which I now desire to explain has emanated from a request by the Chief Industrial Commissioner to amend the Act so that some machinery and administrative provisions can be improved, which will tend to simplify procedures and reduce paper work as well as expedite certain actions and delete irrelevant matter. The proposals do not affect the rights of employers or workers or advantage one to the disadvantage of the other, but should assist parties to proceedings before the commission.

The proposals have been placed before the Confederation of Western Australian Industry and the Western Australian Trades and Labor Council, both of which have seen merit in the proposals and have been satisfied as to the desirability to amend accordingly.

Section 42 is proposed to be repealed and re-eneacted with the addition of a new paragraph (b) so as to allow the commission to make a relevant order, when all parties to an industrial agreement themselves agree to cancel, amend, or vary any provision in any agreement whilst it is in force.

Under section 54 of the Act the commissioners, other than the Chief Industrial Commissioner, have seniority according to the dates of their appointments. It is the statutory responsibility of the commissioner who is first in order of seniority, to assume the duties of the Chief Industrial Commissioner when the latter is unable to perform the duties by reason of absence on periods of leave or other reason. It is proposed to give appropriate recognition to the responsibilities of the existing office by calling it "senior commissioner", but without creating any expectancy of entitlement to automatic elevation in the event of the senior office becoming vacant.

Clause 4 corrects, in section 56, a grammaterial error only.

Section 92 is amended to provide for retrospective effect of the whole or any part of an award to be taken to a date earlier than when the commission first took cognisance of the matter in respect of which the award or part thereof was made, subject to the parties agreeing upon its application to such earlier date. Orders may then be made beyond the limits presently prescribed, but only at the request and with the consent of the parties thereto.

Section 93 at present provides for an award which has expired by its term to continue in force until substituted. The amendment to this section adds words which will alter that position only to the extent that the commission, of its own motion, may by order under a new section 98B cancel an award if there are no workers to whom it applies. Provisions are inserted in the new section to safeguard the position of persons likely to be affected.

A new section 94A is introduced to enable the commission on its own motion to make a general order in relation to all awards and industrial agreements in force. Alternatively, it can be done on the individual application of the Confederation of Western Australian Industry, the Western Australian Trades and Labor Council,

or the Attorney-General. By acting on its own volition, the commission could eliminate much procedure and time-taking activity both for itself and for individual applicants who are otherwise committed to applying for coverage under a general order issued by the commission.

Safeguards will be provided, inasmuch as for matters covering Government workers or State instrumentalities, the Attorney-General and the Trades and Labor Council will have to agree to the general order covering such awards or agreements. Similarly, in the private sector, the Confederation of Western Australian Industry and the Trades and Labor Council will have to agree to the making of the order in respect of an award or agreement. The commission will also allow any other person with a sufficient interest in the proceedings—such as a union not affiliated with the Trades and Labor Council or an employer not a member of the confederation—to appear and be heard before a general order is made. This amendment should assist all parties and reduce time-consuming procedures.

As previously mentioned, a new section 98B is introduced. This new provision will enable the commission to cancel awards and industrial agreements which no longer have effect; for example, awards which have been ousted by a Federal award, or awards applying to industries which have ceased to operate and which no longer affect any workers. Proposed new subsection (1) covers this aspect.

Some "dead wood" will, in effect, be cleared from the system. The Industrial Registrar is often put to much time and expense in notifying parties to an award of impending action, only to find by letters returned to him that a business no longer operates. It is intended in such cases that the commission should have the power to strike out parties to the award who are no longer involved. Proposed new subsection (2) covers this aspect.

Proposed new subsection (3) states that the commission shall not make an order under subsections (1) and (2) until certain procedures are carried out; for example, the Industrial Registrar has conducted relevant inquiries and reported to the commission, and notice of intention to make an order is advertised in a relevant newspaper and copies of the notice are also served on such persons as the commission may specify. A right of objection to the making of an order is given to interested parties and the commission can hear and determine the objection. If cause can be shown why an award or agreement should continue, then the commission will take cognisance of the fact. If an order is finally made, a copy of it will be served on each party to the agreement, or each union of workers or other party to the award.

The Industrial Arbitration Act (Western Australian Industrial Appeal Court) Regulations, 1964, provide in regulation 4 for an appeal to be made within 14 days of the date of the decision appealed against. An amendment to section 103A draws attention to a time limit which is prescribed in the regulations.

Several succeeding amendments are caused by the recent change of name of the Western Australian Employers Federation to the Confederation of Western Australian Industry (Incorporated) and require no further explanation.

Finally, the amendment to section 108J is consequential upon the amendment made to section 92.

I commend the Bill to the House.

THE HON. D. W. COOLEY (North-East Metropolitan) [5.34 p.m.]: The Opposition does not oppose any part of this Bill. As the Minister has pointed out, proper consultation has taken place between parties affected by the amendments; namely, the Trades and Labor Council and the Confederation of Western Australian Industry, which was formerly the Employers Federation. In some respects the amendments streamline the Act to a point which could be of advantage to both parties. As the Minister said, the Bill cuts out some of the dead wood associated with the Act, in that it will give the commission the right to cancel awards and agreements and also to strike out respondents and parties to awards.

I am a little worried about the appointment of the senior commissioner. I do not mean to reflect on the person who will occupy the position at the present time; he is a very capable man and is more than qualified to occupy that position. I refer to Commissioner Kelly. However, it seems to me the Bill provides an automatic right for a person to become the senior commissioner, and perhaps we could find in the future it is not a wise amendment. I suppose we should support the amendment because, in the main, it goes along with the principle enunciated by our policy in respect of the promotions appeal; that the person with the longest service should be favoured for appointment to a higher position. By and large, it works out the best and most highly qualified people are appointed, but there are exceptions to the rule which could apply in respect of the Industrial Commission. It would be unfortunate if it did happen that the most highly qualified person were not appointed to the position of senior commissioner, because the Industrial Commission is one of the most important fields of operation at the present time.

Clause 5, dealing with restrospectivity, is not particularly meaningful because the commission already has power to grant the benefit resulting from negotiations or decisions of the commission in relation to

awards or agreements retrospectively to the date it was first advised of the matter. The Bill takes retrospectivity back to an earlier date but only by consent of the parties. I should imagine in most cases these days where there is consent between the parties, the provisions are made retrospective to an earlier date in any case.

The most worth-while clause in the Bill, in my view, is that which provides for the commission to waive formalities in respect of general applications. There have been situations in the past where both parties have agreed to certain matters which have general application to the work force at large but because there are so many formalities associated with the legislation it has been almost impossible for the amendment to have simultaneous application to everybody who should benefit by it. I understand the amendments in the Bill will enable the commission to dispense with those formalities and give the commission more power to bring about comparative justice to the work force at large.

The Bill also enables the commission to strike parties out of awards, but there are adequate safeguards to ensure everybody is given the opportunity to be notified in respect of whatever action is taken.

Other amendments cover the change of name of the employer organisation. We support the Bill.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 54 amended—

The Hon. D. W. COOLEY: This clause refers to the appointment of the senior commissioner and amends section 54 by inserting the following new subsection (1a)—

> (1a) The Commissioner who, after the Chief Industrial Commissioner, is first in order of seniority, shall be known as the Senior Commissioner.

This provision could have some pitfalls. Would the Honorary Minister tell us whether the Government has had a change of heart in respect of this matter? In my experience with the Promotions Appeal Board, the Government does not always follow the principle of giving preference to the person with the longest service. I would also like to know whether the Government has any intention of awarding a salary commensurate with the new position.

The Hon. I. G. MEDCALF: The support which Mr Cooley has indicated for this Bill is appreciated. As he pointed out, it has been thoroughly discussed with the TLC and the Confederation of Western Australian Industry.

In regard to the questions raised by Mr Cooley, as he is well aware, the commissioner who is senior in point of time has been performing the work of the chief commissioner when the chief commissioner is not available or is away for any reason. All the clause does is give that person the title of senior commissioner, without in any way prejudging who will be the next chief commissioner. The appointment of the next chief commissioner will be determined in accordance with the normal principles of appointment, which vary from industry to industry and from appointment to appointment. In some cases people automatically progress to a higher position through seniority, while in other cases the matter is open and an appointment will not necessarily rest on seniority in point of time. The object of this amendment is to give the person who is called upon to act in the absence of the chief commissioner the status of senior commissioner.

It is not unlike the positions of Chief Justice and Senior Puisne Judge. Some years ago the puisne judge who was senior in point of time was given the title Senior Puisne Judge, and the person who holds that position does not necessarily become appointed to the position of Chief Justice.

The position is much the same, and I can give no other assurance in respect of it. I am sorry I am unable to state the exact position with respect to the salary. I believe there is no change, but I may be wrong. However, I will ascertain the position and let the honourable member know.

Clause put and passed.

Clause 4: Section 56 amended—

The Hon. D. W. COOLEY: I realise this clause merely corrects a grammatical error. However, I rise on behalf of the lady members of the Chamber and all other women throughout Australia, as this is International Women's Year. It has been accepted in recent times that women are eligible to be appointed, and in fact have been appointed, to industrial positions. Section 56 refers to the fact that the commissioner shall vacate office if he engages in gainful employment, and later it states that the same applies if he becomes bankrupt. Right throughout the section reference is made to "he". I wonder if the Act contains any provision to compensate this in so far as women are concerned. I can find no such provision. It would be unfortunate if we did not take advantage of this occasion to make provision for women.

The Hon. I. G. MEDCALF: I understand Mr Cooley is referring to the use of the masculine instead of the alternative. Presumably he is suggesting that we should use, "he or she" throughout the Act, or else include a definition which makes it clear that a woman may hold a position.

I do not believe there is any specific provision in the Act to this effect, but it is appreciated there is no reason that a woman should not hold such a position even though the word "he" is used. This applies to most positions. While Mr Cooley was speaking I was endeavouring to turn up the provision in the Interpretation Act which states that the feminine and the masculine genders are interchangeable. Such a provision applies to all Acts of Parliament. Also, the singular and plural are interchangeable. Rather than delay the Chamber by trying to find the provision, I will refer it to the honourable member privately.

The Hon. D. W. Cooley: That is acceptable, if it is covered.

Clause put and passed.

Clauses 5 to 14 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL

Assembly's Message

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

GRAIN MARKETING BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.51 p.m.]: I move—

That the Bill be now read a second time.

As members may be aware, the matter of amalgamating the present Barley Marketing Board, the Seeds Marketing Board and the Grain Pool of WA under one producer-elected and producer-controlled marketing board, has been under discussion for about three years.

"The Grain Pool of WA" is a well-known and respected name in the world grain trade. Its standards are accepted internationally, and it could be a retrograde step in the marketing of our grains now to change this well-known name. The new authority will therefore assume the title of the Grain Pool of WA.

For some time, it has been generally accepted by all the organisations vitally concerned in this matter that the merging of the present three authorities involved in the marketing of coarse grains and seeds in Western Australia, under one grower-controlled structure, is most desirable.

Although there has been general agreement on the basic principle of creating one authority to incorporate the existing powers, authorities, and resources of the present Grain Pool, Barley Marketing Board and Seeds Marketing Board, considerable difficulties have been experienced in formulating a method of doing so which is acceptable to all interested parties. I am pleased that general accord has now been achieved.

This Bill provides that the initial board shall comprise—

- the present four trustees of the Grain Pool;
- the present two grower-elected members of the Barley Marketing Board;
- the present two grower-elected members of the Seeds Marketing Board; and
- two persons who have special expertise in finance, or marketing, or both, to be appointed by the Minister from a panel of names to be submitted to the Minister for Agriculture by grower organisations;

making an initial board of 10 persons, to which will be added—as soon as elections can be arranged—two further grower representatives, one each from the temporarily vacant zones, Nos. 1 and 5.

The appointment of the initial board and method of election in the various producer zones to establish the ultimate board of nine persons, comprising seven grower-elected directors, plus two directors with special expertise, is outlined in the fourth schedule.

The producer zones referred to are outlined in the second schedule, and are fixed for an initial period of five years, after which period of time zone boundaries may be altered by regulation, on the submission in writing to the Minister of a majority decision of the board, specifying such alterations.

There is provision in part V of the Bill for the Growers' Council, within the meaning of the Grain Pool Act, 1932, to continue in existence under the name of "Producers' Council of the Grain Pool of WA", in an advisory capacity only, for an initial period of five years, at which time the board—after consultation with the Producers' Council—shall report to the Minister on the advisability or otherwise of the Producers' Council continuing in existence beyond the five-year period. Rules for the constitution of the Producers' Council are contained in the third schedule.

Provision is made in part III for the Grain Pool to conduct statutory or voluntary pools in relation to any grain or seed which is the subject of an authority vested in it.

At the present time, barley, rape seed and linseed are all delivered under the respective Acts, as would be any prescribed grain—and seeds—in this Bill. Oats at present delivered under voluntary pool

arrangements could also become a prescribed grain if considered desirable by producers.

Barley is a prescribed grain and lupins, which are becoming an increasingly important crop to Western Australia, and rapeseed, are, by amendment made in the Legislative Assembly, also prescribed grains.

The first schedule contained in the Bill defines the various Acts proposed to be repealed on the passing and proclamation of this legislation.

Provision is also made for the Treasurer of the State to provide such guarantees for the repayment of any money borrowed by the Grain Pool, including interest thereon, on such terms and conditions as the Treasurer thinks fit.

The Auditor-General shall, at least annually, audit the accounts of the Grain Pool and the Treasurer of the State shall fix such reasonable sum as he decides for the audit.

The board is required to submit to the Minister, at least annually, a written report of the Grain Pool's activities, together with a copy of its accounts as last audited by the Auditor-General, and his report on those accounts.

The Minister is required to table such documents in both Houses of Parliament as soon as practicable after receiving them.

The Bill is designed to provide that a grower-elected and grower-controlled single grain marketing authority is established, to act on a co-operative and nonprofit basis on behalf of grain and seed producers of Western Australia; its acceptance would ensure a very strong organisation available for this purpose.

I mention for the information of members that several amendments were made in another place.

For instance, the Bill now specifically refers to lupins and rapeseed as prescribed grain. Other aspects more clearly elucidated are the authority to handle, rather than deal, in grain on behalf of the Grain Pool.

There was an amendment to clause 5 to ensure without any question of doubt that CBH is fully protected within the meaning of this legislation and to ensure consultation as between the Grain Pool and CBH prior to establishment of premises, machinery, plant and so forth. Also the right by producers who are dissatisfied to appeal in respect of determinations concerning classifications and dockages is aligned with appeal rights under the Bulk Handling Act.

A new subclause also was added to in clause 34 acknowledging that CBH has, by virtue of this legislation, a license to receive and handle a grain on behalf of the Grain Pool.

Finally, the Minister will determine and approve such remuneration and expenses as recommended by the Grain Pool for payment to licensed receivers for services performed and facilities provided by them.

I desire in closing my remarks to foreshadow amendments which I shall move during Committee.

While clause 28 makes provision for the appointment of three producer representatives on the proposed grain research committee, and it is considered quite likely that such representatives will *inter alia* be directors of the Grain Pool, this may not necessarily be so. Therefore, it is proposed to ensure by amendment to subparagraph (i) of paragraph (a) of subclause 5 and the insertion of a new subparagraph (ii) that at least one such representative shall be a director of the Grain Pool.

Clause 29 is also to be rewritten with a view to overriding section 9 of the Bulk Handling Act in the matter of special approved grains.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. T. Leeson.

INTERPRETATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 30th October.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [5.58 p.m.]: The repeal and re-enactment of section 11 of the Interpretation Act meets with our approval. When the Minister introduced the Bill he referred to the case in Victoria of Rex Muldoon v. John Lesley Johnstone, but did not expand upon it. However, I take it some regulations or by-laws resulted in the challenge being made to the Interpretation Act of Victoria. I have not been able to find any trace of that, but I suppose it is of little consequence really.

If the situation has been in doubt for some 50 years, I think it is only right and proper that it be rectified now. The Minister said it is the intention of other States and the Commonwealth to amend their Interpretation Acts to bring them into line with the Victorian Act and with what is being done in this State.

I further note the Bill contains a retrospective provision so that anything that has been done in the past will be validated on the coming into operation of proposed new section 11.

It is well that in our legislation we should know what interpretations, regulations, and other matters of consequence mean to sound government.

I support the Bill.

THE HON. N. McNEILL (Lower West—Minister for Justice) [6.00 p.m.]: I am grateful for the support of the Leader of

the Opposition this measure. He is quite correct; I did make reference to a particular case in the Supreme Court of Victoria, and therefore the comment he made a moment ago in regard to that case is not inappropriate.

I have with me a copy of the judgment that was given on the case and while it would not be necessary to read the whole of it—it does run to a number of pages—I have it available so that the Leader of the Opposition or any other honourable member may study it if he so desires. I repeat that I do not think it is necessary for me to incorporate the whole judgment in *Hansard*.

I appreciate, once again, the co-operation of the Leader of the Opposition in supporting this Bill.

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.

Sitting suspended from 6.04 to 7.30 p.m.

BUSINESS FRANCHISE (TOBACCO) BILL

Second Reading

Debate resumed from the 30th October.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [7.30 p.m.]: Members will recall that at a Premiers' Conference last year the Premiers sought taxing powers from the Commonwealth and they were granted two methods by which they could raise State revenue. One was by means of the provisions in the Bill before us—for the taxing of tobacco—and the other was by means of pay-roll tax.

Over the years we have heard a great deal of argument about the raising of pay-roll tax and the imposition it creates on employers, especially those in remote areas. It has been advocated that the pay-roll tax should be abolished, but we know that very shortly after the conference last year this Government introduced legislation to raise pay-roll tax although it did give certain concessions in some areas. I think that the concessions given last year amounted to $47 000.

The Bill before us, which is a taxing measure, will, according to the Minister's second reading speech, raise $3.2 million in 1975-76 and $5.5 million in the course of a full year.

It has been suggested in another place that the money raised under this Bill will be used for community welfare and other like services covered by the Budget which we cannot discuss at this stage; although the Minister's speech did mention that this Bill is the first measure which was foreshadowed with the introduction of the Budget, and that it is for the purpose of raising additional funds for essential Government services. Therefore, this is a direct taxing measure.

Similar legislation has been introduced in Victoria, New South Wales, and South Australia. Actually, I believe that Tasmania was the first State to introduce a tax on tobacco and cigarettes. There was a lot of controversy at the time because it was stated that Tasmania was intending that the purchaser of cigarettes and tobacco should make some remittance to the Government. This idea was completely unworkable and the legislation was withdrawn. I was under the clear impression that Tasmania, having such a small avenue from which to collect revenue, was the first State to introduce this type of legislation.

The Hon. N. McNeill: I thought it was in a little different form.

The Hon. R. THOMPSON: That is true. It was—

The Hon. N. McNeill: This is a franchise.

The Hon. R. THOMPSON: —and that is why it was unworkable in Tasmania. That State had to update its legislation, but the Minister did not mention this fact. However, that is by the way.

This is an avenue of taxation provided to the State by the Commonwealth, and the State is utilising it, however savage it may be. It is a sectional tax. I do not know how many smokers we have in Western Australia, but I doubt whether we would have 500 000 with a current population of 1.130 million. Therefore we can calculate that each smoker will pay at least $10 to $15 extra if the revenue from this tax in a full year is to be $5.5 million. This represents a pretty savage tax. As a matter of fact I have a personal interest in this Bill. I imagine I would smoke as many cigarettes as the next person in this Chamber. However, rather than help the State finances I will take heed of the advice which has been given on many occasions and follow the example of the Minister for Health and give up smoking. It will probably be more beneficial to me.

The Hon. N. E. Baxter: I did not want to; I had to.

The Hon. N. McNeill: It was a very appropriate thing for the Minister for Health to do.

The Hon. R. THOMPSON: He said he did not want to, but had to.

The Hon. N. McNeill: With the emphasis on the "had".

The Hon. R. THOMPSON: Generally, if I dealt with the Bill in the manner I desired, to a degree I would be transgressing on the matters contained in the Budget. However, I will have an opportunity to

deal with the Budget when the Bill comes here for discussion. As I desire to obtain some information on the Bill, I will ask certain questions now rather than merely generalise on what the Minister said. I would like him to take note of clause 2 (2) of the Bill. This clause deals with interpretations, and subclause (2) reads—

> (2) References in this Act to premises shall be read and construed as including references to any building or structure, including a building or structure that is of a temporary nature or that is capable of being moved or transported, and to any vehicle, vessel or aircraft.

Further on in the Bill provision is made for a license fee of $10 for a retailer. I think we can virtually dismiss from our minds the thought that a small retailer of cigarettes and tobacco would be involved in importation. Only chain stores and a few specialist tobacconists would import tobacco.

I am concerned about the interpretation of "tobacco retailer". Does that mean that a person who gives a service at a country show—perhaps by way of a provisional bar license or by setting up a stall at which to sell tobacco and cigarettes—must apply for a license and pay $10? If so, this would also apply to a field day, fete, or any other similar function. That is the first query I raise.

Still dealing with the interpretations, clause 2 (3) reads—

> (3) The presence on any premises of a vending machine from which tobacco may be obtained by an operation that involves the insertion in the machine of a coin, token, or similar object shall be deemed to constitute the carrying on on those premises by the occupier thereof of tobacco retailing unless the machine is owned and operated by a licensee in accordance with his licence.

A person could be the proprietor of a vending machine company, or of pool tables and other types of entertainment which are installed at hotels and other premises. Does it mean that these proprietors are retailers in the true sense of the word? Such a person could have 500 of these machines installed in various hotels and other establishments. Would he have to pay only one $10 for a license for the 500 machines? The Bill refers to the premises on which such machines are in operation under the license. If that is the case, I would oppose that provision.

The Hon. N. McNeill: You mean you would oppose it if, in fact, every machine was subject to a license fee?

The Hon. R. THOMPSON: No. As far as I am concerned, every machine should be subject to a license.

The Hon. N. McNeill: I am trying to clarify your point.

The Hon. R. THOMPSON: I think I made it quite clear. A vending machine company could have 500 machines distributed throughout Western Australia. Under the provision I have just read, it means that if the proprietor stipulated on his application for a license where the machines would be operating, then for a $10 fee he could operate those 500 machines. Yet a person who wants to operate at a one-day country show must also pay $10 for a license, the same amount that would be payable by the proprietor of a vending machine company with 500 machines. I cannot find any provision in the Bill which makes it compulsory for such a proprietor to obtain a license for each of his 500 machines. Therefore I will oppose this particular part of the Bill. I am sure members would like to have more information on the provision.

I come now to a provision to which I have objected in previous legislation, and I object to its inclusion in the Bill before us. I refer to clause 3 (8) which commences on page 4 of the Bill, and reads—

> (8) Where the exercise or performance by the Commissioner of any power or function under this Act or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised or performed by a delegate of the Commissioner acting as such in relation to that matter, or that provision may operate, as the case may be, upon the opinion, belief or state of mind of that delegate acting as such.

The wording of this provision is nothing but gobbledy-gook. This is new legislation and it should be responsible legislation. It is true the Minister said the Government had been guided by the legislation in other States; but how the state of mind of a Minister or his delegate can be involved in connection with whether or not a person is contravening the law, I do not know. Either the person has a license or he has not a license. He is either guilty or innocent, and therefore he should be charged if he is guilty, and not charged if he is not guilty.

I hope members will study clause 4 because here again we have an obnoxious clause which should not be included in the Bill. The clause reads—

> 4. (1) The Commissioner or any officer authorized by him in that behalf may at any reasonable time—
>
> (a) enter and remain in any premises at which, or at which he reasonably suspects, the business of selling tobacco is carried on or which is, or which he reasonably suspects, is being used for storage or

> custody of any accounts, records, books or documents relating to the sale or purchase of tobacco;

We had quite an argument just recently over an agricultural protection Bill when it was thought, by many members of this Chamber, that a warrant was necessary before a search was made. The Bill now before us provides that a warrant will not be necessary in order to carry out a search. That will be an entree for any officer, authorised by the commissioner, to walk into any building if he reasonably suspects it is being used for the sale of cigarettes or tobacco. He will take such action "at any reasonable time". I do not know what interpretation will be placed on that provision. An authorised person can go even further and take copies of accounts, extracts, or notes from any accounts, and so on.

I want to know why such actions cannot be undertaken on warrant. If a person is suspected of stealing a policeman has to obtain a warrant in order to make a search of that person's premises. I do not believe that tobacco goods—cigarettes and cigars—are openly traded. Perhaps the Minister will be able to tell me that tobacco goods are smuggled into the country, but as yet I have not heard of any such smuggling. We should have an explanation of that provision.

I have previously spoken about vending machines, which are covered by clause 6 of the Bill. According to my interpretation of the provision a person shall not, on or after the 1st July, 1976—unless he becomes licensed to trade as a tobacco retailer—trade in tobacco goods. I do not think anyone would be foolish enough to disobey the law, but I still want some clarification with regard to vending machines.

Subclause (4) of clause 7 states—

> (4) The licence shall specify the premises which are to be used for or in connection with the business carried on under the licence.

My interpretation of that provision is that if vending machines are specified in a license, a person could pay $10 for his license and have 500 retail outlets, if he were able to have that many machines. A chain-store organisation could have 10, 20 or 30 outlets in Western Australia and it could still have to pay only $10 for a license. However, the small corner store would also have to pay $10 for a license. If that is to be the case we should send the Bill back to the other place to ensure that every outlet for tobacco is covered by a license fee.

We have read the infamous blue and white Liberal Party booklet in which it was stated that the small storekeeper was to be protected. His rights were considered to be paramount, yet we find that a vending machine company will apparently pay the same fee as the small storekeeper. I sincerely hope I am wrong in my interpretation because such a provision would do a serious disservice to the small storekeeper.

I think I have mentioned the main points of concern to me. I have examined the Bill thoroughly, and if necessary I could go on picking it to pieces for a long time.

It seems that the tobacco wholesalers will be able to pay by instalments—by a provisional tax system. That is exactly what the Bill sets out, so far as the wholesalers are concerned. The provisional tax which they pay will not bear interest, and they will pay it in two-monthly instalments. It was not until some representation was made that the two-months' period was allowed. The Minister said that the increases would be effective as from about mid-December. The first return will not have to be lodged until the 28th February, so it can be seen that the public will be charged the higher rate for cigarettes and tobacco which they purchase for a period of two months, which will allow the wholesaler to recoup that amount from the retailer. The wholesaler will then be able to pay the extra tax to the State Commissioner of Taxation.

I am not very happy with the implementation of a provisional tax. From time to time most of us in this Chamber have criticised the difficulties faced by people who have to pay provisional tax. I know that in some cases people have gone bankrupt as a result of having to pay provisional tax.

The Hon. N. E. Baxter: What about the difficulties they get into if they do not pay provisional tax?

The Hon. R. THOMPSON: I am not advocating provisional tax. I never have done, and on one occasion I was the victim of provisional tax.

The Hon. N. E. Baxter: You pay it now.

The Hon. R. THOMPSON: No, I do not. Well, it is deducted from my salary each month which, I suppose, is a provisional tax.

The Hon. N. E. Baxter: It is.

The Hon. R. THOMPSON: Provisional taxing measures have been in operation since 1939-40, to my knowledge. We have always paid this type of tax—during my working life, anyway. I take exception to the fact that this Government is to levy a provisional tax, after this type of tax has been criticised over so many years. Admittedly, provisional tax has become accepted as a way of life, but just because one wrong has been accepted we should not create another by imposing an additional provisional tax.

The Hon. N. E. Baxter: I think most criticism came during 1950 when the price of wool was high. The tax received some criticism at that time, with regard to the additional impact it had, but outside of that there has not been a lot of criticism.

The Hon. R. THOMPSON: The whole idea of a provisional tax is rather obnoxious, and it should not be included in the Bill now before us. It was introduced previously to finance the war effort.

I hope the Minister will be able to satisfy me on the points I have raised. I want to make those points clear before I resume my seat, because I do not want any misunderstanding with regard to what I have said. I realise the Government has the right to introduce legislation such as this but, personally, I am opposed to it—not partywise, but from my own personal point of view.

For some unknown reason my hairdressers usually come into debates in this Chamber. While dealing with a Bill last week I had occasion to mention my previous hairdresser. Just recently, while my current hairdresser was searching for some of my hair to cut, I mentioned that he had changed the interior of his shop. He explained to me that he had got rid of his cigarettes and tobacco because of the additional costs involved and the additional insurance he would have to pay. He said that because of those additional costs, and the number of robberies that were taking place, it was no longer profitable for a small businessman to carry cigarettes. I think he presented a rather valid argument. I do not know what the insurance premiums are on stocks of cigarettes and tobacco, but they are pretty expensive items.

At present cigarettes cost about 75c a packet, and the price will go up by at least another 10 per cent a packet. That price involves considerable risk as far as tobacconists or small shopkeepers are concerned, and many of them will be forced out of business. They are not able to operate in the same way as do chain stores, where cigarettes can be purchased at discounted prices.

The type of cigarette which I smoke can be purchased in some of the chain stores at $6.40 or $6.50 a carton. However, in the ordinary stores they cost up to $7.30 a carton. It will be seen that the small retailer who seems to be squeezed all the time will be squeezed a lot more as a result of the passing of this legislation.

I feel sorry for the small retailers. We have heard the cry from members opposite, over the years, that they would protect the small retailers. Members opposite said they would do something for these people, but the imposition of this new tax will reduce the return from one of their most saleable items. The average person who makes a purchase at a small store usually buys a packet of cigarettes.

I give qualified support to the legislation at this stage, but I want to know more about provisional licenses at country shows, for field days, at fetes, etc. I want to know whether a $10 license will be required for those types of functions. The Bill contains no provision for a special license. A retailer who applies for a license in July will not know whether he will be selling cigarettes during the following February or March. For that reason I want to know whether there will be some provision for a special license, and I also want to know what conditions will be imposed on vending machine outlets.

Debate adjourned, on motion by the Hon. V. J. Ferry.

House adjourned at 8.00 p.m.

Legislative Assembly

Tuesday, the 4th November, 1975

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

HEALTH

Mercury Content in Fish: Censure Motion —Statement by Speaker

THE SPEAKER (Mr Hutchinson): Some time ago the censure motion relating to mercury in fish was made the last order of the day on the notice paper at my direction because the matter was *sub judice*. As the writ in question has now been finalised, I direct that the motion be brought to the top of private members' business for Wednesday, the 5th November.

BILLS (4): INTRODUCTION AND FIRST READING

1. Salaries and Allowances Tribunal Act Amendment Bill.
2. Judges' Salaries and Pensions Act Amendment Bill.
3. Parliamentary Superannuation Act Amendment Bill.

   Bills introduced, on motions by Sir Charles Court (Treasurer), and read a first time.

4. State Housing Act Amendment Bill.

   Bill introduced, on motion by Mr P. V. Jones (Minister for Housing), and read a first time.

QUESTIONS (21): ON NOTICE

1. WITNESSES

Fees

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

(1) How much per day is paid to cover the expenses of a Crown witness appearing before the Supreme Court in Western Australia?