

Legislative Council

Tuesday, 2nd October, 1956.

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

QUESTIONS.

RAILWAYS.

Refreshment Room Profits.

Hon. J. McI. THOMSON asked the Minister for Railways:

(1) Of the 17 refreshment rooms operated by the Railway Department, how many showed a profit for the year ended June, 1956?

(2) What was the profit of—

(a) the Perth railway refreshment rooms and bar;

(b) stalls on the Perth platform?

The MINISTER replied:

(1) Four.

(2) (a) £4,369.

(b) Bookstall, £1,959; kiosk and automatic drink machines, £1,194.

POLIOMYELITIS.

Priority of Immunisation.

Hon. A. F. GRIFFITH (without notice) asked the Chief Secretary:

Before I ask some questions I would like to make an explanation. I sent a copy of the questions to the office of the Minister for Health, and I would like to express my appreciation of the fact that the Minister saw to it that replies were furnished. I do not yet know what they are, but I am grateful to him for dealing with the matter so that I would obtain the answers. My questions are as follows:—

(1) What were the dates originally set down for the polio Salk vaccine immunisation programme for the South Perth area, including Como, Kensington, Collier and Manning Park?

(2) Is it a fact that this programme has been changed and that such immunisation programme will now not take place until January and February of 1957?

(3) If so, why, and at whose instigation was the change made?

(4) Has the change in the programme given the area south of Fremantle precedence over South Perth districts?

(5) If this is so, how can such open beach areas south of Fremantle be given priority over river areas when in the past South Perth and Como beaches have been closed during epidemic periods, whilst Rockingham and Safety Bay beaches have remained open?

(6) Would not the closing of swimming classes in land-locked and river areas and not in open-sea areas, presuppose that polio infection was more likely in, say, the South Perth area than the Rockingham area?

(7) In view of all the circumstances and the inevitability of the South Perth-Como beaches being again closed in the event of further cases of poliomyelitis during the coming summer months, resulting in many thousands of people, particularly children, being denied swimming facilities at those beaches, will the Minister for Health allow the original programme to stand?

The CHIEF SECRETARY replied:

By courtesy of the Minister for Health I am in a position to answer this question asked without notice. But I would like to say that I cannot see that there is any great urgency about the matter. The idea in this Chamber has been that questions without notice should not be asked except upon matters of urgency.

Hon. A. F. Griffith: This is urgent.

The CHIEF SECRETARY: It may be urgent, but not so urgent that notice could not have been given today and the replies provided tomorrow. I hope members will not take advantage of the co-operation of the Minister for Health in answering these questions without notice today. The replies are as follows:—

(1) November and December.

(2) Yes.

(3) At the instigation of local bodies on the ground that the zone included major holiday resorts such as Rockingham, Safety Bay, Coogee and Naval Base.

(4) Yes.

(5) These areas have a greater influx of holiday makers for longer periods than have South Perth and Como.

(6) The spread of poliomyelitis infection is not regarded as more likely in the South Perth area than in the Rockingham area.

(7) It is considered that the claims of the beaches south of Fremantle are more pressing than those of South Perth and Como. It is pointed out that no beaches were closed by the Public Health Department during the epidemics of the last two

years. The department advised against group swimming in relatively still water during an epidemic. The recent epidemics, together with the high proportion of children who will be immunised by Christmas, renders the possibility of another epidemic unlikely.

BILL—MUNICIPALITY OF FREMANTLE ACT AMENDMENT.

Read a third time and *passed*.

BILL—EVIDENCE ACT AMENDMENT.

Second Reading.

Debate resumed from the 26th September.

HON. E. M. HEENAN (North-East) [4.42]: This very short measure was amply explained by the Minister, when introducing it, and Mr. Cunningham also gave some interesting facts in connection with it, so my remarks will be brief.

It has been pointed out that the main amendment proposed applies to the rule known as Russell and Russell. For many years, in divorce proceedings, neither party could give evidence of non-access; in other words, if it was alleged that a child was born out of wedlock—or if it were so contended—neither spouse could give evidence to that effect. The reason behind it all was that the interests of the child were considered to be paramount, and it was therefore presumed that all children born while husband and wife were married were legitimate. The interests and welfare of the child were regarded as being sacrosanct, and neither mother nor father could give evidence which would prove its bastardy.

Russell and Russell was a very interesting case, in which it was alleged that the child of the marriage was illegitimate. There were questions of inheritance at stake; and finally the House of Lords ruled conclusively that evidence given in the lower courts, which proved that this child was, in fact, illegitimate, was wrongly admitted. The effect of that judgment was that the divorce was disallowed and that the child retained his inheritance and right of legitimacy.

Since that time the rule, although it has a lot of merits, has been found also to have a number of shortcomings; and as recently as 1948, our divorce law in this State was considerably amended and that rule was abrogated. In Western Australia now, therefore, either spouse can give evidence of non-access over the vital period in regard to a child's birth, and can give that evidence in support of an application for divorce on the grounds of adultery. Our Evidence Act needs bringing up to date in that respect, and this amendment will bring it into line with the Matrimonial Causes and Personal Status Code, which was passed in 1948.

The other main provision of the Bill has also been explained fully, and Mr. Cunningham gave a very interesting outline of the fingerprint system. I wish to point out, however, that the system of identification by fingerprints has been in existence for a long time, and all this provision will do will be to simplify the method of proof and, in certain cases, save considerable expense. It would obviate the necessity, for instance, of a police officer having to travel from Wyndham, Adelaide—or perhaps Brisbane—to Perth to produce fingerprints and give oral evidence that they had been taken at that other place. The measure provides that an affidavit can be sworn verifying the authenticity of the fingerprints taken, for instance, in Queensland, and that will save the necessity of someone travelling all that way to verify them.

This is what is termed *prima facie* evidence; and if any real argument or dispute as to the correctness or authenticity of the fingerprints was involved, other methods could be applied. This certainly seems to be a sensible way of dealing with the situation, and for those reasons I support all the provisions of the Bill.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Section 47 amended:

The CHIEF SECRETARY: I move an amendment—

That the words "in the Commonwealth of Australia or the Dominion of New Zealand" in lines 25 and 26, page 2, be struck out.

The Minister in charge of the Bill in another place agreed to these words being inserted; but on investigation since, it has been decided that it would be better if they were deleted. During the debate, it was pointed out that fingerprint evidence the world over is quite acceptable. Therefore, it was not considered advisable to limit such evidence to New Zealand and the Commonwealth, especially with the introduction of new Australians to the country.

Hon. Sir CHARLES LATHAM: There might be a good deal of sense in limiting the operation of this clause to the Commonwealth and New Zealand. I was trying to think how many million people there are in the world. To date we have not discovered any identical fingerprints; but if the whole world were encompassed, we might find more than two persons with identical fingerprints. No doubt that was the reason why the limitation was inserted in the Bill. However, I have no objection to the amendment.

Amendment put and passed; the clause, as amended, agreed to.

Clauses 4 and 5—agreed to.

Schedule, Title—agreed to.

Bill reported with an amendment.

BILL—HEALTH ACT AMENDMENT.

Received from the Assembly and read a first time.

BILL—ENTERTAINMENTS TAX ACT AMENDMENT.

Second Reading.

Debate resumed from the 26th September.

HON. C. H. SIMPSON (Midland) [4.55]: This Bill is designed to afford some taxation relief to those companies which stage live shows in this State, and as such it is certainly not contentious. It is welcomed by all members; and by those individuals particularly who try to entertain the public and who, in some cases, derive their living from staging shows of this kind. The Chief Secretary pointed out that under Section 4 of the Act this will apply to stage plays, ballets, vocal and instrumental performances, recitations, music hall and variety entertainment, circuses and travelling shows.

I am informed that there have been, on more than one occasion, requests for some consideration in regard to relief from the imposition of taxation on these shows. The desire has been to make them more readily available to the public of Western Australia and to afford those who undertake to present them a chance of charging a reasonable price without subjecting themselves to a loss. Under the Act as it stands now, taxation charges for live shows start at 5s. 1d. and gradually increase at the rate of 1d. for each 6d. of admission charge. Under this Bill, the charges will be free of entertainment tax up to 10s.; and, thereafter, instead of the increase being 1d. for every 6d., or 2d. for every 1s., it will be 1d. for every 1s. So the net taxation relief works out at a little more than 50 per cent.

It might interest members to know a little of the background of the show business in this State. Obviously, Western Australia is handicapped in this regard on account of its small population, the distance that the people in show business have to travel if they are members of overseas shows, and the time involved in travelling which, of course, means money. The usual practice for overseas companies is for them to arrange a circuit through the Eastern States and New Zealand, and finally to come to Western Australia.

For a worth-while show the showing time averages from six to eight months in the Eastern States and New Zealand, and from three to five weeks in Western Australia. However, under their clerical

system, some of the expenses are absorbed by writing off depreciation on wardrobes, costumes and scenery, so that when a company comes to stage its show in Western Australia all those expenses are already absorbed which, as a rule, allows for a smaller admission charge to be made in Western Australia, compared to that charged in the Eastern States for a similar show.

This concession will apply to all live shows, whether they come from overseas or whether they are local—either from the metropolitan area or the country—and in some places, particularly where they have to travel, it should be a great boon, because travelling expenses are of great concern.

All of the benefits which are to be given to the proprietor of a show by way of taxation relief are not always enjoyed by the man who runs it. For instance, a show might make a charge of £1 1s. in the Eastern States, but the same show here in the past has been staged at 16s. Now that this concession has been made, the charge to the public will be lowered to 13s. 6d., which is a reduction of 2s. 6d. The idea is that there will be greater patronage from the theatre-going public; and by reason of that, there will be more income derived by the proprietors. What a proprietor perhaps loses by making a lower charge than the Act would legitimately provide for, he makes up in the extra admissions to the theatre.

There is evidently a show-going public in this State which has a limited amount of cash to spend on this type of entertainment. That point is illustrated by the fact that there is an up-and-down trend in the results of the various shows which follow one another, sometimes shows of comparable merit. For instance, the Follies Bergeres played to very good houses here in this State; but the following show, "Command Performance," made a loss of £4,000. The Old Vic Co. play to very good houses and made a good profit, but the following Gilbert and Sullivan opera season resulted in a loss.

Hon. G. Bennetts: The quality may not have been very good.

Hon. C. H. SIMPSON: It was very good. My folk who went along to the show said it was very good indeed.

Hon. J. G. Hislop: What did the ballet lose?

Hon. C. H. SIMPSON: I do not know about that. In some of the shows, local artists make up the bulk of the performers, and a number of guest artists, probably from two to six, keep the shows going. One company, Edgley and Dawe, which took over the lease of His Majesty's Theatre for quite some time, has managed this business so well that during the year there were only four weeks when the theatre was not used. It made a practice of engaging local talent wherever possible. This company

has also been quite generous in helping charitable and church functions. It is interesting to point out what that company paid out in a full year of operation. It paid in salaries £152,000, payroll tax £3,322, taxation £35,000, advertising £24,000, and travelling expenses £24,000.

The actual running cost for the W.A. Ballet, which I understand is starting this week, is estimated at £1,600 per week, in addition to which there will be a £100 write-off each week for scenery and wardrobe. The public should be grateful to enterprises such as these which try to cater for better entertainment. No doubt the people who run these shows expect to make something. The experience and the initiative shown by such enterprises has served this State well. I can assure members that the margin of profit has been very fine indeed, and that the benefit they will confer on the public will be greatly appreciated. I am pleased to support the second reading.

HON. H. K. WATSON (Metropolitan) [5.5]: In introducing this Bill, the Chief Secretary said it would probably please the House and receive the support of every member. I certainly support the second reading. The Chief Secretary also said that some members would be dissatisfied with the Bill because in their opinion it did not go far enough. I would like to go on record as coming under that particular class.

The Chief Secretary: I thought of the hon. member when I said that.

Hon. H. K. WATSON: I recall that when this taxation was being imposed two years ago—after it had been abandoned by the Commonwealth Government with the intention that it should be abandoned altogether and not taken up by the State Government—I expressed the view that for various reasons, most of which have been summarised by Mr. Simpson, live shows should be completely exempt from entertainments tax. I do not know whether the Chief Secretary has been able to ascertain how much tax was collected last year from live shows and what was the amount involved in the proposed remission.

The Chief Secretary: Not yet.

Hon. H. K. WATSON: I imagine that the amount produced is negligible to the revenue of this State. On the other hand, it is a very irritating tax to theatrical producers and the theatre-going public. It does nothing but a real disservice to the people of this State. While I support this Bill, I assure the Chief Secretary that he will receive from me a pat on the back when the Government announces its intention to bring down a Bill to exempt completely from taxation live shows in this State.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—LICENSING ACT AMENDMENT (No. 2).

Second Reading.

Debate resumed from the 26th September.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [5.10]: I have referred the debate on this Bill to the Licensing Court for its opinion.

Hon. N. E. Baxter: And to nobody else?

The CHIEF SECRETARY: I did not refer it to anybody else. That was the hon. member's job if he wanted to counter any opinion that might be expressed by the court. As a result of my approach, I have received the advice that the court does not recommend that the Bill be accepted. The notes I have are as follows:—

The court considers that the proposal in Clause 2 (a) would overpower the provisions in Section 51 of the principal Act that no new publican's general licence or hotel licence shall be granted in Perth or Fremantle unless the premises have at least 12 bedrooms and two sitting rooms, or elsewhere if there are at least six bedrooms and two sitting rooms. This proposal was part of the Bill which was rejected by this House last year.

It was said by Mr. Baxter that in York there were four hotels which had 60 bedrooms between them available for the public and that no more than 10 were required per night. The number of rooms quoted by the hon. member is substantially correct, but it is difficult to say what number are let nightly. However, never at any time has any complaint been received by the Licensing Court from licensees at York or any other country centre regarding excess bedrooms. In Kalgoorlie the court has had applications, and in more than one instance, has permitted the respective licensees, on investigation, to close up portion of their bedroom accommodation during other than peak periods, with an instruction that accommodation be then made available.

There is no doubt that the provision for the stabling of horses is out-moded but never at any time during the life of the court has the provision been enforced. On the contrary, it has been interpreted to read "garages," and in many instances the court has had garages erected. This has always been in new hotels.

It can be agreed that for a wayside house only one sitting-room for guests is adequate, but the court considers

there should be a minimum of two bedrooms, and that publican's general and hotel licences should remain as prescribed in Section 51. That is, within the City of Perth and Fremantle a minimum of 12 bedrooms, and elsewhere six bedrooms. The court does not agree that £150, as suggested in the Bill, would form a sound basis for an adequate fund to compensate those hotels that would be required to provide accommodation.

It is considered that most hotels maintaining accommodation of the standard that would be required by the court, would require a cook, housemaid, waitress, food, kitchen maintenance, laundry etc. at an estimated cost of, approximately, £2,000 per annum. The amount of £150 from licensees exempt would not go very far towards paying the cost to those who do provide accommodation, which is approximately £2,000 per annum.

The licensee authorised to sell liquor only would be minus this outlay and would be in a position to pull the inside of his premises to pieces, convert the dining-room etc. into an up-to-date modern drinking lounge, and have an up-to-date beer garden. The hotel having to provide accommodation would not be able to compete, and in the court's opinion this would be very unfair competition. The profit from the bar is essential in the maintenance of the accommodation.

In regard to Mr. Bennetts' statement that he knew of one hotel in Kalgoorlie which only catered for bed and breakfast during the Kalgoorlie round, if the hon. member would give the name of the hotel the court would be able to take the necessary action.

Hon. G. Bennetts: That puts me on the spot.

The CHIEF SECRETARY: That seems to be the position. If the hon. member makes a complaint in this House he ought to follow it up.

The statement was made by Mr. Jones that at centres 30, 40 and 50 miles from Perth, hotels are very little used. The court says it does not know of any hotel not being called upon at some time to provide accommodation. It says there is always the risk that a break-down may occur in transport. Also, there is the case of school teachers, postal officials and others, who many times want accommodation. However, recently Section 31 of the Act, relating to a wayside house, was amended, giving the court discretionary powers regarding the converting of publican's general licences into wayside house licences.

When Sir Charles Latham was speaking, he said there were too many clubs and he would like to know how the court interpreted the Act; and he blamed the court for granting registrations. It should be stressed that the Act provides for the registration of clubs the same as it provides for any other licence; and when an application is made, the merits of the application must be heard in open court. Prior to 1951, the objections that could be raised regarding an application for registration were very limited, and the court suggested to the then Government that the Act be amended so as to allow the same objections that applied to a publican's general or any other licence, to be included in the objections that could be raised in regard to club registrations.

Parliament agreed to most of these, but the most important was not accepted, namely, that the requirements of the neighbourhood did not justify the granting of such a licence.

It was considered by Mr. Griffith that the court had made the situation complicated. He quoted one town having three clubs and four hotels, with a population of something less than 3,500 people. It must be remembered, however, that prior to 1951, if the court refused an application for a club registration, it had to give the reason. This meant that in a short time the club could come before the court again, after rectifying the mistake made in the previous application, and the court would have no option but to grant the application. In any case, Mr. Griffith would probably find that two of the three clubs mentioned would be sporting clubs.

He also stated that the Licensing Court has now got itself in the position where it cannot order improvements to country hotels because it must know that owners of the premises cannot meet the financial outlay necessary to bring the premises up to the standard required. The court states this is not so, as most of our country hotels are fairly well equipped, with good ablution blocks, kitchen, dining-room and beds.

Hon. G. C. MacKinnon: What was that?

The CHIEF SECRETARY: There are some interjections that one does not hear.

Visitors remark on the service and standard of Western Australian hotels. In almost every case they state that the standard is far ahead of that of country hotels in other States.

It has been said that the Western Australian Act compares favourably with those of any of the other States, although it is true there are anomalies in the Act. However, the court

realises the importance of country hotels; it realises how the bar trade helps the house; and it also realises the effect that clubs have on the hotel trade.

I congratulate Mr. Baxter on having brought the matter forward, because it is only by members drawing attention to what they consider are defects in various Acts, and pegging away at them, that eventually some success can be achieved. If members did not bring these things forward, the possibilities are that people would not realise just what alterations were required.

Hon. J. G. Hislop: What about following your usual custom of agreeing to the second reading and having a look at the Bill?

The CHIEF SECRETARY: As a matter of fact, I was going to say that I feel disposed to support the second reading. I can see only one obstacle, namely, that when we get into Committee it is possible that the only part that will be carried is the clause dealing with the question of the stable. The position then would be that when the Bill finally left here, it would consist of only the Title and the clause cutting out the stabling.

Hon. N. E. Baxter: What about the proposed new section?

The CHIEF SECRETARY: I am having investigations made into that by the Commissioner of Police. He is not happy about what is suggested in the Bill, but he wants time to make further investigations as to the practicability of two justices acting in a case of this description.

Hon. G. C. MacKinnon: We could consider that in the Committee stage.

The CHIEF SECRETARY: I was hoping that we could go right through this afternoon. I assure the hon. member that if, when we finally get the report from the police officers, they are unanimous in their opinion that this could be an improvement to the Act, I will recommend to the Government that some action be taken. If the matter was considered urgent, it could possibly be dealt with this year. Personally I do not like the proposition, and I would oppose it; but when investigations are being made by people whom we consider experts, and they report favourably, naturally we would have to give consideration to their report. I support the second reading, but I do not think there will be much of the Bill left after the Committee stage.

HON. C. H. SIMPSON (Midland) [5.21]: Like the Chief Secretary, I am going to support the second reading. While the Bill contains features which could easily be criticised—and which might indeed pass this House but perhaps not another place—some thought should be given to

the Licensing Act as a whole. Most speakers who have contributed to the debate have agreed that the time for overhauling the Licensing Act is long overdue; that many things could be done to improve the Act in its application to licensed premises. A committee could inquire into these things; and eventually, we hope, its recommendations could be carried into effect.

One reason why the Bill merits consideration is that in a place like Western Australia there should be more flexibility of attitude towards what is not suitable for one place and what, perhaps, is suitable for another. I ran a hotel for six and a half years.

The Chief Secretary: You do not look like a publican.

Hon. C. H. SIMPSON: I am not going to say I was happy. Those six and a half years were about the unhappiest years of my life, and I was delighted when I gave that job up and took on something else; but I was bound by the provision of the lease, and the time just had to be served, if I can put it that way.

At this point I am reminded of a story I heard the other night of an outback hotel. A car-load of weary travellers drew up at this hotel and wanted lunch. They were pretty late for their meal, but the hotel-keeper prevailed on the waitress to put up some cold meat for them. So she came in and said, "What are you going to have, goat or galah?" They decided they would have galah, and one of them asked for some pickles. She said to the cook, "Cookie, have you any pickles? One of these chaps here thinks it is Christmas."

I have a purpose in mentioning this story. If members travel through the outback parts of Western Australia, they will sometimes find old inns surviving, in remote parts, as relics of the mining days; and they will be glad to get whatever accommodation, meal or, perhaps, drink that they can provide. The licensees of those hotels cannot afford, with the patronage that they have, to maintain a high standard, but I am sure that members would be very glad to take whatever was offered, because it would be that or nothing.

I think the Licensing Court might well adopt a flexibility of attitude with regard to what is suitable to places like that and what is suitable in larger and more prosperous towns where the standard of accommodation could easily be improved. In a town such as I believe the sponsor of the Bill has in mind, there may be a number of hotels, but not much chance of improving the liquor trade. A district hotel gets its quota, and that is all, because there is not much call for accommodation in these days of fast travel and good roads, so that what used to be a well-patronised hotel in years gone by is not well patronised today.

A hotelkeeper may not be able to afford, with the number of patrons he has, to keep up standards comparable to those that apply in places that have a denser population, with the result that travellers simply by-pass his house and go elsewhere. I can see that in certain cases provision for a lesser number of rooms might be quite a sensible idea. It could be—again I refer to a mining town—a centre that is capable of once more becoming prosperous; and in such an event, the position could be reviewed.

Turning to another aspect of the Act which, I think, is a shortcoming, in company with Mr. Logan and Mr. Jones, I attended a celebration at Geraldton over one week-end. It was a gathering of representatives of the local governing bodies—road boards—throughout the State at the invitation of the North Ward of the Road Board Association. It so happened that the Geraldton folk—who had been most hospitable—desired, through their mayor and councillors, to entertain the visitors on the Sunday night. When they went to make preparations at Shephard's Hotel, which is well equipped to provide for such a function, they found that, under the provisions of the Act, they could not do it, so they had to go elsewhere. Those people had to make apologies to their guests, and explain the position. On the following night—which, of course, was a week night—the North Ward entertained all the guests in right royal style at this hotel.

Apparently the present Act is not sufficiently elastic to cover that position so as to allow a function, well organised and desirable in every way, to be held on a Sunday night; whereas exactly the same service can be provided during the week. This is just another of the many points that could be examined if the Bill were passed at the second reading and later dealt with in another place. Possibly it could be referred to a select committee. In any case, I think any discussion on the matters at issue would make people realise that something must be done to bring the Licensing Act up to date. I support the second reading.

HON. N. E. BAXTER (Central—in reply) [15.30]: I thank members for the contributions they made to this debate and for commending me upon introducing the Bill. Despite that commendation, I do not think one constructive idea was put up by any member; and if I have done anyone an injustice by saying that, I apologise for it. I have had the honour to be a member of this House for seven years now, and during that time not one major amendment to the Licensing Act has been introduced. I believe that the amendments which are contained in this Bill are what can be classed as major amendments, because they are attempting to do something overall for our country hotels, the licensees of which are today suffering disabilities.

Firstly, I would like to deal with some of the comments that were made during the debate, and I shall try to take the remarks in order if possible. Mrs. Hutchison, in her speech, launched out in a tirade and said that I was trying to make beer houses out of hotels. My intention, by the introduction of this Bill, is not to make beer houses—or swill houses, as she described them later. My intention is to try to make hotels places which can be decently run and properly conducted, so that people can go there for pleasure and can enjoy a drink in comfort.

If the hon. member would care to visit a little hotel not far from the city—I refer to the Mundaring hotel—she would see one of the nicest little hotels in any district. It is only a small place and there is not a big bar trade. There is a main bar and a nice lounge-saloon bar. Upstairs there are 12 bedrooms; and the bathroom accommodation, which was recently modernised, cost £8,000. The weekly takings of the hotel, on the accommodation side, are less than £20 and there is one permanent boarder—the postmaster.

For that one boarder, the owner of the premises had to go to the expense of putting in all the bathroom facilities, and he would have had to do the same even if there had been no boarders at all. As the Chief Secretary said, that is almost £2,000 a year to accommodate one postmaster during the time that he is stationed in that district. In most instances it is the job of the Postmaster General's Department to find accommodation for its officers; but, as I said, in this instance the Licensing Court stated that accommodation must be provided by the hotel licensee, and apparently how much it costs does not matter. In this instance there was an expenditure of £8,000, and there is only one boarder.

Hon. G. Bennetts: They would have to be prepared to serve the meals, too.

Hon. N. E. BAXTER: That is so. That is a colossal expenditure for such a small return, and members can imagine how much the owner of that property will get for such an outlay. He will not reap a half per cent. on the cost of providing those bathroom facilities; and, as members can see, it is really ridiculous. The licensee also told me that even with the Royal Show—and everyone says that accommodation is so difficult to get during that period—he has not had one application for accommodation. Yet that hotel is only a short distance from Perth—which proves that, unless a hotel is close to the city, there is little demand for accommodation.

Hon. L. A. Logan: What about if we get the Empire Games?

Hon. N. E. BAXTER: I will have a little to say about the Empire Games later on.

Hon. G. Bennetts: People do not know that the hotel exists.

Hon. N. E. BAXTER: I do not think that Mrs. Hutchison even read the Bill, let alone compared it with the parent Act; otherwise she would have understood its provisions a lot more than she appeared to do. Mr. Lavery implied that a licensee of a hotel could have two or three beds made up all the time; and when others were required, somebody could rush around, make them up, sweep and dust the rooms, polish the mirrors and windows, and do everything that was required. With all due respect to the hon. member, that suggestion is too silly for words.

Hon. F. R. H. Lavery: It is an actual fact.

Hon. N. E. BAXTER: Who is going to do the work? If five or six people come into the hotel between 5 and 6 o'clock at night to book in, who is going to make up the beds and get the rooms ready? The housemaid has her hours of work laid down by the Arbitration Court; and as she starts at 7 o'clock in the morning, she finishes at 2 o'clock or, at the latest 3 o'clock in the afternoon, which means that the proprietor's wife, or somebody else, would have to do the work, make up the beds, put the towels out, and so on. It is too ridiculous to suggest anything like that.

In any case, the licensee of the hotel must keep all his rooms ready for occupancy; the Licensing Court insists upon that. If the court were to come to a hotel which was listed as having 20 bedrooms, and only two or three were made up, it would want to know why the others were not ready and would insist that that be done. All the rooms must be in order every day.

I think Mr. Lavery also referred to those people who only want to sell drink on their premises. I have not met any licensee—and I have travelled through the country on numerous occasions—who wants to sell only drink if he can make an additional profit on the accommodation side. Licensees are there to make the business pay, and if they can get an additional profit out of the accommodation side of the hotel, they are only too happy to employ staff to do the extra work.

Some time ago I travelled this State from one end to the other over a period of 2½ years. Some members referred to the fact that they could not get accommodation when travelling in the country, but I travelled from Albany across to Augusta, up to Yuna and Northampton and out to Bencubbin and Merredin; and during the whole of that time, on only one occasion was I unable to get accommodation at a hotel. In that case the hotel was booked out, and I was given accommodation the next day and I stayed there for a fortnight.

In the country one is given accommodation if it is available. I am surprised to hear that people have been refused and

I venture to suggest that that would happen on very few occasions only. Under the present set-up with the Licensing Act, nothing can be done about that. But it is no reason to say that this Bill is no good simply because someone went to Timbuktu and was refused accommodation or a meal!

During the debate reference was also made to the sum of £150 as an extra licensing fee to be paid into a fund to subsidise hotels. When framing the Bill, I looked at the matter like this: If I were to go into an involved scale of charges, in regard to an extra licensing fee, it would be a big job. So I merely attempted to start something off and provide a fund; the details of the matter, can be altered later if necessary, in the light of experience. If, during the first year, it was found that £150 was not sufficient, and the Licensing Court recommended that the fees be on a sliding scale of lower fees for smaller hotels and higher ones for the larger hotels, it could be discussed in this Parliament and, if necessary, an amendment made.

By this Bill I am not attempting to build up a huge fund which can be administered by the Licensing Court. All I want is a fund which will help cover the losses suffered by some of the outback hotels which the Licensing Court says have to improve their facilities. Payments from the fund might not be able to cover the full cost, but at least they would go some way towards meeting the expenses incurred.

Over the past few years we have had several Bills introduced into Parliament to amend the Licensing Act. One was a minor amendment to provide licences for airports, and another dealt with a licence for a canteen somewhere in the North-West. In addition, there are army canteens, which are not controlled by the Licensing Court, and clubs in the city and country.

Hon. G. E. Jeffery: They provide accommodation too.

Hon. N. E. BAXTER: The clubs?

Hon. G. E. Jeffery: No, the army.

Hon. N. E. BAXTER: There are army canteens right throughout the State—in fact right throughout the Commonwealth—and they are not covered by our Licensing Act. They are places which are used solely for drinking, and the accommodation side of the army is a separate set-up altogether.

Hon. G. Bennetts: Some of them are awful, too.

Hon. N. E. BAXTER: We also have clubs in the city and country. As members know, those clubs have not the same restricted hours as the hotels, and they can trade until 11 o'clock at night. On Sundays, in the country particularly, they can trade for four hours as against the two

hours trading allowed to the hotels. The whole Act in that respect is out of focus. In addition, we have our railway refreshment rooms, where liquor is provided but no accommodation is available. Admittedly the trains travel along the railway lines; but the railway refreshment rooms are still licensed premises, and they sell liquor.

Hon. F. R. H. Lavery: They do not sell liquor on the trains.

Hon. N. E. BAXTER: Mr. Heenan suggested that the whole matter should be dealt with on a much wider basis. I agree with that, but I considered that it would be hard enough to introduce a Bill to amend the Licensing Act—and even if it were to pass this House, it would still have to be agreed to in another place—on the restricted amendments that are contained in this measure, without going any further. If I had gone further, I would have found myself up against a stumbling block; and in this measure I have introduced only what I believe are the minimum requirements to enable us to have some working basis, so that later on some much wider amendments can be introduced.

During his speech, Mr. Heenan also said that the basis of granting a hotel licence is to provide accommodation. I do not entirely agree with that. If the basis of granting a hotel licence is to provide accommodation, then surely it is the job of the Licensing Court to say, when an application for a licence is made, "We will not grant a licence in this district because there is sufficient accommodation here now." That has not proved to be the case, and I sincerely believe that the licence for the new hotel Cecil in Cannington was not granted on the basis of the accommodation it would provide for the district but simply on the liquor requirements of the district. Certainly the Licensing Court insisted that so many bedrooms be provided.

Hon. A. F. Griffith: The hotel Cecil has excellent accommodation.

Hon. N. E. BAXTER: I admit it has excellent accommodation. It is only a new hotel, but I believe that a lot of money was spent on it for nothing, because I do not think that the accommodation will be used to capacity.

Hon. L. A. Logan: Is the Knutsford Arms in the same category?

Hon. N. E. BAXTER: To insist upon a hotel outside the city limits having to provide accommodation, such as that at the Cecil, is a waste of jolly good money. Mr. Heenan also said that hotels on the Goldfields often did not provide accommodation. I paid a visit to the Goldfields recently, and I found that there was no call for accommodation, and some of the outer hotels did not provide any accommodation at all. In spite of that, the Licensing Court could

insist that these places should have at least two bedrooms open all the time, even though there might be no use for them.

It was said by Mr. Bennetts that the discretionary power contained in the Bill would be dangerous. It might enlighten the hon. member to be told that the discretionary power provided in this Bill is not in the least dangerous, because it still gives the Licensing Court power to decide that any hotel, whether it be new or old, is to have the required number of bedrooms necessary for the district. The fact that the Bill deletes the words "that the accommodation shall be a minimum of two bedrooms" does not mean that there is any maximum. Under this measure the court can say, "You need not have any bedrooms;" but on the other hand, it can say, "You can have a hundred". This takes no power away from the court.

Surprise was expressed by Mr. Heenan at the proposed new section 161A contained in the measure. But if the hon. member were to read Section 160 relating to prohibited persons, he would find that not only is the wording similar, but the effect is very much the same as that contained in the proposed new section. Section 160 provides that two justices of the peace can declare a person a prohibited person, and it is not necessary for a police officer to provide very much evidence to the justices of the peace in order to have that person so declared. It would only be necessary for him to walk into a hotel and see a man under the influence of liquor on two or three occasions, or to see him have some little upset with his wife, and he could soon declare him a prohibited person under Section 160. The proposed new section 161A is less dangerous than Section 160.

Hon. E. M. Heenan: They have to be charged and they have a right of appeal.

Hon. N. E. BAXTER: That is so. But how many of them take advantage of the right of appeal? Most of them take the easiest way out and accept the decision that they are prohibited persons.

Hon. E. M. Heenan: They are charged in court.

Hon. N. E. BAXTER: As I was saying, the evidence necessary to secure a conviction under Section 160 need not be very great. Even under the proposed amendment in the Bill, the police officer must apply to two justices of the peace, and place before them certain evidence before they will easily grant an order against a suspected person.

Hon. E. M. Heenan: The difference is that he has no chance of defending himself.

Hon. N. E. BAXTER: I would say that under common law he has. This provision in the measure does not suggest that a man might not have a right of appeal if he thought an injustice were being done. If

the hon. member would like to move an amendment which would give him the right of appeal, I would be happy to consider it. I do not say that the new section I propose shall be inserted is absolutely perfect, but it is far from dangerous. All it seeks to do is to prevent a man from taking bottles of liquor away. It does not prevent him from going into the bar and drinking as much as he likes, as long as he does not make a nuisance of himself, or get drunk. The provision it contains is definitely a safeguard against what is going on today.

If I thought that this would give the police an opportunity to make a welter of it, I would certainly reconsider the matter. From my experience in country hotels, I find it necessary to try to rectify the position that obtains there, and to make it impossible for prohibited persons and aboriginal natives to obtain liquor. On several occasions I have seen people in the country—and not merely people with citizenship rights, but white people—buying liquor and supplying it to natives, and to persons who are considered prohibited persons under the Act. So cunning are they that the policeman would have to be clairvoyant to catch up with some of them.

Are we going to tolerate the present position, or are we going to do something about it? If we are going to sit back and say that the provision is dangerous, and that some innocent person might be caught, let us have nothing to do with it. I still think, however, that the present position should not be permitted to continue. The native camp at Bassendean provides a clear example of the state of affairs obtaining today. A lot of that trouble would cease if the amendment contained in the measure were agreed to. The police know what is going on, but it is difficult for them to do anything about it. If they were provided with the power contained in this measure all that trouble would be wiped out. Accordingly I appeal to the House to consider this Bill earnestly with a view to correcting the present position.

Reference was made by Dr. Hislop to the low standard of bathroom and toilet facilities provided in hotels. I will admit that in odd cases those facilities are not of the best. But the trade in some country hotels is so sparse that it does not warrant the spending of the money required to provide those bathroom and toilet facilities. These days travellers have fast cars, and the roads are good, and it is not necessary for them to stop at a hotel.

If the Licensing Court insisted on the provision of new bathroom and toilet facilities, the amount involved would be as much as £8,000. That is no small sum to invest in something from which there is very little chance of return. Accordingly I trust the hon. member will view the measure from that angle. Why do we not permit these places to dispense with accommodation that is not required, and help them to save that money?

Hon. J. G. Hislop: Those are not the hotels to which I was referring.

Hon. N. E. BAXTER: I do not know to which hotels the hon. member was referring. It is possible that he was referring to those which are considered to be good, and in which the toilet facilities are probably very bad. But is it not the duty of the Licensing Court to see that the position is rectified?

Hon. J. G. Hislop: That is what I said.

Hon. N. E. BAXTER: I believe the hon. member did say that. What astounds me, however, is the statement submitted by the Chief Secretary from the Licensing Court opposing the discretionary power. This would give it the right to carry out its duty in places such as those to which Dr. Hislop referred. It is strange that the Licensing Court should insist on a hotel in a small place like Mundaring putting in bathroom facilities which are likely to cost £8,000, while others which are probably much worse in their provision of those facilities are left untouched.

It was said by Mr. Teahan that he could not get accommodation in hotels while travelling from Kalgoorlie to Perth. It is possible that the hon. member called at some place where it was found necessary for them to put up somebody once in a blue moon. Let us help these places. If they are far removed from the city, and it is necessary for them to provide accommodation to help out people like Mr. Teahan who are travelling to and fro, let us give them the assistance provided by this measure.

The example of Wiluna was quoted by Sir Charles Latham, who asked what happened there when the hotels closed down. I know that when Wiluna went out of existence some of the hotels did close down voluntarily; and, naturally, no compensation was paid. When I referred to compensation, however, I was referring to those hotels that were closed down by the Licensing Court where it was considered there were too many. I believe that was done in 1922, and at that time a compensation fund was in operation from which these people were paid. Licensed premises are like any other business house. If the trade disappears, somebody must go to the wall. They have no more protection than any other trader.

A remark was made by the Minister for Railways about employing labour in the trade. It is not possible for any licensee who has to maintain two bedrooms to do so without employing labour. So that is really an argument in favour of the provision. The Minister also referred to the policing of suspected persons as provided by the proposed section 161A. I would like to quote what happened in the town of Gnowangerup.

In that town there was a party obtaining liquor and supplying it to aboriginal natives. The police officer got in touch with the publican and requested him not

to supply that person with liquor. Thinking he was within his rights, the publican refused to supply him. The result was that he was on the mat with the Licensing Court for refusing to sell liquor to a person who had money and the right to buy it. He was forced to supply that person with liquor, even though the police knew that the man was supplying liquor to aboriginal natives. Even the Department of Native Affairs went so far as to tell the publican that he must supply liquor to that person as long as he had money to buy it. That is the sort of thing that is going on today.

The Minister also asked what would happen if a person were on the suspect list? He went on to answer the question by saying that he could go to some other town and obtain liquor there. I admit that is possible, but the same position obtains under Section 160 regarding prohibited persons. I have known of persons who were prohibited under the Act, going 20 or 30 miles to a place where they were not known, and obtaining liquor. I do not for one moment suggest that the proposed new section is perfect; but, for that matter, neither is Section 160 which deals with prohibited persons. If the Minister for Railways could supply me with a section that would work, I would be much obliged.

Hon. A. R. Jones: It has a limiting effect on their drinking.

Hon. N. E. BAXTER: That is so. But proposed new section 161A will have a limiting effect on the other people's unlimited drinking. The Minister for Railways pointed out that a person could still be suspect after 12 months. It is all very well to say that; but, knowing these people, if the police or two justices of the peace decided a person was still dangerous from the supplying point of view, and they thought it fit and proper that he should be treated as suspect, that part would apply. I would, however, again refer the hon. member to Section 160 of the Act where he will find the same wording with respect to prohibited persons.

The Minister for Railways: The difference is that he goes to the court which charges him.

Hon. N. E. BAXTER: That may be so; but after 12 months he can still be taken as a prohibited person.

The Minister for Railways: He would have to be charged.

Hon. N. E. BAXTER: I will show the Minister how it is parallel under proposed Section 161A.

The Minister for Railways: He would have to be charged again before the court.

Hon. A. R. Jones: He has the right of appeal.

Hon. N. E. BAXTER: My proposed new Section 161A (2) provides that "Any two justices of the peace may in like manner renew such order from time to time as to

any person who in their opinion is still reasonably suspect" which is the same as what the Act provides. It is not the same wording but has the same meaning. Under Section 160 if a person is a prohibited person up to 12 months, "any two justices of the peace may in like manner renew such order from time to time as to all such persons as have not, in their opinion, reformed." It is only a matter of renewing an order already in existence.

The Minister for Railways: They have been charged in the first instance.

Hon. N. E. BAXTER: In other words, a person does not need to improve very much at the time his prohibited period lapses. He has not got to do anything but rest on the decision of any two justices who may renew the order that he shall be prohibited for another 12 months.

The Minister for Railways: Many people under the prohibited section apply themselves to have it renewed.

Hon. N. E. BAXTER: I agree many do apply when they realise the benefit they are receiving.

Hon. A. R. Jones: Some may apply under this section.

Hon. N. E. BAXTER: That is quite right. There is nothing dangerous about the renewal of this order if they decided a man was dangerous to the community and suspected of supplying liquor to natives.

The Minister for Railways: You renew it on suspicion only.

Hon. N. E. BAXTER: Section 160 also renews it on suspicion. I do not say the amendment in the Bill is perfect; and if any member can produce one that is perfect, I will be very happy. I was surprised when the Chief Secretary indicated he is prepared to give all natives the right to obtain liquor. I am certain that is not the answer to the problem of natives and liquor by any means.

The Minister for Railways: It is the answer to the suspected supplier.

Hon. N. E. BAXTER: It is the answer all right! If trouble broke out, it would answer it very well. The police are harassed enough at present, and their life would be intolerable if such a thing applied.

The reason given by Mr. Griffith as to why he could not support the Bill was that it did not go far enough. But how far would I have got if I had put forward more difficult provisions than are contained in this amending Bill? The Chief Secretary, in debating the Bill, told us he had referred it to the Licensing Court. To refer this Bill to the Licensing Court for a reply is the wrong attitude. He should have referred it to an authority other than the Licensing Court. That court has to carry out the provisions of the Licensing Act; and I believe that if

he had referred it to the Crown Law Department, or even to his Cabinet, to see how it would work, it would have been better than submitting it to the people who have to handle the Act.

Apparently the court is prepared to get out from under. I and others consider that the Licensing Court is not carrying out what is now provided in the Act, and is not prepared to take discretionary powers to try to right this position. One would think the court would be interested in improving accommodation in country hotels and agree to accept discretionary powers. Instead, it rejects the idea altogether, and does not want that power to rectify the position. It wants to go along with the Act as it is, and cover itself up as much as possible. I think the Chief Secretary also said, although I may have misheard him—

The Chief Secretary: You often do.

Hon. N. E. BAXTER: —that this Bill was rejected last year. This Bill was passed last year. But, unfortunately, through delay it did not reach another place until the second last night of the session and could not get through on account of the rush of business. I am not complaining at all of another place, but that is what happened. The Chief Secretary also said that the Licensing Court had received no complaints with regard to country accommodation.

The court may not have had any complaints, but I have had quite a few, and I go to a lot more hotels than the Licensing Court does. When the court goes to hotels, it is usually for a renewal of the licence. All it does is the court's business, and then the members have a few drinks. That is all they see of a hotel; and I doubt if any hotelkeeper would make a complaint at that time, as they are generally in a group with others, and it is not the place to make a complaint.

The Chief Secretary: It is the time to make a complaint.

Hon. N. E. BAXTER: The court did give permission in Kalgoorlie for some hotels to retain certain accommodation. Is not that an argument for giving the court discretionary power to declare accommodation in certain country places? The part of the Bill which gives the power to the court to declare certain accommodation does not apply to towns where there is one hotel; it applies only where there are two or more hotels in any particular district.

Reference was made by the Chief Secretary to York, which town was also referred to by me in my second reading speech. I said that at York they have to keep 60 bedrooms open; and in that regard, the Chief Secretary stated that the Licensing Court kept no record of the accommodation required nightly. I consider that the Licensing Court is falling

down on its job, because I believe it should have a record of this accommodation. The licensee has to provide a register, which is signed by every guest in the house, and it is the duty of the Licensing Court to keep a record of the accommodation, if it is to administer the Licensing Act properly.

There is not a chance of the situation righting itself, and the arguments the court has given the Chief Secretary show just how uninterested it is in providing sufficient and efficient accommodation. The Chief Secretary said that the estimated cost of running the house side alone is anything up to £2,000 per annum. That works out to something like £40 per week which the licensee of a hotel has to take; and very often, as is the case of Mundaring, a licensee does not take £40 per week.

For a 20-bedroom hotel, I think that is a very low figure, when it is realised that the wages for the waitress and the yardman are about £30, and I think the yardman's wages should be attached to that side of the house. In addition there are higher rates and taxes to be paid alongside everything else, so I think the figure is very small. One can imagine that a loss could be incurred which could not be recouped in many instances on account of the low returns today from the bars.

Some years ago, when accommodation was good in the country, it was because wages were low. The yardman received about 30s. and a waitress received similar wages. Rates and taxes were also low, but the profit on bulk beer sold in the bar in those days was 107 per cent. to 135 per cent. There is a very different picture today, as it is down to at least a maximum of 70 per cent.; and even the bottle trade is down to an 18 per cent. profit margin. In country hotels where they sell on a 50-50 basis it is down to less than 50 per cent. gross, and that is not a large margin. I think the Chief Secretary would agree it is a very small margin and one on which it is almost impossible to make a profit.

When the Chief Secretary was speaking I wondered if he were replying to the debate or opposing the Bill. It was a most strange contribution to the debate to refer in that way to what others had said. I should have thought he would leave that to the mover of the Bill.

The Chief Secretary: I like to help him.

Hon. N. E. BAXTER: I thank the Chief Secretary for his assistance. It was rather strange that until the Chief Secretary came in with his disorderly interjection he made no comment on the proposed new section 161A. He then advised me that the Police Department could go into it. One would think that the Chief Secretary would have prepared his reply thoroughly by having the Police Department go into it earlier, enabling him to cover this section.

The Chief Secretary: I was not replying; I was only speaking.

Hon. N. E. BAXTER: If he were prepared to support the Bill, he might support it in that sense. I will now sum up very shortly. This has been a genuine attempt to try to do something with the Act.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. N. E. BAXTER: Before tea I was preparing to sum up. I would point out that the first part of the Bill removes the need for a minimum of bedroom accommodation in a hotel and deals with the stabling of horses. The second part provides that the Licensing Court may declare any hotel non-residential where there are two or more hotels in a district. The third part is designed to prevent prohibited persons or aboriginal natives from obtaining liquor. I trust that the House will allow the Bill to go to the Committee stage and try to make something of it, thus amending an Act which everybody is agreed needs quite a fair amount of amendment.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; Hon. N. E. Baxter in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Section 161A added:

Hon. N. E. BAXTER: I move an amendment—

That after the word "district" in line 33, page 3, the words "or sub-district" be inserted.

The reason for this is that a police district can be rather a large one. Qualradring, for instance, is controlled from York, and it would mean delay and quite a lot of work for the police officer in charge of York to provide two justices of the peace to cover a person suspected in Qualradring. Unfortunately, when the Bill was drafted, both the draftsman and I thought an officer stationed in a particular district was in full control, but it transpires there are districts and sub-districts. Hence the necessity for the addition of these words.

Amendment put and passed.

Hon. H. L. ROCHE: I move an amendment—

That after the word "peace" in line 16, page 4, the words "on the recommendation of the police officer in charge for the time being of a district or sub-district", be added.

I think Mr. Baxter may be prepared to accept this amendment. Whereas in the early part of this proposed new section provision is made, on the recommendation of a police constable of the district, for anyone to be debarred from obtaining

liquor to remove from the premises, there is no such provision when it comes to releasing anyone from that restriction.

Hon. C. H. SIMPSON: I would like this to be more clearly explained. It empowers two justices to take action, but apparently only on the recommendation of the police officer in charge. I gather that the power to take action is quite all right; but must they have the recommendation of the police officer in charge or can they act of their own motion? What is wrong with two justices, competent to hold that position, in their wisdom acting on their own volition rather than being prevented from so acting unless they have the backing of the police officer of the district? I ask the question for the purpose of obtaining information.

Hon. H. L. ROCHE: I could foresee a Gilbertian situation arising in a big district where the one man who was fully informed of the circumstances—that is, the police officer—has approached a couple of justices and had a man debarred from the privilege of purchasing liquor to take away; whereas a couple of justices in that same district, who would not be as fully acquainted with the facts, and who might not be in touch with the police officer, could revoke that decision—though I do not say, the next day. The matter should be left largely to the discretion of the police officer.

Policemen in country districts where this is a problem are the people who are fully informed; and I think it constitutes a weakness in this proposal of Mr. Baxter's that there is no provision for the police official to be consulted before anyone who has been placed in this restrictive category can be removed from it. I suggested the amendment in order to keep it uniform, and so that we will not have a position arise under which a man is placed under this restriction and then, within a week or two, can be released from it by two justices not fully acquainted with the facts.

Hon. A. F. GRIFFITH: I would like to ask Mr. Roche whether that would mean that, despite the desire of two justices to release a person from this restriction, the man could be released only if the police officer made a recommendation. If that is the situation, I think it would amount to a Gilbertian state of affairs in which we would have a duly constituted court—with two justices of the peace, who would have some standing in the community—but when a police officer said, "This man cannot be released," his word would mean much more at law than that of the justices.

Hon. H. L. ROCHE: It is not a question of law of which I was thinking, but of who knows the circumstances. I cannot add much to what I have said; but I do not think a man who was placed on the restricted list for perhaps 12 months should be taken off it unless the police

officer so recommended, because to my mind he would be the only one with a full knowledge of the facts. In some districts there might be eight or more justices, and perhaps two could be found who did not know the circumstances and who would be prepared to release the person from the restricted list.

Hon. G. BENNETTS: I am a non-drinker and, not visiting hotels often, might not know the person concerned, although I am a justice of the peace. Before I would be prepared to release a man from the restricted list I would wish to refer to the police officer in charge of the district.

The CHIEF SECRETARY: Without disclosing my attitude towards the measure, I feel that if we are to have such a provision, the man concerned should be released in the same way as he was placed on the restricted list. Without the amendment, I think it should be confined to the two justices who placed the person on that list.

The Minister for Railways: What if one of them died?

The CHIEF SECRETARY: Then the offender might have to remain on the restricted list.

Amendment put and passed.

The CHIEF SECRETARY: I oppose the clause as a whole, but did not oppose the amendment as I felt that were the provision to be agreed to we should make it as sound as possible. The whole clause, however, would outrage British justice, as it would make possible conviction without trial and without the knowledge of the person concerned. I do not think that the clause can be defended.

Hon. L. C. DIVER: The Chief Secretary has cast aspersions on country justices—

The Chief Secretary: I have done nothing of the sort.

Hon. L. C. DIVER: They had similar aspersions cast on them during the earlier part of the debate on the measure. To illustrate how country justices can handle a situation, I will refer to what happened recently at Gnowangerup. There a native with citizenship rights was arrested, in a taxi, and charged with being drunk. Apparently he had had too much drink, and in the taxi were two bottles of beer and four bottles of wine. So the policeman charged him with being drunk and with supplying liquor to natives. When the case came before the local justice, he found the man guilty of being drunk but not guilty of supplying liquor. He said, "How do we know what he was going to do with the liquor?"

The law, as it stands, could be used in the way the Chief Secretary described, if country justices were as reckless in their administration of the law as some people

would have us believe. Fortunately they are aware of their responsibilities and exercise their duty with good judgment.

The CHIEF SECRETARY: I realise more clearly every day that I am the most misunderstood person in Western Australia.

Hon. H. L. Roche: No; you are just ignorant.

The CHIEF SECRETARY: When did I mention country justices? This measure applies to the whole State—country districts and metropolitan area alike—and I am dealing with it from a State point of view. I have not belittled country justices; but I repeat that, under this provision, a person could be placed on the restricted list without even being notified of the fact.

Hon. E. M. HEENAN: I hope the Committee will not agree to the clause. The Act already provides that if a person exposes himself or his family to want or seriously impairs his health by excessive use of liquor, he can be charged and brought before two justices. If the charge is proved, he can be dealt with under the section which is known as "the Dog Act," and which provides that any person who has knowledge that another person has been placed on the prohibited list and gives him or sells him or procures liquor for him commits an offence, the penalty for which is £5. The offender can be charged and brought before a magistrate or two justices, and whoever has laid the charge has to prove it. If the accused can prove his innocence, he is acquitted; but that would not be the position under this clause.

Hon. G. Bennetts: No; he would be denied British justice.

Hon. E. M. HEENAN: That is so.

Hon. J. M. A. Cunningham: Could he not challenge the ruling once he became aware of it?

Hon. E. M. HEENAN: Nonsense! There is no discretion. Any two justices may be satisfied by a police officer who reports that he reasonably suspects a person of supplying liquor to a native.

Hon. J. M. A. Cunningham: If that happened, would you not, as a solicitor, appeal against it?

Hon. E. M. HEENAN: There is no appeal. The justices are satisfied, and that is the end of it. Who knows what goes on in their minds?

Hon. A. R. Jones: A small amendment could be made to cover the position.

Hon. E. M. HEENAN: I would not make any amendment. I would vote this clause out straight away. I agree with Mr. Baxter that the supplying of liquor to natives is an extremely bad practice, but there is an obligation on the hotelkeeper, too.

Hon. H. L. Roche: What can he do?

Hon. E. M. HEENAN: If he suspects any person to be supplying liquor to a native, the hotelkeeper can refuse to supply that person. I am merely trying to correct this unfortunate state of affairs, which is quite inimical to the basic rights we live under. If a police officer suspects a man of supplying liquor to a native, surely he has the right to defend such charge brought against him in court! In a small town, that would be a great disgrace on any man, because it might jeopardise his prospects in life, and I am sure we do not want that to happen.

I have the greatest respect for the majority of justices in country towns. No one knows more than I do of the voluntary service which the majority of them perform. However, what I am against is a section of self-seekers who pester members of Parliament to be appointed justices of the peace so that they can have the letters "J.P." after their names.

The CHAIRMAN: I would like the hon. member to confine his remarks to Clause 3.

Hon. E. M. HEENAN: I think that point was raised by Mr. Diver. However, the duty of justices is to sit on the bench when they are needed. If a man merely wants to sign documents, he should be satisfied with the commission of commissioner of declarations. I hope the Committee will defeat the clause.

Hon. H. L. ROCHE: I want to put Mr. Heenan's mind at rest. Possibly, on reflection, he will realise that it is not possible for a hotelkeeper to refuse to supply anyone with liquor. We have had instances of that in the Great Southern. A particular hotelkeeper refused one of these men—who was virtually a sly-grog man—the right to remove liquor from the premises; he did not refuse to supply him with drink. This man made inquiries and discovered that the hotelkeeper could not refuse him any liquor that he demanded.

Although the wording of the clause may not be satisfactory to some members, I can assure them that this is at least an effort to deal with a knotty problem. If this clause could assist us to overcome this problem, it would go a long way towards preventing a great deal of unpleasantness in our country districts. These sly-grog merchants have developed a technique today, and the local police have not a chance to restrict their operations. They buy beer or wine by the case, go five or 10 miles out in the bush and leave the liquor at a pre-arranged spot for a native or some other person not allowed liquor.

In many instances police know the people who supply liquor to natives, but unfortunately they cannot prove it. Those who trade in liquor are not highly reputable members of the community, but only one or two are needed to cause a great deal of trouble. Mr. Baxter's proposal

could bring about some measure of control over the supply of liquor to the sly-grog men who, in turn, supply it to natives or some undesirable person.

Hon. A. F. GRIFFITH: I appreciate the action of Mr. Baxter in including this clause in the Bill, and I am aware of some of the difficulties met with by Mr. Roche in the country. However, if we agreed to such a clause, it would be against the principles of British justice, because it would mean that a man could be convicted without a trial. Let us assume that a man is reported and two justices decide that he should be named within the provisions of this clause. The offence might take place in district A and the offender might move to district B. Would his name be forwarded to every hotelkeeper throughout the State, or even throughout Australia, in order that every hotelkeeper might maintain a vigilant watch to ensure that this particular person was on the prohibited list?

Under Sections 160 and 161 of the Act a man who is charged appears in court, where he has the right to defend himself. Under this clause, however, a man with a perfectly clean record could be named and yet would not be given the right to defend himself.

Hon. L. A. Logan: What privileges are you taking away from him?

Hon. A. F. GRIFFITH: On the word of a policeman—

The Chief Secretary: Not on oath, either!

Hon. A. F. GRIFFITH: —a man can be reported to two justices, who can name him, and he would then come within this clause. If the policeman has evidence, he can be charged under the Licensing Act as it exists now. However, if he has not evidence, and a man is named, that man has no opportunity to defend himself. If a man is charged, say, in Mt. Barker, what happens when he comes to Perth? Perhaps the hon. member can tell me that.

Hon. A. R. JONES: I think it would be a pity if this clause were not included, even if it comes to a question of changing the wording somewhat to satisfy some members of the Committee. Mr. Roche has established clearly enough what goes on in the country, and those members who are in close touch with this problem are no doubt prepared to overlook certain aspects surrounding this clause which have been pointed out by members in regard to a man being charged and not having the right of appeal.

I can fully realise the need for a man to have such protection. Rather than see the clause defeated, I suggest that the mover should ask leave for the Committee to sit again so that in the meantime an amendment can be drafted which could prove acceptable to the Committee. Where

a policeman could not prove what he or anybody in a district suspects, it would be reasonable for a complaint to be lodged before two justices of the peace. In that event it is only right that the person concerned should have some right of appeal. Only a responsible citizen and one who knew when he was in the right would seek an appeal.

The people who supply liquor to natives fall under two categories: those who consider themselves smart and make their living out of it; and those who are the victims of circumstances, who after partaking of too much liquor, are easily lead to supply the natives with liquor. Unfortunately it is the latter who are generally caught, but those in the first category are the ones who should be restricted. I would suggest to the sponsor of the Bill that he seek leave for progress to be reported so as to frame a provision to allow for an appeal.

Hon. N. E. BAXTER: It is very hard to frame an amendment as suggested. Mention was made of the principles of British justice; but I would refer members to Section 156 of the Act, which is practically identical with the clause under discussion. Under that section, a police officer may seize and take away any liquor which he reasonably suspects to be hawked about or exposed for sale. No proof is needed before a police officer can avail himself of the power of seizure and that is comparable with this clause.

The Chief Secretary: Your clause deals with the liberty of the subject. Section 156 deals with goods, and that is entirely different.

Hon. N. E. BAXTER: In Section 160, there is nothing which says that anyone found to be a prohibited person by a justice of the peace must appear before any court, and I would draw attention to the wording of that section.

The Minister for Railways: That section says "upon proof being given to the satisfaction of any two justices of the peace."

Hon. N. E. BAXTER: The proof would be required just as much under that section as in the clause. It was also said that a suspected person would not be advised before he was refused permission to purchase liquor in containers, but I would point out that that clause is framed almost identically with Section 160. Generally no police officer would prevent the supplying of liquor to a person unless he was convinced that that person was supplying liquor to natives in the neighbourhood.

Proposed new Section 161A (4) says—

No person against whom an order is made as in this section mentioned shall take away any liquor from licensed premises.

In other words, he will be advised by the police officer that he is not allowed to buy liquor in containers. It is not as if an order of prohibition will be made with the licensee being advised but the person affected not being made aware of the decision.

Hon. W. F. WILLESEE: In my opinion the amendment will not fulfil the object expected by the mover. If a police officer suspected a person of supplying liquor to natives and suspended him, another person would take his place. The basic factor in this problem is the native himself. He is the one who is determined to get the liquor and the medium is the person he pays to get it for him. If one medium were suspended, the native would find another, until ultimately there would be a series of suspects. Surely people should not be prevented from purchasing liquor in their own rights merely because the police constable in a district believed they were purchasing liquor for natives. It is reading too much into the clause to expect it to be entirely successful.

Progress reported.

BILL—INSPECTION OF MACHINERY ACT AMENDMENT.

Second Reading.

Debate resumed from the 19th September.

HON. C. H. SIMPSON (Midland) [8.25]: This Bill, which was fairly fully explained when it was introduced, seeks to amend the Act relating to the inspection of machinery. It deals with the certification of diesel loco. drivers employed on engines of a certain horsepower. We all know that diesel loco. drivers are employed by the Government railways and the Midland Railway Co., but this Bill will not affect them because they are covered by other Acts.

Throughout the State a number of diesel loco. drivers carry out responsible work in diesel engine driving. In the interests of public safety it has been considered necessary for them to be certificated. Some diesel drivers work on the Lakewood line on engines hauling up to 300 tons; some work on the haulage of coal to Kalgoorlie; some work on the mines; some work in the North-West and in Carnarvon. As those drivers work on engines of a size considered desirable to be covered by this Bill, and sometimes passengers are carried, it is obvious that some standard of efficiency should be maintained.

Hon. G. Bennetts: The Lakewood line drivers have all obtained their certificates.

Hon. C. H. SIMPSON: This Bill will conform with what is in practice today. As explained when it was introduced, the Bill enables the department to make

periodical checks on the eyesight and health of the drivers for the satisfactory performance of their duties.

As the Bill comes under the administration of the Mines Department, of which I was a Minister, I felt it was necessary to check up on the details to be certain that nothing would be omitted in the framing of it. Some consultation had taken place between the department, the Chamber of Mines and other parties before the Bill was presented to this House. However, when I communicated with the Secretary for Mines, one little loophole was discovered, and that had to be rectified. I mentioned this to the Minister, and he agreed that the matter should be inquired into. That is why the Bill has been delayed from the time it was presented to the time the debate on the second reading took place. As it was somewhat complicated, in that Section 53 (3) deals with exemptions—that is, a partial exception to an exemption—the best way to explain it is to read some of the correspondence, which will show why the amendment is necessary and the form it will take. I feel I should do this, because the Bill has been introduced for the first time in this Chamber, and what happens here will naturally be looked into when the measure is considered in another place. I communicated with Mr. Jennings, the secretary of the Chamber of Mines, and this is his reply—

I am enclosing copy of a letter I have today written to Mr. Winzar—together with proposed alteration to the amendment to the Inspection of Machinery Act—which is self explanatory.

Prior to the alteration which has been suggested by Mr. Winzar this particular Subclause of the amendment would have made it impossible for men who are at present driving small diesel locomotives at the Great Boulder to have obtained the necessary certificate. These locomotives are fitted with mechanical brakes only and despite the fact that the men possess all other necessary qualifications they could not have complied with Clause 5, Subclause (iii) (1). However, this has all been cleared up by the alteration which is now proposed.

The following letter was sent by the secretary of the Chamber of Mines to Mr. Winzar. Mr. Winzar, by the way, is in charge of the Inspection of Machinery Branch of the Mines Department. The letter, which is dated the 28th September, states—

I thank you for your telephone call this morning and your advice of the suggested alteration to the amendment to Clause 3, Subsection (d) of the amendments to the Inspection of Machinery Act. Enclosed is a copy of the amendment as I now understand it.

In its present form it overcomes the difficulties I had in mind when I saw you, therefore, I will advise Mr. C. H. Simpson, M.L.C., accordingly. There is one small point, however, to which you might care to give a little further thought and that is the reference to "mechanical signals." Do you think it possible that at some future time electrical signalling devices may be installed, either on the line entering the Great Boulder or some other line, which should be covered?

On behalf of members of the Chamber I would like to say how much we appreciate the co-operation you have extended in regard to this matter.

The next letter was sent by Mr. Winzar, the Deputy Chief Inspector of Machinery, to the Under Secretary for Mines. The Minister has given me permission to read it. It states—

Last Tuesday 25th September I received a visit by Mr. Jennings, General Secretary, Chamber of Mines relative to certain implications of the proposed new Subsection (4) of Section 3.

He informed me that Diesel locomotives hauling ore trains on the surface at Great Boulder Mine had engines of less than 50 square inches cylinder area, and were it not for the fact that these trains crossed a Government railway the locomotives would be exempt from the necessity of being under the control of certificated drivers.

As, however they do make such crossings the circumstances would make it requisite under Clause 3, Subclause (d) that the drivers possess A class certificates. The reason that this grade of certificate has been specified is that it is expected of the holder of an A class certificate that he has proved by examination his knowledge of the signals used on Government railways.

Mr. Jennings stated that, as now framed, subclause (d) would make it most difficult for the Mine to obtain drivers with A class certificates, and that the locomotives on the lease not being of a standard required for experience for A class certificates, would not afford trainees the opportunity of gaining these superior documents.

The general secretary was also under the impression that the present locomotive drivers would not be enabled of obtaining certificates of service of the A class as, he was informed, they did not hold steam locomotive drivers' certificates and would therefore be placed in a position of great disadvantage. Regarding this factor I pointed out that I had been given to understand they did possess such

certificates and would consequently be eligible to continue their present duties.

I then raised the question as to whether the crossover of the Government and Mine lines was guarded by a mechanical signalling system and I expressed the opinion that if this not be the case I could not see why the drivers in this instance should be required to have a knowledge of the code of signals anyhow, and that I thought some appropriate revision accordingly to subclause (d) should be explored in order to meet such a situation.

As Mr. Jennings was returning to Kalgoorlie the following day he suggested that he make further inquiries together with the Inspector of Machinery there with regard particularly to whether mechanical signals are installed at the crossover of the Government and Great Boulder railways.

I considered this a salient point around which to submit an amendment to the Bill which would exempt Great Boulder from the obligation of employing certificated drivers should mechanical signals not be provided at the intersection and likewise any other private railway which, in the future, may cross a Government or Midland railway and not be subject to control by signals of similar nature.

The matter of the proposed investigation was conveyed, I understand, by Mr. Jennings to the Hon. Mr. C. H. Simpson, M.L.C., with a request that proceedings concerning the Bill be adjourned during last week and I, you will recall, submitted similar information to the Hon. Acting Minister for Mines.

Whilst awaiting further advice from Kalgoorlie I have given much consideration to all the points that had been raised by the General Secretary and as a result drafted amendments which, in my opinion, would overcome features in subclause (d) which are considered undesirable.

On Friday 28th I was in telephonic communication with Mr. Jennings and learned that the intersection of the Government and Mine railways is controlled by a mechanical signal system. He also informed me that the present drivers of the diesel locomotives are the holders of steam locomotive drivers' certificates. These drivers also hold W.A.G.R. Safe Working Certificates.

I acquainted him of the form of my proposed amendments to meet—(a) alternative situations as to railway intersections being guarded or not

guarded by mechanical signals and (b) the position when drivers with A class certificates may not be available. He then gave me to understand that in his opinion my proposals gave the desired relief on the matters raised.

Submitted accordingly are three suggested amendments to subclause (d) of clause 3 in the Bill as follows—

First.—After the words "as the Midland Railway" and comma add, "where crossing such railways is regulated by mechanical and/or electrical signal devices".

Second.—After the letter "A" add, "or B".

Third.—After the words "under this Act" and comma add, "and has given proof of sufficient knowledge of the signal code relating to traffic using such railway."

The reasons for the three foregoing proposed amendments to the Bill as printed are as under—

First.—If at sometime in the future any private railway operating diesel locomotives of not more than 50 square inches cylinder area be laid across a Government or Midland railway and for some reason it were considered unnecessary for the crossing to be regulated by mechanical and/or electrical signals the owner would be exempt by this provision from being compelled to employ certificated drivers, as it is considered unreasonable to insist that drivers, having knowledge of such signal systems be employed in circumstances where none of those signals existed at the particular crossing.

Second.—Although those now employed on the sole private railway which crosses a Government line with locomotives the cylinder area of which does not exceed 50 square inches are drivers holding steam locomotive certificates and eligible for A class certificates of service under the proposed amendments enabling them to continue their present duties, the time must come when replacements will be necessary.

It is anticipated that much difficulty in obtaining men with A class certificates would arise, and it would be impossible to train for this grade men from among other employees of the Company as the type of locomotives used by it would not provide the experience required. Similar difficulties would prevail with any other Company that may adopt small locomotives and extend its railway to cross a Government or Midland line.

There should be no such difficulty, however, in obtaining trainees for locomotives having cylinder areas not exceeding 50 square inches and experience with such type could be accepted of candidates for B class certificates, and providing a candidate gained a knowledge of the signal codes used on a main line railway there should be no reason why this class of certificate should preclude that particular man from driving across the lines concerned. This aspect regarding signal systems is the basis for the third amendment.

Third.—In most instances it would not be requisite for candidates for B class certificates to have a knowledge of mechanical or electrical signals.

The object of this proposed amendment correlated to the second amendment is to ensure that those drivers who are required to cross a main line have the required knowledge of the associated signal system that may be installed.

I have read these letters at length so that members can get a clear idea of what is rather a complicated point; and because, as I have already said, it is desirable that the measure be clarified as far as possible before consideration is given to it in another place.

The Bill contains one or two other minor matters, such as the provision of discretionary power to the Minister to refrain from insisting on certain qualifications north of the 26th parallel. This seems to be a matter of commonsense. In these remote areas men are not easy to get. The Bill now seems to be in perfect order. In any case it has been checked with the people mostly concerned, and there is complete agreement between them and the Mines Department, so I have much pleasure in supporting the second reading.

THE MINISTER FOR RAILWAYS (Hon. H. C. Strickland—North—in reply) [8.43]: The interest of Mr. Simpson in this matter is appreciated. He looked the Bill over very thoroughly, and he discovered a fault which would have caused a considerable amount of inconvenience to the firewood company on the Goldfields. The matter was taken up with the department, and the amendments suggested have been agreed upon by all parties. I understand that Mr. Simpson intends to put some amendments on the notice paper, but as he has made such a clear explanation of what they mean I would, while they are fresh in members' minds, raise no objection at all to amending the Bill forthwith in Committee.

Hon. G. Bennetts: Has the engine-drivers' union agreed to it?

The MINISTER FOR RAILWAYS: Nobody has any objection to it. As the Bill now stands, it means that before any

locomotive, no matter how small it might be, crosses a Government line or a line of the Midland Railway Co. the driver has to possess an "A" class certificate and must have a knowledge of the signalling code of the system concerned. Mr. Simpson discovered the fault, and he found that companies who are employing drivers capable of driving a small locomotive and holding a "B" class certificate, would not be permitted to cross a Government or private railway line.

With his amendments it will mean that a driver possessing a "B" class certificate, provided that he can prove to the inspector that he has a knowledge of the signalling code of the railway concerned, will be permitted to cross those lines. In other words, he will be able to continue doing what has been the practice for years.

Reference was made to the North-West. There has been a changeover in most North-West ports from steam locomotives and small petrol-driven locomotives to diesel locomotives, and a driver of one of these engines must be capable because he has to do his own running repairs. Also, these drivers work very long shifts. They are liable to work through the night, whether it is raining or not; passengers have to be carried and trains hauled by these locomotives. Again, a number of men are working on the jetties unloading cargo from boats, and accidents could occur if the drivers were not capable.

Provision had to be made for the northern part of the State in cases where a driver might be taken suddenly ill or might meet with an accident. By this Bill the Minister will be able to grant exemption for a period of up to six months for a person to relieve in such circumstances. During the introduction of the Bill I said that this exemption was for three months only. That was in the notes; but the Bill states six months.

This is a necessary provision in these far-flung parts of the State where it is impossible to put one's hands on a certificated driver overnight; and if this exemption were not allowed, one could imagine the delay to shipping and the inconvenience to the townspeople and the people who are having goods loaded or unloaded.

Hon. G. Bennetts: What class of engine-driver will take the driver's place when the exemption is given?

The MINISTER FOR RAILWAYS: It could be an enginedriver who is not certificated or it could be the guard or someone like that. In all these ports there is someone who relieves when the driver is away.

Hon. G. Bennetts: Couldn't they get certificates?

THE MINISTER FOR RAILWAYS: Yes. After they have done so many hours, they can apply, and will be put through an examination by an inspector and granted a certificate. It is not a tough examination, but one which involves common knowledge and commonsense. I have no objection if the House, or Mr. Simpson desires to proceed with the Committee stage.

Hon. J. M. A. Cunningham: I would like to make a few brief comments on this Bill.

THE PRESIDENT: Order! The debate has closed.

Question put and passed.

Bill read a second time.

In Committee.

Hon. E. M. Davies in the Chair; the Minister for Railways in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Section 53 amended:

On motions by **Hon. C. H. Simpson**, clause amended by—

Inserting after the word "Railway" in line 17, page 3, the words "where crossing such railways is regulated by mechanical and/or electrical signal devices."

Inserting after the letter "A" in line 17, page 3, the word and letter "or B."

Inserting after the word "Act" in line 19, page 3, the words "and has given proof of sufficient knowledge of the signal code relating to traffic using such railway."

Clause, as amended, agreed to.

Clauses 4 to 6, Title—agreed to.

Bill reported with amendments.

House adjourned at 9 p.m.

Legislative Assembly

Tuesday, 2nd October, 1956.

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

QUESTIONS.

SHOW WEEK.

Sittings of the House.

The **PREMIER:** Last week the member for Stirling asked for information as to the days on which the House might be asked to sit during Royal Show Week. At a meeting of Cabinet held yesterday, it was decided to ask members of the Assembly to sit on the Tuesday and the Thursday at the normal time, but there will be no sitting on Wednesday, which is People's Day.

ADMINISTRATION ACT.

Wrongful Assessment of Probate Duty.

Mr. OLDFIELD asked the Treasurer:

(1) Is it a fact that since the Administration Act was amended last year probate duty on estates of persons dying after the passing of the amendment has been assessed and collected by the Commissioner of Stamps on the basis that the full rate of duty is payable by all beneficiaries except widows and children under 16 years?

(2) Is he aware that at the beginning of last month (August) an appeal against such method of assessment was heard by the court, and upheld?

(3) Does not the court's decision show that certain beneficiaries, being husbands, children or parents of a deceased person, have been wrongly assessed at the full rate of duty and have therefore paid too much duty?