

rewarding. I thank you, Mr. Griffith, and you, Mr. Willesee, and I also thank my staff.

THE HON. F. D. WILLMOTT (South-West) [12.28 a.m.]: With your indulgence, Mr. President, on behalf of the Chairman of Committees and the other Deputy Chairmen I would like to express our thanks and our appreciation of the remarks made by Mr. Griffith and Mr. Willesee. I would also express our thanks for your assistance at all times, and our appreciation of the work carried out by the Clerks. Our work would be more difficult without their assistance. On behalf of the Chairman of Committees and the other Deputy Chairmen, I express my thanks to members for the way they make the work much easier for us. We do not have to argue very much with members, and I again express my thanks to them.

The **PRESIDENT**: Thank you, Mr. Willmott.

Question put and passed.

House adjourned at 12.30 a.m. (Friday).

Legislative Assembly

Thursday, the 14th May, 1970

The **SPEAKER** (Mr. Guthrie) took the Chair at 2.15 p.m., and read prayers.

MINING ACT AMENDMENT BILL

Council's Message

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

QUESTIONS

Postponement

THE SPEAKER: I will postpone questions until after the tea suspension this afternoon.

LIQUOR BILL

Returned

Bill returned from the Council with amendments.

BERNARD KENNETH GOULDHAM

Compensation: Motion

Debate resumed, from the 7th May, on the following motion by Mr. Bertram:—

That by reason of the exceptional circumstances involving a miscarriage of justice in the case of Bernard Kenneth Gouldham this House is of the opinion that adequate compensation should be paid to him.

MR. COURT (Nedlands—Minister for Industrial Development) [2.20 p.m.]: One can deal with this motion in two ways. One could set out, literally, to blast it off the notice paper by dealing with many of the matters contained in the three judgments that brought about representations on behalf of Mr. Gouldham but, in doing so, one would have to indulge in a great deal of detail in referring to personalities, and a parading of much of the same background of not only this case, but also of other cases.

On the other hand, one could approach the motion in what I consider to be a more generous way and explain to the House the situation that exists and suggest ways and means whereby the matter could be re-examined in an atmosphere different from that suggested in the motion.

First and foremost, I want to make it clear—and this has been acknowledged by the member for Mt. Hawthorn who introduced the motion—that Mr. Gouldham has no rights at law for compensation. This should be clearly understood by all concerned. I am not suggesting that the honourable member who introduced the motion disguised this fact, because he referred specifically to this aspect when he introduced the motion, but it is as well that I repeat it and start off on this premise.

Also, I want to refer to the fact that in introducing the motion the honourable member actually based his case on the verbiage used in one of the judgments, and to present this case fairly to the House one would have to present a comprehensive study of all three judgments and, particularly, if one wanted a balanced approach, one would have to set out in some detail the judgment of Mr. Justice Burt. However, the honourable member chose to concentrate most of his argument on one judgment, and I think the kindest thing I can say is that he concentrated on that judgment because the verbiage in it suited his case better than if he had relied on the other two.

The simple fact is that the judges who decided this case were confronted with a situation which is not unusual in cases of this kind; that is, where a man has been found guilty by a court, punished by the court, and served his term of punishment, following which the matter is reopened at a later date. In the experience of the law it is not unusual for the judges to decide that because all of this is in the past and it seems years since the case was heard and because the man has paid his penalty, and rather than have a retrial with all the tribulations and the frustration that go with it, the best thing to do is to quash the case.

In this case two of the three judges made a decision along these lines. If we study these judgments carefully—and I suggest we only read them as laymen, because

heaven forbid that we should set ourselves up as legal people when reading these things—we will see, as is not unusual on occasions such as this, that it is not a question of saying the man was innocent, but a question of saying that, because of this technicality about the information that was not disclosed at an appropriate time, some doubt has been cast.

In other circumstances no doubt the decision would have been a retrial. I suggest that had the dates been closer—instead of 1969 as against 1961—that would have been the course followed and then everyone would have been happier, because the facts would have been studied by different judges and a decision made in due course.

I have no intention of trying to set myself up as a legal interpreter of legal decisions, because I have found from my professional experience that when I get a legal opinion on a legal decision I generally have to get another lawyer to translate it for me. Accordingly I always keep out of the business of trying to translate these things for myself and I do not propose to transgress today.

If we try to set ourselves up as legal interpreters of these decisions I believe we will create a bad precedent for Parliament. We are the people who make the laws, not the people who interpret them. We have appointed trained men as judges to do this sort of thing and if the law is bad or inadequate, or in some other way needing reform, it is our job to reform the law, to repeal it, or amend it as the case may be; and, in the course of the proceedings of this Parliament, we should make sure that we confine our activities to those matters. This brings me, of course, to the point that the honourable member is asking us to go outside the present law and make a payment by way of compensation to this person.

I have already explained that Gouldham is not entitled to compensation at law. Therefore we must look at the matter on an entirely different basis and decide whether the circumstances are such as to justify some form of *ex gratia* payment.

I believe it is beyond the role of this House to set itself up as an arbiter of this type of thing. There is much more involved than a mere reading of the judgments; there is much more in it than listening to a personal and emotional approach on this question. We all know that we receive such approaches on many matters.

It is the job of people who are thoroughly trained in this sort of work to consider such problems. The advice received by the Government from some very competent people has been that no compensation is payable either on legal grounds or on moral grounds.

Apparently some members of this House—particularly those on the other side—are not satisfied with this advice. I would like to mention one rather extraordinary thing that has mystified me, namely, that this particular case was very prominent in the comments of certain members of the Opposition over a considerable period. They made public statements about what they were going to do in Parliament. Week after week went by, however, and no move was made to present a motion to this House until the eleventh hour when Standing Orders were to be suspended.

One is entitled to assume, therefore, that there did not appear to be any great degree of urgency in the minds of the members of the Opposition or in the mind of the mover of the motion. Be that as it may—and I only mention that in passing—it was expected by the public, in view of the comments made by the members of the Opposition, that a motion of this kind would have been moved long before this if it had the importance or urgency that was represented.

I said earlier that I did not want to canvass the whole legal field in this matter, and I have no intention of indulging in an expression of opinion regarding guilt or otherwise, because it would be transgressing in a way I have advised the House not to transgress.

Therefore it comes down to a question of how best to handle the situation in fairness to all concerned, including Mr. B. K. Gouldham. I have, however, some notes which have been given to me and which I would like to read, if I may, dealing with an aspect of this case which I, as the Minister handling the matter on behalf of a colleague in another place, cannot be expected to know, either by contact with the files, or because of any professional knowledge. The notes read as follows:—

Shortly, the history of this matter is that Gouldham was charged under section 532 of the Criminal Code with giving an account in writing to Sharrett, for whom he was agent, purporting to show the disbursement of Sharrett's money to a builder for the building of a house for Sharrett, which account omitted to state explicitly and fully that Gouldham had deducted a sum of \$400 for himself as a so-called commission from the builder and that such omission was done with intention to deceive.

The offence was committed whether or not Sharrett knew the £400 was deducted by Gouldham, so long as the jury was satisfied that Gouldham made the omission with the view that Sharrett would not know about the commission Gouldham was in fact receiving from the builder.

That is a very important part of these notes—

At the trial Sharrett stated that at the time he received the account he did not know about the commission and was not told by Gouldham that he kept for himself the £400.

Among other defences at the trial Gouldham gave evidence, of a not very satisfactory nature, that he had told Sharrett of the commission he proposed charging the builder.

It now appears that Sharrett had made a statement to the police that he had, before receiving the account, found out—

And these are the important words—

—though not from Gouldham, that Gouldham had told the builder that he, Gouldham, was going to deduct the £400 from the building price for himself.

The fact that Sharrett had before he received the account found out from other sources that Gouldham had made the deduction would not affect the guilt of Gouldham or the fact that he endeavoured to deceive Sharrett by omitting to mention the deduction in the account.

But the court of Criminal Appeal, by a majority of two to one, felt that the fact that Sharrett said at the trial he did not know about the commission being charged by the builder whereas he had made a prior statement that he had found out about the deduction, might have affected his credibility in the eyes of the jury in the evidential contest on the issue whether Gouldham himself had told Sharrett about the proposed deduction or commission.

As the majority took this view it was incumbent on them to adopt one of two courses—either set the conviction aside and order a new trial, or quash the conviction. They took the second course: But it is apparent to anyone who has read the judgments, that the reason this course was preferred was that, because some eight years had elapsed since the events in question, it was felt that it would be difficult for witnesses to remember precisely what had happened, and that a new trial would not be satisfactory.

When a man has served imprisonment and a court subsequently says that his conviction should be quashed, what is the obligation of the State?

That is the big question which this motion poses to Parliament—

In the first place, it must be made clear that the State is under no legal obligation whatever in these circumstances—

Therefore we have to approach it on another basis—

This Government is very far from being satisfied that Mr. Gouldham has been wronged. He points to the decision of the Court of Criminal Appeal. We have given very careful consideration to the judgments of all three judges involved in that decision. What those judgments indicate to us is that, by a majority of two to one, the court found that Mr. Gouldham's trial was unsatisfactory, because of the fact that certain evidence which might have influenced the jury in his favour was not produced. The court did not say—as Gouldham and many others have been making out—that Gouldham was innocent.

This is the important feature, and it is not an unusual situation: there are many cases in which the same set of circumstances for all practical purposes has developed, and the court has taken the second of the two courses open to it. The advice we have received at the moment is that the second course was taken, and I have mentioned the court's reasons for doing so. Therefore it is very difficult for the Minister and his advisers. They have spent a lot of time on the matter; and had it not been for the direction of the Minister to issue the required certificate the case could not have been reheard.

Some weight should be placed on this step taken by the Minister, because if we are not careful we might finish up with the situation that any Attorney-General or Minister for Justice, as the case may be, would be increasingly cagey about giving these certificates, because of what has happened. I would like to feel that the Minister for Justice or the Attorney-General is encouraged, when there is a tweedledum and tweedledee decision in front of him, to err on the side of generosity; but if we have the situation where Parliament buys into these cases when they arise, the Minister will be placed in a difficult position.

I ask members to put themselves in the place of the Minister for Justice. What would they do in these circumstances? I am sure members will say if they were placed in the position of the Minister, that they would have less worries if they did not issue a certificate at all. We should bear in mind that the allegation of perjury made by Gouldham against Sharrett was unsuccessful when the case was contested.

The Minister in exercising his prerogative at the time, based on the authority given to him under the Act, issued a certificate which made it possible for the appeal to take place, and out of which this matter arose. I would point out to members that at the time a lot of Press publicity was given to this question of the certificate to enable the appeal to be heard, Mr. Gouldham made quite a categorical comment to the Press to the effect that he was not the least bit interested in compensation, and that he was only interested in having the case reheard in the light of the evidence which he regarded as fresh evidence.

To my mind this is something which cannot be overlooked. The Government has paid due regard to the representations that have been made both before, and as a result of, this motion. The Government feels that if it is the wish of the House it will have the matter re-examined. I want to emphasise that it will be re-examined without the commitment which this motion involves, and which will create a very bad precedent, indeed, if it is fulfilled.

Governments come and Governments go; and Ministers come and Ministers go. One has to realise there is always another day, and if we are not careful we will find that we are setting ourselves up as an amateur court of appeal on matters of this kind, and are bringing about anomalies and the very undesirable situation which up to date we have desperately tried to avoid. I mentioned "we have desperately tried to avoid" on purpose, because if we trace the history of this Parliament we will find that Governments of all colours have tried to take the stand that I am suggesting now. The Government's advisers and, no doubt, the good sense of the people supporting the Government and those within the Government itself, have been very conscious of the fact that in doing what the motion seeks, Parliament would run the grave risk of cutting right across the work of the judiciary, and also the responsibilities of the Government—financial and otherwise.

I believe that the amendment I am about to move to the motion is the only way in which Parliament can handle this situation without creating a precedent which will, if established, have unmanageable proportions in the years ahead. If my experience on a previous occasion still applies I will not be able to explain the amendment after I have moved it—this being a motion, and one which will not be dealt with in Committee. I should explain that the amendment expresses to the House that the matter should be re-examined by the Government in the light of all the circumstances, to determine whether an *ex gratia* payment should or should not be made.

I have gone on to add that the result of the re-examination should be reported to Parliament early in the next session. I

have added this for a very good reason: because there might be the thought in the minds of some people that unless there was some specific reference to the time factor the re-examination could go on and on. In practice what will happen is that the Government will have the matter examined quickly and expertly; and members can be assured that the Government will not be using the services of the same advisers as have brought us to the present position. As to what advice we will use I cannot say, and it is not desirable for me to do so. I assure the House the intention is to have the case looked into by people who are competent to study these matters in an independent light. I do not regard the judges who heard the original case as being independent; and I do not regard the legal advisers who have advised the Government on this matter up to date as being independent. It is the intention of the Government to have this case re-examined in the light of all the circumstances, to determine whether an *ex gratia* payment should or should not be made.

I want to make sure that I emphasise the reference to *ex gratia* payment and not compensation, because the motion refers specifically to compensation, and no compensation is payable in this particular case. Regardless of what one might feel about it, it is clearly established at law that there is no compensation payable, but there has been experience of Governments making *ex gratia* payments after they have studied all the circumstances.

In the light of this I am prepared, on behalf of the Government, to move an amendment which we believe will achieve the main purpose of the mover and, presumably, his supporters on the Opposition side, and will ensure that the matter is re-examined in the light of representations made not only through the motion itself, but from other quarters. Then having made a decision the Government will announce it, but I have added the safeguard that the result of the examination will be reported early in the next session of Parliament. I am not talking about opening day, but about the first week of the session.

I think it can be assumed that before that, the Minister will have had the study made, submitted it to the Government, had a decision made, and made a public announcement. I think it would be the will of the House that when the Government has finished its re-examination it should, without delay, announce the result of it and not wait until, say, the first week of Parliament unless, of course, there are some matters of a nature which could be dealt with, for the sake of legal protection, only within this Chamber.

As members know, many matters can be dealt with safely by the Government only within the Chamber, and not publicly. I am not foreshadowing that such

matters are likely to arise out of our examination. I just want to make sure that no-one claims at a later date that he was misled as to when the report would be made.

I would now like to sum up. Rather than indulge in a lot of hard-hitting personalities with a view to blasting the motion off the notice paper, I have elected to have the matter re-examined out of the atmosphere of Parliament where I do not believe these things can be examined expertly and properly. I have not attempted to weave a story around the situation in which Mr. Gouldham finds himself and that perhaps he should consider himself a lucky man having the certificate. I mention this in passing because I think it is something which should be mentioned.

Those who have studied the judgments can form their opinions in their own lay way, but I do counsel members to study the three judgments, and not just the one on which the honourable member placed so much importance. In the light of that, and with a view to being helpful in the matter by giving an assurance that it will be properly re-examined and reported on, I now move—

The SPEAKER: I would point out to the Minister he will have to do this in two bites. However, before he does so, I would draw attention to the fact that there are two "thats" in the motion, so he will have to move to delete all words after the word "that" where first appearing.

Mr. COURT: I always bow with deference to your rulings. I must admit I could not find a second "that" but I have now found it. Thank you for your guidance.

Amendment to Motion

I move an amendment—

Delete all words after the word "That" where first appearing in the motion and substitute the following words:—

in the opinion of this House the Government should re-examine the circumstances of the Bernard Kenneth Gouldham case to determine whether an *ex gratia* payment should or should not be paid to Gouldham: the result of the re-examination to be advised to this House early in the next Session.

MR. BERTRAM (Mt. Hawthorn) [2.45 p.m.]: There was a time when I might not have been particularly enthusiastic about this amendment, but in more recent years I have come to think perhaps more along the lines that something in the hand

is preferable to something in the bush; but that may be a slight overstatement concerning this amendment.

I am a little concerned about the amendment because it endeavours to place before competent people this question which they as experts are allegedly far more competent than this House to determine. I am afraid that under the amendment they can only partly determine the question because the amendment states that there will be a re-examination as to whether the *ex gratia* payment should or should not be made to Gouldham. The amendment does not state that they are to decide whether, and, if so, how much.

I think that if an independent body is to deal with this matter, it ought to be given the opportunity to do not only part of the job, but the whole of it, and to say, "Yes, we believe"—for whatever reason—"that an *ex gratia* payment should be made and, having regard to all the circumstances, we think the figure should be so-and-so." I personally would have preferred something even more than that, but if the independent tribunal—

The SPEAKER: Order! I know the honourable member has not had time to examine the amendment, but I draw his attention to the fact that it states that the Government will re-examine the matter. There is nothing in the amendment which says an independent tribunal will study it. The Minister gave an undertaking that the Government would take advice from independent people, but it is the Government which has the task of re-examining the matter. I thought I would draw the honourable member's attention to that fact.

Mr. BERTRAM: Thank you, Mr. Speaker. I think that in 1970 we are still in the position where we must accept assurances given by the Government. I certainly do; but, as I indicated on a previous occasion, I would have been a lot happier perhaps if I had had an opportunity to have a say concerning who should comprise the independent tribunal. However, there are many things in life we would like to have, but, for one reason or another we cannot; and I am not going to labour that point, particularly at this stage.

I certainly hope that the independent adviser, or advisers, appointed by the Government will look at this matter on the basis that there has been, in fact—irrespective of what may be said to the contrary—a false or wrongful imprisonment. There has been a malicious prosecution, and there has been the equivalent to libel, just to mention a few common law situations. These things—or the equivalent in the case of libel—have occurred and, in fact, have been proved. These matters will become important somewhere along the line if some conscientious attempt is made to arrive at a figure.

Having said that, I think there are one or two observations which I should make in order to keep the position in its proper perspective. I will not deal with them in the order mentioned, but simply as they occur to my mind. The aspect of blasting the motion off the notice paper is best dealt with by the well-known expression, "No comment."

I have inquired the opinions of a lot of responsible and competent people, and I have been at pains to study this case from all angles, but thus far I have not found one person who has taken the view that some amends should not be made. I should immediately qualify that remark by saying that most of the people with whom I have discussed the matter have not read the judgments.

That leads me to another point. We apply the law according to the rules which we, the Parliament, have made. In the case before us a judgment was delivered, and the decision was two to one. That is all that matters. Perhaps I might demonstrate what I am getting at. A criminal case only requires a majority jury verdict, and the person concerned in the case is convicted on that majority verdict. It would hardly be appropriate or sensible for the defence counsel to put up his plea on the grounds that the verdict was a majority verdict only. I do not think that has any relevance at all. The rules are there and the person has been convicted, and that is the end of that.

Another point I think worth mentioning is that it may be perfectly true that there has been no express finding of innocence, but when does one get that? One would have a busy time if one went around the community saying that somebody is innocent of one offence, or someone else is innocent of another offence. That could not be done, and there is no exception in this case at all.

It is very good to know that a certificate was granted in this case. In fact, it is wonderful to think that the document which caused all the trouble came to the surface in 1969. I have already said the certificate was greatly appreciated, but at the same time it is a real pity the document took eight years to come to the surface.

The SPEAKER: Order! I must point out that the motion before the Chair is the amendment. The honourable member has only 20 minutes in which to speak to the amendment, and he will have the right of reply at the end of the debate. I think it might be better to mention these matters at that time. Others may wish to speak to the amendment.

Mr. BERTRAM: Thank you, Mr. Speaker. As I glance through my notes I see that I could not agree more. Suffice to say, it seems to me that some headway is being made in this matter. I am

not, in any situation, particularly keen about people dabbling in a particular question unless they are really competent to do so.

Having said that I must immediately raise the question of whether, in all the circumstances of this case and in view of what I said only a few days ago regarding the damage done, the members of this House could not make an award which, in my view, would be far short of what is obviously required for—and I use my own word here—compensation.

On the other hand I derive comfort from the fact that I feel if an independent legal man is, or independent legal men are, appointed they will almost certainly come to the same conclusion which not only I have reached but so many other people have reached. Perhaps I will rest on that point. I might add that when I previously raised the question of compensation which has been paid in other countries I should have pointed out that not one of those payments was the result of a situation such as this. They were the result of misidentification, or some understandable error.

One man went to gaol for 19 years because of misidentification. However, this case is different. In my view the blame rests on us, the people, through our prosecuting authority.

MR. T. D. EVANS (Kalgoorlie) [2.58 p.m.]: I had intended to rise and speak in favour of the motion moved by the member for Mt. Hawthorn. However, I am now inclined to indicate my support for the amendment moved by the Minister for Industrial Development.

The Minister based his reply to the motion on the premise that the man concerned is not entitled, at law, to compensation. The Minister then went on to say that not only was the man not entitled to compensation at law, but he was not entitled to any compensation at all. The Minister was using the term "compensation" with a particular shade of meaning and I would agree with the Minister that at law there is no basis for compensation.

In keeping with the Minister's view he has moved to delete the substantive part of the motion, and he intends to substitute therefor a provision whereby the Government will be asked by this Parliament to re-examine the circumstances of the case for the purpose of determining whether or not an *ex gratia* payment should be made. The term "*ex gratia* payment," of course, has an entirely different meaning from the term "compensation".

I am a little perturbed that the Minister indicated in his speech that he could have followed a different course. He said he could have blasted the motion from the notice paper but, in doing so, a person's character may have been damaged. I am

perturbed that the Minister said this inasmuch as this man is not on trial in the Parliament in any way. I certainly hope that anything we do prior to any inquiry which the Government will be asked to make will not be looked at as if we had tried the character of this man in the Parliament. I cannot agree with the Minister that Parliament is an inappropriate place, in circumstances such as this, to try to remedy what appears to be a wrong. Parliament has always been the supreme guardian of justice. Indeed, Parliament is often called the High Court of Parliament.

I had intended to support the motion as it is printed on the notice paper and my arguments would not have been based on any premise, or claim, that this man was innocent. I do not know whether he is innocent; but, as I see the history of the case, it can be said that when he was first convicted the verdict of the jury was that the prosecution had proved its case beyond all reasonable doubt. In the light of evidence which became available at a later stage, the court decided to quash the conviction, which was tantamount to saying that the court believed that had the evidence been produced originally, the jury may well not have been satisfied beyond reasonable doubt that the man was guilty.

Be that as it may, it is obvious that this man has suffered a great wrong. Indeed, he has suffered an economic loss and I do not think there is any doubt about this fact. The question arises, first of all, whether it is in the duty of the Government to acknowledge this fact and then to assess it in terms of whether or not an *ex gratia* payment should be made.

I point out that matters similar to this are not entirely rare occurrences. However, in other jurisdictions we find legislation on the Statute book to provide compensation for cases such as this where the wrong has been proved to have existed and that damage had resulted therefrom. In the light of the experience of this case, I hope it will not be long before the Government of Western Australia gives serious consideration to providing legislation for the purpose of making an award—in this instance, of course, an award of compensation—to a person who has been so injured. As there is no legislation on the Statute book of this State at the present time, I agree that any award made in this instance would necessarily be an *ex gratia* payment.

Assuming the amendment is carried, the expression from this Chamber would be—

That in the opinion of this House the Government should re-examine the circumstances of the Bernard Kenneth Gouldham case to determine whether an *ex gratia* payment should

or should not be paid to Gouldham: the result of the re-examination to be advised to this House early in the next Session.

I agree that the matter should come back to the Parliament. As I said, Parliament has always been the supreme guardian of justice. Assuming that the report indicates that an *ex gratia* payment should be made, I feel it would be fitting for Parliament to have some say in suggesting, or even setting, the amount to be paid. I support the amendment.

MR. JAMIESON (Belmont) [3.6 p.m.]: I have some doubts about the amendment because of my experience in the past of this kind of terminology being used by the Government when amending motions which are brought forward in this House. One has only to turn to the terminology of the amendment to a motion connected with various standing committees which was accepted by the House a few years ago. At the time an assurance was given that the matter would be reported to the Parliament in the following session. It was conveniently shelved until a further motion was put on the notice paper. On this occasion, I hope the assurance is more than water. This has been our experience in the past.

Mr. Court: I am trying to recall the incident.

MR. JAMIESON: It was over the committee system.

Mr. Court: Was it over an Act?

MR. JAMIESON: It was over various standing committees which it was proposed should be established. The Premier moved the amendment but nothing happened.

Mr. Court: I thought that plenty had happened.

MR. JAMIESON: Yes, plenty happened at a later stage when a similar motion was introduced and the attention of the House was drawn to what had occurred.

We should not subject the family of this man to further long periods of stress and strain. If I were in his position, I imagine I would be feeling fairly strained by now. I believe his family are probably in the same position. It would be cruel to allow this to go on for too long.

I am not too sure what is meant by the word "re-examine" which appears in the amendment. I was involved in litigation against the Administration some years ago and my contention was proved to be correct. However, after re-examining the matter of paying even the court costs, the Government repeatedly refused. Indeed, I am reliably informed that the Minister who is handling the motion under discussion was the person instrumental in that refusal.

I suggest that if Parliament intends to do anything it should be done quickly. The Minister said that if members intend to engage in debate on this subject they should read all the judgments and not merely the judgments of the majority judges. I ask the Minister: What happens in the case of a Supreme Court action where there is a majority decision of the jury? Does the judge take notice of the minority decision? I understand that the majority decision is what counts in law. If there is an appeal against a decision of a court of three ruling judges, surely the appeal is against the majority decision. The majority determined very clearly in this case what had occurred. They believed that the withholding of certain information meant that an injustice had occurred and that the conviction could not stand. They quashed the conviction.

It is interesting to note the section under which the conviction was made. I refer to section 532 of the Criminal Code. If one disregards many aspects of the section, virtually the Crown was guilty of committing a misdemeanour itself. Section 532 reads, in part—

If, with intent to deceive or defraud the principal—

The principal in this case would have been the jury. To continue—

—any person gives to any agent, or if any agent receives or uses or gives to the principal, any receipt, invoice, account, or document in respect of which or in relation to a dealing, transaction, or matter in which the principal is interested and which—

(a) contains any statement which is false or erroneous or defective in any important particular, or is in any way likely to mislead the principal . . .

he shall be guilty of a misdemeanour.

It is sufficient to indicate that this section has a complete bearing on the situation that occurred with the Crown.

As I understand it, not only was the principal document withheld at the time of the trial but in about 1967 there was a further considerable inquiry into the file. The advice received from someone of very high standing in the community was that there was nothing in the file that could give rise to any belief that there had been a mistrial. Surely, again, there was a compounding of the felony on the part of somebody in the department who read this file, because at all times this document was part of the file.

I do not see how the Minister could blast the motion off the notice paper without discrediting the two Judges who brought down the majority verdict. It is so much claptrap to indulge in that

sort of statement. The salient point is that there appears to have been an injustice and, an injustice having been done by somebody—on this occasion it appears to have been done by the Crown—some redress should be available to the injured person, and that person is entitled to press his case.

I hope this matter will be decided and something done about it fairly soon. I do not want Mr. Gouldham or his family to be subjected to any more stress. None of us would like to be in the situation of having this constant problem of litigation or consideration by the Administration hanging over our heads. The experience I have had of reconsideration of such issues by the Administration has not been a very happy one, and I would doubt that a satisfactory result would be arrived at until I saw it. For Mr. Gouldham's sake, I hope it turns out all right because, as the member for Mt. Hawthorn said, a bird in the hand is worth two in the bush.

If the Government defeats the motion, where do we go from there? There is no legal redress, as I understand it, but obviously there is moral redress, and surely the Government is not bereft of morals. The Government must meet its moral obligation in the same way as it would meet a legal obligation. I know of no case in which the Government has fallen down on its moral obligations but far too often it is influenced by its legal position rather than its moral position.

The moral position having already been determined by the court in this State, in a majority verdict brought down by Mr. Justice Virtue, Senior Puisne Judge, and Mr. Justice Wickham, the case rests. As far as I am concerned, all that remains is to consider how much the Administration will pay this person in recompense for having been imprisoned for 47 weeks of the 52. That is rather a long time. People undergoing short-term sentences are worse off than those undergoing long-term sentences. How many people sentenced to seven or eight years do 47/52nds of their sentences? They do much less time. I think this is a disgrace to the Administration and that something should be done to prevent this situation in the future, to make sure that in such circumstances earlier consideration is given to the release of the person concerned.

Enough has been said to indicate that I support the amendment, with reservations. I hope it turns out all right for Mr. Gouldham but, in view of my experience with the Administration on such matters, I have my doubts. I trust that the whole matter will be satisfactorily settled before the next session of this Parliament.

Amendment put and passed.

Motion, as Amended

MR. BERTRAM (Mt. Hawthorn) [3.17 p.m.]: Mr. Speaker, when the circumstances are being re-examined pursuant to this motion I hope an opportunity will be given to Mr. Gouldham to answer certain things which were said and which are on the record in a character report which was put in at his trial.

Perhaps I could briefly explain what happens in a criminal trial. As I understand it, the jury retires and brings in a verdict. If the verdict is "not guilty" the accused is discharged; if it is "guilty" the jury is excused and the judge then goes into the question of the penalty to be imposed upon the accused. To assist him to this end a character report is tendered to the judge and the accused sees this character report, through his counsel. The character report is normally signed by the person who has prepared it, and the judge is at pains to ask counsel for the accused, "Has the accused seen this report and is he satisfied as to the accuracy of the statements contained in it?"

In Mr. Gouldham's case the report was prepared by the same person who received and witnessed the statement by Sharrett, which was not disclosed; namely, by Det-Sgt Lee. Mr. Gouldham says that he does not recall having seen the report in his case. I have tried to have a look at the transcript but without success. As members will be aware, in criminal cases a transcript is always taken. It is not always taken in civil cases but I believe in criminal cases, without exception, there is a transcript, so that a word-by-word record of what occurred at the trial is available.

In any event, I would like it known that he does not believe he sighted the character report—in fact, I think he goes even further than that. If one looks at that report one will find that it did not do him any good, and one would come to the conclusion that it was not immaterial by reason of the fact that he received 12 months' imprisonment. Had it been couched in different terms, the result may have been far different. However, that is a matter of opinion and is neither here nor there.

He says he does not agree with the contents of the report, and he is able to show that in many respects it is palpably wrong and inaccurate. Therefore I am concerned that if the matter is reconsidered, and the reconsidering authorities take that statement as it now stands, it will not help us very much at all. I am concerned on all occasions about anything savouring of smear, and there is no room for that in this case. I have made those remarks so that they will be on the record, and I think the matter is most important in view of the things that have been said. I believe that in the reconsideration of this matter, the truth of this man's antecedents should be known—not somebody else's opinion, not hearsay, but the facts.

Mr. Court: Don't you think Mr. Gouldham's solicitors or advisers would send that information to the Minister? I think you are unwise to canvass points like this, because I deliberately refrained from canvassing a number of points which could have influenced this House. I do not think this is the place to canvass them.

MR. BERTRAM: I am certainly not seeking to be difficult; what I am concerned about is that we would be in a fine position if the case was re-examined and certain things that are on the record were not challenged. That would be most unfair, and it is the very position I am trying to overcome. I am attempting to obtain what I think is the right and proper answer to what has been a pretty unhappy chapter of events.

Motion, as amended, put and passed.

STRATA TITLES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th May.

MR. GRAHAM (Balcatta — Deputy Leader of the Opposition) [3.23 p.m.]: I must confess that the reason for this amendment to the Strata Titles Act is not very clear to me. It would appear that there is some confused thinking, because a certain provision was placed in the legislation, then it was recently removed, and now it is proposed to put it back again. The Minister did not satisfy me as to the necessity for the present course. The amendment relates to a process that has developed of building activity being undertaken in rural areas—albeit those rural areas may be adjacent to the metropolis—which is in general conflict with what has been conceived in the matter of the construction of dwellings.

Under the uniform building by-laws, one is not allowed to erect more than one residence on a residential lot. Of course, the word "residence" needs a little explanation because obviously if it is a duplex site, one duplex can be erected there, but no more. Similarly, in the case of a flat site, flats within a certain prescription may be erected but not another set. This requirement applies only to the metropolitan area, to town council areas in other parts of the State, and within townsites. Everywhere else—for instance, on a farm—it is possible to build two, 10, or 20 houses if that be the will and the wish of the proprietor of the land.

It appears that this has caused confusion because just outside the metropolitan region area it is possible to erect numerous houses or dwellings on a single lot without the necessity for subdivision, as is the requirement in the metropolitan area. If one owns five acres of land in the metropolitan area one can build only one house on it; but if it is subdivided into

20 lots, of course, 20 houses can be erected, and there would be 20 separate certificates of title.

Generally speaking, the Minister stated his problem by saying that people with broadacres can now, with local authority approval, and without recourse to subdivision, proceed with housing projects without reference to the Town Planning Board. A little later the Minister confirmed that by quoting a minute submitted to the Minister for Town Planning, which said the department was becoming "aware of proposals by owners of relatively large holdings to develop what are referred to as country clubs with extensive associated housing schemes and uses ancillary to the primary form of development upon land zoned for rural purposes in the Metropolitan Region Scheme of land predominantly rural in character in other parts of the State."

I am of the belief that this sort of development can be prevented under the existing law. Section 7B of the Town Planning and Development Act states—

7B. (1)(a) Pending the consideration by the Minister of a proposed town planning scheme for a district or part of a district which district or which part is situated outside the metropolitan region; the Minister may with the approval of the Governor, in accordance with this section, make such interim development order or orders as are necessary for regulating, restricting or prohibiting the development of any land within the district or such part or parts thereof as are affected by, and specified in, the order.

In other words, if a company seeks to carry out the intensive development of which the Minister and the Town Planning Department complained, an interim order can be issued, if it be the will of the Minister, preventing any development whatsoever. Therefore the power resides in legislation at the present moment. I am wondering why it is sought to insert certain prohibitions in the Strata Titles Act; because, to me, it is most inappropriate. The question seems to become involved because of the matter of separate titles. Titles cannot be issued; and, indeed, most of the debate in another place was on this point.

As I understand the position, if we agree to this legislation it will prevent separate titles being issued in respect of this multi-development which is interfering with the zoning the Town Planning Department has in mind. If we agree with that, we only go part of the way. If it is contrary to an orderly concept of town planning, the development should be prevented and the way to prevent it is to use the powers Parliament has given the Town Planning Department under the Town Planning and

Development Act. However, if this is merely designed to stop the issue of titles, what would be the position if the developer took advantage of the situation, which he is able to do, and erected multi-storied apartments or a country club type of development, and decided he did not want separate titles? He may say it is his intention to lease them in perpetuity.

In such an instance we would still be confronted with a situation of the development being regarded by the town planning authorities as most unsuited to a rural area, but, in fact, the development and the buildings would be there for all time. The only difference would be that, instead of several hundreds of people having separate titles they would all be tenants of the owner.

So I do not know for certain whether I have properly comprehended this measure. To me it is most confusing. I find I have had to have recourse to the metropolitan region town planning scheme, the Local Government Act, the uniform building by-laws, the Strata Titles Act, and the Town Planning and Development Act, and compare them with the provisions in this Bill in an endeavour to ascertain what powers and authorities we have at present, and whether this is a proper amendment to be made to the Strata Titles Act in order to accomplish something the Government and the Town Planning Department have in mind.

After making my studies, my conclusions are that it is the right action being taken under the wrong Statute; because, after all is said and done, the Strata Titles Act was brought into being for the purpose of enabling people to hold a title to elevated portions of a building—in other words, to hold titles to the various storeys of a flat construction; not for anything else.

Surely, if it is desired to prevent a certain type of development in a zoned area, the proper Statute to amend is the Town Planning and Development Act. I may have misinterpreted the law in going through its many parts and forms; I am unable to say. However, I am definitely not satisfied from what my studies have revealed, from what the Minister said when introducing the Bill, or from what the Minister for Justice stated when he introduced the measure in another place. I am confused. I do not know whether the right thing is being done.

This is probably the first time in quite a few years in this Parliament that I have found myself in this situation, and I hope and trust the Minister will be able to explain to me, and perhaps to other members of the House, the true position and indicate to us why, in order to prevent a type of development that is not desired or desirable, action is being taken through

a measure which seeks to amend the Strata Titles Act, instead of the Town Planning and Development Act.

I will say no more than that, and I feel I have no alternative but to go along with the Minister and hope and trust that the correct action is being taken.

MR. RUSHTON (Dale) [3.35 p.m.]: In the Bill before us I see an endeavour to grant permission to people who may, under the Strata Titles Act, be seeking a proper title within the type of development described. After hearing the Minister's explanation of the Bill when he introduced it, I feel that this type of development has all the advantages of meeting the needs of the people, and that it co-ordinates the services that are required and, in fact, it could be described as desirable development.

I believe the measure is before us because there could be, as mentioned by the previous speaker, unsatisfactory developments. I will not elaborate and develop my short speech to any length on that question. I believe the Bill is clear-cut. Its intention is that good development should proceed, but that it be done in a co-ordinated way so that people can acquire these properties in the future under the provisions of the Strata Titles Act in order that they will be protected and will not be left high and dry by people who promote such developments by issuing a colourful brochure, acquiring funds from such people, and then not completing their projects.

I can see a responsibility being placed on the Town Planning Board to write in conditions which will ensure, in fact, that the purchasers will be protected. I take heart from a few words expressed by the Minister when he introduced the Bill, and I think I should quote them. Those words are as follows:—

I repeat that the Government does not necessarily consider all the proposals are unacceptable. The Government considers that each one of them should be considered on its merits and that due consideration should be given to all the proposals. This Bill ensures that when consideration is being given, the Town Planning Board, amongst other authorities, shall have its say.

To me, that qualifies and adds to the fact that the endeavour is to ensure that satisfactory and co-ordinated development takes place, and that there is no intention that a well-planned project should be in any way inhibited or delayed. This brings me to a vital point in the Strata Titles Act, and I consider that this amending Bill highlights the fact that we need to go a little further. I believe there is a qualification in the principal Act which would inhibit certain types of developments, despite the

fact that those developments are desirable and the Government has said that they ought to be allowed to proceed.

Section 3 of the Act makes provision for more than one building to be included in the strata title, so, quite clearly, it can be seen it is not intended that not more than one building should be built on a piece of land. Section 5 of the Act makes no provision for progressive development. It does not provide for certificates to be issued by the local authority and the Town Planning Board progressively. I can visualise a situation arising whereby if one had sufficient capital one could proceed with development and see it through to its conclusion; to the last bolt and nut and to the last yard of bitumen laid. This would be very satisfactory, but in this day and age some of these projects could be valued at many millions of dollars.

I believe we have to find a suitable amendment to allow the certificates to be issued as the project progresses. I do not think for one moment that any risk should be taken with a future title or the well-being of the individual who will be a purchaser.

It would not be beyond the ability of this House, or of the Town Planning Board, to sort these things out and provide conditions, together with legal support, which would enable the projects to proceed in this manner. All the services could be included—and I now refer to deep sewerage, roads, and other extras which must be required with this type of development. These matters could be tied up in such a way as to prevent the developer escaping his obligations in this direction while ensuring that such facilities were provided. Surely it is not beyond the capacity of our legal advisers to work out something along these lines.

To quote a hypothetical case: we could have a project costing \$20,000,000. The base services might cost \$5,000,000. Let us suppose that on this parcel of land three segments of 300 units were to be erected. In such circumstances I see no reason why strata titles could not issue for each unit at each completed stage. This would ensure participation not only by the large financial concerns but also by people of relatively limited means.

It is certainly the Government's wish that this should take place. I do not wish to prolong the debate, and I do hope I have shown the necessity for such a provision. I would ask the Government, through the Minister, for an early amendment to the Act which would permit of phased and progressive development, thus allowing the local authorities and the Land Titles Office to issue the necessary certificates. I believe it is necessary for this type of development to be provided

for in such a manner. At the moment I feel the Town Planning Board is not equipped with these powers.

These remarks, of course, are the result of my experience from representations that have been made to me. If the Town Planning Board is to vet these developments it is essential that it give urgent attention to its side of the bargain. It should be in a position to give the people concerned a clear indication as to where they stand. In this type of development, and with the extra controls imposed, the procedures adopted should be speedy so that the people concerned may be able to obtain, quickly, answers to any problems they might have.

As we all know, any delay in relation to such development could be quite costly. It should be the role of the Town Planning Board and the local authorities to ensure protection for the individual who seeks to procure a home in the type of development mentioned. Every endeavour must be made to protect the interest of these people and their homes in the future.

MR. TOMS (Ascot) [3.44 p.m.]: I do not share the fears expressed by the Deputy Leader of the Opposition in connection with this amendment. When this section of the Act was taken out last year, members will recall it was felt it could help to streamline the functioning of sub-dividers and the issue of strata titles.

However, things have not quite worked out as we imagined they would. I seem to recall that a member in the other House expressed an opinion last year that the removal of this particular provision would lead to anything but orderly development, and that is exactly what has happened.

Sitting suspended from 3.45 to 4.6 p.m.

Mr. TOMS: I think it is pertinent to point out that the Strata Titles Act has been on the Statute book for only four years. No doubt, it was felt last year that in order to streamline the legislation a little, the provision which the Bill now seeks to reinsert into the Act should be deleted. I have always been one to support orderly development, and members have, no doubt, heard me pressing from time to time for the streamlining of the provisions of the Town Planning and Development Act.

When the provision was taken out of the legislation last year it was hoped to achieve the objective of streamlining it. However, developments in the meantime have proved that the decision was not a very wise one.

I listened intently to the Minister when he introduced the second reading of this amending Bill. He gave a classic example of how some people, when an Act is passed, find ways to get around it through the back door. Therefore it is necessary from time to time to close all doors. Last year an honest attempt was

made to streamline the legislation, but subsequently it has been found necessary to reinsert the provision that was deleted.

I do not hold the view which the Deputy Leader of the Opposition holds. I do hope that the Strata Titles Act, the Town Planning and Development Act, and other Acts which govern the development of land will bring about orderly planning, and that the various services mentioned by the member for Dale will be able to keep pace with the development. If we were to throw the position wide open, as some people would like us to do, we could find the services being stretched to the limit; as they are, the services have almost been stretched to breaking point in keeping up with extensions to newly developed districts.

I hope that some solution will be found to bring about a speedier way of subdividing and developing new areas. I do not agree to the development of the land in the Cannington-Armadale corridor, which is 18 miles from Perth, because there is land within six miles of Perth, with power and water supplies close at hand, available for development. On this occasion I support the Bill, and trust that with its passage the Act will operate in the way it was intended to operate when it was enacted in 1966.

MR. COURT (Nedlands—Minister for Industrial Development) [4.9 p.m.]: I thank members for their support of the Bill. I will endeavour to reply to the various queries that have been raised. First of all, I can understand the dilemma of the Deputy Leader of the Opposition in trying to appreciate fully why this Bill is necessary. I think that both the member for Dale and the member for Ascot have adequately answered the query that was in the mind of the Deputy Leader of the Opposition. However, for the sake of the record I would point out that had we inserted the provision in the Bill before us when the Strata Titles Act was amended last year, we would not now have this amending Bill.

At that time the town planning people adopted the attitude that they were concerned with the subdivision of land and not with buildings, and under the circumstances they did not think there was any need for them to be consulted and involved in the question of strata titles. Parliament therefore passed the legislation without this provision in it.

The basic reasoning behind their advice to the Minister at the time was sound, but they overlooked one fact; that is, no matter how cleverly the law is drafted, some bright boy will find a way around it. I am not suggesting that all the people who have found this loophole have evil intentions, or desire to do something not in the interests of the community. Some have very worthy projects, but some, in the

opinion of the officers and the Minister concerned—the Minister for Local Government and Town Planning—could place innocent people in a very embarrassing situation and involve their investments in considerable risk.

If members stop to think for a moment they will appreciate that if one of these projects which involved huge sums of money got started and the people concerned did not have sufficient substance to finish it, those who had invested large sums as deposits could be left lamenting because there would be no Father Christmas to take the project over and finish it. These are very big projects in the main and it was therefore felt that there was an added reason, quite apart from town planning considerations, why we should endeavour to ensure that the people who were going to undertake these developments were people of sufficient substance to honour their commitments.

So far as the Metropolitan Region Planning Authority is concerned, the position is easy because all it has to do is to withdraw the accreditation from the local authority and the M.R.P.A. is back in charge. However, when we get outside its area, it is not as easy as that. As long as these people can get the approval of the local authority they can develop and complete the project in defiance of the plan.

Mr. Toms: That is how the trouble first started.

Mr. COURT: Some people have been able to convince the local authority that this development is desirable to the local authority without any thought for (a) the overall planning concept; and (b) the demand for services which is now being made on developers.

If we do not get some control over this, we could completely bypass the practice which has been established in connection with the Sorrento-Mullaloo proposition whereby the obligations of the developer are clearly defined in respect of services and land to be made available for public purposes, including open space, schools, and hospitals.

Mr. Graham: I still ask: Why did you not use the provisions of the Town Planning and Development Act, section 7B?

Mr. COURT: Because outside the metropolitan region area the approval of the local authority to the plan can completely cut across the whole concept we are trying to achieve.

Mr. Graham: It says that outside the metropolitan area there can be an interim order placed on land for as long as the Minister likes.

Mr. COURT: It has been established that the present legislation is completely ineffective if the local authority decides

to approve, and therefore to make sure this cannot be bypassed, it is intended to bring the strata titles legislation under the power of the town planning authority. I want to hasten to say that the Government has agreed to the amendment only with some reluctance, and only with the assurance from the town planning people that each project will be examined on its merits, because it could be that someone could come up with a very worthy proposition in the community interest, which would provide plenty of housing and community services. Full responsibility could be taken for open space, schools, and hospital grounds, as well as sewerage, drainage, and water, and no good purpose would be served by denying such a proposition if, in fact, it fitted in with the overall concept.

We have had the assurance that the town planning authority will not use this new power purely to obstruct, but merely to have some degree of control to ensure that (a) people who have submitted a proposition can, in fact, finance it and proceed to the logical conclusion; and (b) that it does not cut across any basic town planning concepts. There is a third requirement; that is, the developer accepts the normal commitments which are now required of developers in respect of services, open space, and the like.

On the points raised by the member for Dale and, in particular, the reference to phased and progressive development, I can only undertake that we will have a look at the practicalities of this. However, I would remind the honourable member that the whole concept of strata titles is to have a total development and then the titles stem from that total development. I can see limitless practical difficulties in trying to set up a situation whereby there would be phased or progressive development.

However, it may be that if the authority concerned could establish that the parties involved could enter into a contractual commitment that they would go to the conclusion of the project in logical phasing as to time, and have the financial stability to achieve it, then it might be possible to have some form of title. I am assuming the honourable member is referring to a proposition involving, say, 1,000 houses, but in which the economics are such that it would be practicable to build only a third of the houses now, a third in two years' time, and the remainder two years after that. In such a case there might be some merit in devising the machinery, but only if the party concerned had the financial stability to be able to give the necessary surety it would proceed. I can do no more than undertake to have the matter studied.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Amendment to section 5—

Mr. GRAHAM: I realise that this Bill does not come under the Minister's portfolios, but I insist that the Strata Titles Act, and the particular reference to the clause we are considering, refers only to a strata plan. A strata plan is necessary only when someone is seeking a title. If one builds a block of flats 10 storeys high for letting purposes only, that building can be erected and the Strata Titles Act does not come into it. It would enter the matter only should the owner desire to sell the flats, floor by floor.

Under section 7B of the Town Planning and Development Act to which I have referred, the Minister for Town Planning has the power to impose an interim order which will enable him to regulate, restrict, or prohibit the development of any land or any part of such land, and so on.

However, it is impossible to prevent the construction of buildings by means of the Strata Titles Act. Under that Act it is only possible to prevent the issuing of titles. Therefore, it will still be possible for buildings to be erected on land zoned as rural providing the owner of the subject land does not desire to obtain separate titles. Then, and then only will what we are seeking to write into the Act become operative. This amendment will not prevent the very things about which the Minister has complained, but will only interfere with the course of business. We will be passing something which will not achieve the purpose outlined by the Minister in this Chamber, and by a Minister in another place.

Mr. COURT: In view of the very smooth working of this Chamber over the last two weeks, when dealing with some very difficult matters, I am sure I can convince the Deputy Leader of the Opposition that this is the only way to handle the situation in practice.

The points raised are pertinent. However, approval would not be given for the construction of flats unless the area was zoned for flats. So, the problem does not arise.

Mr. Graham: But individual houses, yes.

Mr. COURT: Blocks of flats can be built anywhere in the State provided they comply with the local authority requirements.

Mr. Graham: I thought the Minister was afraid of the local authorities and that is why he wanted the Town Planning Board to have some supervisory power.

Mr. COURT: Dealing with the strata titles, some people have gone beyond the original concept of the strata title. I venture to suggest that everyone in this

Chamber felt that when we passed the Strata Titles Act those who built large blocks of home units would not have to go through the hokus-pokus of forming a company whereby one share would cover unit 1, and another share would cover unit 2. The people who bought the home units wanted to be able to get a title, as a right, to a particular part of the building.

We all thought of the legislation in terms of the multi-storied type of buildings, although there were representations at the time regarding duplex buildings. A title was to be issued, and there were to be titles within that title. That is how the term "strata titles" was coined.

If we do not put this particular power into the Strata Titles Act it will not be possible for people to comply with the provisions of section 5 of this Act and get a title, because they will not get a certificate from the Town Planning Board. If members have a corrected copy of the parent Act they will be well advised to look at section 5.

This provision was deleted in 1969 on the assumption that the Town Planning Board was only interested in land, and not in buildings. It now appears that some people found a loophole and were able to get a title under the Strata Titles Act. They were able to convince the local authorities that they were able to construct a building where they did not stand a chance of getting approval for a subdivision.

The only solution is to put this subparagraph back into the parent Act. I repeat: We do not want the Town Planning Board to have this authority merely to obstruct, but to control so that undesirable development does not take place. With the assurance we have received, we believe that this provision should be included to avoid the situation where not only could some people be innocently separated from their money because of a developer being unable to complete a contract, but also to make sure that the town planning objectives were not defeated either within the M.R.P.A., or outside of it.

I gather from the smile on the face of the Deputy Leader of the Opposition that I have not convinced him, but I do not know of any other explanation that could be given by anybody, whether he be a lawyer, a town planner, or just a humble Minister.

Mr. GRAHAM: This is my last innings. The Minister is perfectly correct: I am not satisfied, and I hope my contentions are not correct. That may be an unusual thing for me to say. A number of houses have been built by the owner of land outside the metropolitan region. People are living in those houses; indeed, a couple of members from this side of the House happen to live in them. There is nothing to

stop the owner of that rather large building from building another 20, another 200, or another 2,000 buildings.

The persons who occupy the houses have occupancy by agreement, but they will never be able to get titles. They do not seek them, of course, and the Strata Titles Act does not come into the argument. The owner will not make an application for titles so there will be no reference to the Town Planning Board. However, in point of fact, some hundreds of houses will be in existence in a rural area and this amendment will do nothing to meet that situation.

Mr. Court: The houses have been built with local authority approval, I take it.

Mr. GRAHAM: Yes, but, as I interjected, apparently the Town Planning Board is not satisfied. In the case I have instanced, the owner of the land will be able to do certain things with the approval of the local authority, but the Town Planning Board will not come into the picture. We can read into this legislation whatever we like, but it will have no effect on the building of flats.

Mr. COURT: I would not dispute the proposition put forward. We are only legislating for the people who seek titles; we are not legislating beyond that.

Mr. GRAHAM: I am almost tempted to ask for a second innings. Settlements of the country club type have been developed, but no provision has been made for public open space—other than for the members of the club—or for school sites, sewerage systems, and things of that nature.

I repeat: Tinkering with the Strata Titles Act will have no bearing on that situation whatsoever, if the local authority desires to give approvals as it has in the past, and cause some offence to the Town Planning Board. The local authority will not be denied that authority with the passage of this Bill.

Mr. Court: We are getting two problems confused. You are talking about a situation where the people are not seeking titles and they could not get titles, but this is a case where people are deliberately putting their money in on the basis that they will get a genuine strata title.

Mr. GRAHAM: There is a little more confusion here because my impression was that this supervisory authority which it was sought to give to the Town Planning Board was intended to prevent development of rural areas which was in conflict with the general concept of what should take place.

Mr. Court: That is right.

Mr. GRAHAM: It will be possible for these undesirable things to take place hereafter in exactly the same way as hitherto. The only thing is that it will not be possible for them to get strata

titles or titles of any sort without reference to the Town Planning Board. So instead of having something called a title deed I will have in my hand a document—or an instrument of some sort—made between me and the owner of the land; but the physical situation will be that instead of there being bushland or rural land, in accordance with the plan, there could be and will be multi-development, intense development, in those areas if the local authority says “Yes.” Apparently the local authorities have been saying, “Yes,” and there is nothing in this to stop them doing that hereafter. Have I made myself clear?

Mr. Court: You have made your position perfectly clear to me, so long as we agree that we are dealing with people who specifically want to get a strata title.

Mr. GRAHAM: I am not concerned with construction or development in a rural setting.

Mr. Court: That is another matter. This legislation could not do that.

Mr. GRAHAM: I am not interested in that; people will be there whether they have titles or not. I am afraid I placed too much reliance on the Minister's speech when introducing the Bill. I thought this was to stop some undesirable type of development—undesirable in the sense of not conforming—but apparently it does nothing of the sort.

Mr. COURT: I want to make sure we are trying to stop an undesirable practice but only in respect of situations where people are going out selling a proposition to the public on the basis of giving strata titles. It is important that we be clear on this. The other instance to which the honourable member referred is divorced from this. This is where people are being induced to invest on the basis that they are going to get a strata title.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr. Court (Minister for Industrial Development), and passed.

QUESTIONS (17): ON NOTICE

1. LOTTERIES

Breaches of Acts

Mr. BATEMAN, to the Minister representing the Minister for Justice:

(1) Is he aware that two firms are advertising prizes for lucky purchasers of blocks and houses and the winners to be determined by

lottery (see *The West Australian* of the 7th May, 1970, page 64 and the 9th May, 1970, page 47)?

- (2) Has he instigated any inquiries whether a breach of the Trading Stamp Act or the Lotteries (Control) Act is being made?

- (3) If so, what is the result of such inquiry?

Mr. COURT replied:

- (1) to (3) The Trading Stamp Act is administered by the Minister for Labour and the Lotteries (Control) Act by the Chief Secretary. The matters referred to in the questions have been directed to the Ministers concerned.

2. WAR SERVICE LAND SETTLERS

*Wool Loss: Rural and Industries
Bank Action*

Mr. MITCHELL, to the Minister for Lands:

- (1) What action has been taken by the Rural and Industries Bank to recover money, due to it for wool under bill of sale, from the receiver in the wool exporters case?
- (2) Has any progress been made with the claims on behalf of war service land settlers referred to in his answer on the 14th October, 1969?
- (3) If so, with what result?

Mr. BOVELL replied:

- (1) The bank has directed its solicitors to claim against the receiver for wool sold to the company by war service land settlers in cases where a bill of sale in favour of the Minister was current at the time the wool was sold.
- (2) and (3) Progress in this matter has been delayed firstly because the company's records were in the custody of the Royal Commissioner and latterly by difficulties in locating relevant records. However, some progress has been made of recent date and it is hoped to obtain decisions in the near future.

3. EDUCATION

Mt. Barker High School

Mr. MITCHELL, to the Minister for Education:

- (1) Has further consideration been given to the upgrading of the Mt. Barker High School to a fourth and fifth year school?
- (2) Is he aware that a bus now conveys high school children from Mt. Barker to Albany each day?

- (3) Is it a fact that the Mt. Barker High School has everything necessary for upgrading, except perhaps some specialist teachers?

- (4) When can it be assumed that the upgrading will take place?

Mr. LEWIS replied:

- (1) Yes.
- (2) Yes.
- (3) No. There is an insufficient number of students seeking 4th and 5th year courses.
- (4) Upgrading is not desirable until a sufficient number of students is available to allow of the full range of 4th and 5th year courses being offered.

4.

PARLIAMENT

Divisions: Bell Punch System

Mr. JAMIESON, to the Speaker:

- (1) Will he discuss with the Premier the possibility of introducing, at an early date, a modern bell punch system of recording divisions in the House to supersede the present old type division system?
- (2) Is he aware that there exists in the Parliamentary Library literature on these systems which indicates that such a system could be installed in the Chamber with a minimum of structural alterations?

The SPEAKER replied:

- (1) and (2) I was not aware of the literature referred to until I received notice of the honourable member's question.

I have not had time to examine the literature fully but will do so and determine whether I should submit any recommendation to the Premier.

I note however that it is stated in the literature that the cost of the system would be \$65,000 (presumably U.S. dollars) f.o.b. Chicago and that there is no estimate of the additional costs involved.

Consequently, I would need a great deal more information to enable me to determine whether I should make any recommendation to the Premier.

I would add that there are quite a number of matters which I would think are perhaps of greater priority than those and to which I would certainly give consideration before I submitted any recommendation to the Premier. I just refer in passing to the subject of cooling and heating this Chamber, the question of amplification, the question of the recording of

speeches, the question of the publication of an Australian textbook on parliamentary procedure, the question of a training school for parliamentary officers, and the question of better library facilities. I would take all those factors into account in determining an order of priority in any recommendations I made for the improvement of this Chamber.

5.

HEALTH*Flat Dwellers*

Mr. BURKE, to the Minister representing the Minister for Health:

- (1) Did he read an article at page 25 of *The West Australian* of Saturday the 9th May which referred, in part, to the detrimental effect on the mental and physical health of persons, particularly women and children, who are required to live in flats for any length of time?
- (2) Is he concerned that the increasing tendency of private developers and Government authorities to build multi-storey flats to meet the demands for housing could affect the mental and physical health of the community; if not, why not?

Mr. ROSS HUTCHINSON replied:

- (1) Yes.
- (2) This is a complex and controversial issue; but, in general terms, I believe that there are disadvantages in raising families in "high density" housing conditions; and that a balance should be maintained between multi-unit and single family dwellings. The relative proportions within this balance would be debatable, but I do not consider that the present situation gives cause for undue concern.

6.

HOUSING*Flats and Flat Dwellers*

Mr. BURKE, to the Minister for Housing:

- (1) How many blocks of flats has the State Housing Commission planned for completion this financial year?
- (2) What is the total number of flats?
- (3) What is the number of one, two and three bedroom flats involved?
- (4) What is the location of each block of flats in each category?
- (5) How many blocks of flats does the commission plan to build in 1970-71?
- (6) What is the total number of flats involved?

- (7) What is the number of one, two and three bedroom flats involved?
- (8) What is the location of each block of flats in each category?
- (9) How many blocks of flats did the commission have at the 30th June, 1969?
- (10) Did he read the article at page 25 of *The West Australian* of Saturday the 9th May which referred to "flat neurosis" and its effects on the mental and physical well-being of flat dwellers?
- (11) Did the commission undertake any study of these factors before stepping up its flat development?
- (12) If "Yes" what was the nature and extent of the investigation and who carried it out?
- (13) If "No" has the commission any intention of undertaking such an inquiry?
- (14) How are the tenants selected for flats?
- (15) What qualifications have the selection officers for the particular task?
- (16) Is he at all concerned that the trend to greatly increased flat development by the commission might have an adverse effect on the mental and physical health of the community?

Mr. O'NEIL replied:

- (1) Sixty (60) blocks, of which 46 were under construction at the 1st July, 1969.
- (2) 731 flats.
- (3) 56 one-bedroom flats.
549 two-bedroom flats.
126 three-bedroom flats.

(4)

Area	Number of Blocks	Number of Flats	One-Bed-room	Two-Bed-room	Three-Bed-room
Coolbellup	5	120	...	96	24
Fremantle	4	57	...	41	16
Orelia	7	72	...	60	12
Callista	3	34	...	34	...
Lockridge	4	20	...	20	...
Armadale	4	48	...	48	...
Balga	11	146	4	106	36
Medina	4	28	...	20	8
Midland	6	86	8	46	12
Victoria Park	2	20	20
Manning	1	24	24
North Beach	6	96	...	78	18
Total	60	731	56	549	126

- (5) to (8) The 1970-71 programme is currently under consideration.
- (9) Forty (40) blocks.
- (10) Yes. There is reference in the article to a "British survey" into the effects of long term occupancy of high density flats. The article clearly states that the type of medium density development being undertaken by the commission with adequate play areas and recreational facilities is specifically

designed to eliminate the causes which may tend to produce what the article refers to as "flat neurosis".

(11) Yes.

(12 and 13) Several senior commission officers have been sent overseas and many have visited every capital city in Australia to carry out extensive investigation into housing, including medium density development.

(14) All commission accommodation is offered on a turn-reached basis, with the exception of approved emergent cases. The suitability of the available accommodation is taken into consideration when making an offer.

(15) The allocation of accommodation is carried out by officers with a very wide range of experience in the field of housing.

(16) No.

7. WOMEN PRISONERS

Examination for Venereal Disease

Mr. BATEMAN, to the Chief Secretary:

(1) Is it a fact that of approximately 95 prisoners in the women's training centre at "Bandyup" 31 were found to have syphilis and more than 50 to have gonorrhoea?

(2) Is it a fact that no routine examination of women prisoners for venereal disease is carried out by the Public Health Department?

(3) If "Yes" when is this to be instituted?

Mr. CRAIG replied:

(1) Of 95 persons detained at "Bandyup" since it was opened on the 13th February, 1970, 15 were found to have syphilis and 21 to have had gonorrhoea.

(2) This is not a function of the Public Health Department but a function of the medical officer attached to "Bandyup" under the jurisdiction of the Prisons Department. Routine examinations of women prisoners are carried out by the medical officer concerned.

(3) Answered by (2).

8. KWINANA FREEWAY

Connection with Manning Road

Mr. MAY, to the Minister for Works: In view of the congestion which is being experienced at the junction of Canning Highway, Canning Bridge and Kwinana Freeway following the gazettal of Canning Highway as a priority road, will he

give further consideration to extending Kwinana Freeway to connect up with Manning Road?

Mr. ROSS HUTCHINSON replied:

The introduction of a priority road system on Canning Highway has not significantly changed the traffic pattern at this intersection to warrant further consideration of the proposal to extend Kwinana Freeway to connect with Manning Road.

9. DRIVING INSTRUCTORS

Permit System

Mr. DAVIES, to the Minister for Police:

(1) What was the reason for discontinuing the long standing practice of allowing a person to instruct in motor vehicle driving on an instructor's permit as distinct from an instructor's license?

(2) Is he aware there is a shortage of persons who have qualified as instructors and as a consequence some learner-driver operators are unable to work to full capacity and have car(s) off the road?

(3) As some persons are found to be unsuitable as instructors after a short trial period, could not the "permit" system be re-introduced with perhaps a maximum period of one month as opposed to the previous three months' period?

Mr. CRAIG replied:

(1) The provision was to cover a period of transition on introduction of the Act and regulations and it is no longer considered satisfactory that an unqualified person should be permitted to instruct in motor vehicle driving at a driving school.

(2) No.

(3) It is considered that persons should obtain instructors' licenses before being employed as instructors.

10. OUTDOOR SIGNS

Tenders

Mr. DAVIES, to the Minister for Railways:

(1) When did tenders close for the work associated with the upgrading of outdoor signs on railway property?

(2) From whom were tenders received?

(3) Who was the successful tenderer?

(4) What are the conditions of the contract which has been let, if any?

Mr. O'CONNOR replied:

- (1) The 14th February, 1970.
- (2) London & Provincial Poster Group Ltd.
Silk Screen Arts (W.A.).
Levingstone Pty. Ltd. (Victoria).
Shelter Advertising Pty. (W.A.).
Outdoor Advertising of W.A.
City & Suburban Billposting Co. (W.A.).
- (3) London & Provincial Poster Group Ltd.
- (4) The lease is for a period of 10 years under conditions which provide for the upgrading and transformation of the existing sites during the first 3-year period. The group will not be permitted to erect or place a sign unless it is—
 - (a) Approved by the Western Australian Government Railways.
 - (b) Accepted by the Town Planning Department.
 - (c) In conformity with Local Government By-laws.

The group would spend between \$150,000-\$200,000 in improving the standard during this period.

An agreement incorporating all conditions will be entered into with the successful tenderer.

11. MUTTON EXPORTS

American Market

Mr. STEWART, to the Minister for Agriculture:

In consequence of the American decision to cease imports of Australian mutton because of hygiene standards—

- (1) What effect will this have on Western Australian producers?
- (2) What steps are being taken to rectify this situation?

Mr. NALDER replied:

- (1) During the past 10 months, only about 5 per cent. of Western Australian exports of mutton have gone to the United States and the cessation of imports to that country should not, therefore, have a marked detrimental effect insofar as Western Australia is concerned. As a matter of interest, the mutton market at Midland Junction this week rose to its highest point for a long period of time.
- (2) A special meeting of the Meat Industry Advisory Committee was held in Canberra yesterday, but so far no advice has been received of the outcome of this meeting. It is therefore impossible at this stage

to indicate what measures the Commonwealth Department of Primary Industry intends to take to rectify the situation.

12.

DROUGHT

Financial Relief

Mr. GAYFER, to the Premier:

Further to my question on Tuesday, the 30th September, 1969—

- (1) Has the Government approached the Governor to appoint a director under the terms of the Farmers' Debts Adjustment Act to enable advances to be made, if required, from the Rural Relief Fund?
- (2) In view of the apparent financial difficulties in which farmers are finding themselves because of marketing and drought problems, what action is proposed by the Government to implement its policies of financial relief?

Mr. NALDER (for Sir David Brand), replied:

- (1) No.
- (2) The Government is closely examining several measures for relief of the special financial problems of farmers due to the present wheat and wool marketing situations. To relieve financial problems of farmers due to drought, loans are available to eligible farmers on seven year terms and 3 per cent. interest for carry-on purposes, for purchase of grain and hay, for agistment costs, and for re-stocking. Loans to 138 farmers totaling \$586,550 have so far been approved. Subsidies on the cartage of grain, hay, and stock are also available to farmers in declared drought areas. Persons holding land under conditional purchase leases, who cannot continue to farm it, are offered the opportunity to sublease the land under specified conditions.

13.

FUEL OIL

Import Duty

Mr. I. W. MANNING, to the Premier:

- (1) Does he know if fuel oil imported into Western Australia is subject to import duty?
- (2) If so, what is the rate of the duty?
- (3) Does the duty apply to fuel oil used by the State Electricity Commission?

- (4) If "Yes" does he know if any attempt has been made to repeal the duty on fuel oil used for the production of electricity and gas?

Mr. NALDER (for Sir David Brand), replied:

- (1) Duty is not payable on imported fuel oils provided importer is taking his quota of indigenous crude oil.
 (2) See (1).
 (3) No.
 (4) See (3).

14. COLLIE COALFIELD

Bore Holes

Mr. JONES, to the Minister representing the Minister for Mines:

- (1) In view of the fact that the report brought down by Menzies and Hanrahan on the Collie coalfield recommended that nine bore holes be put down in the Ewington and Collie-Burn areas, why are eight bore holes to be put down which is contrary to the recommendations?
 (2) Who recommended that eight bore holes be put down instead of nine as recommended by Menzies and Hanrahan?
 (3) Will he advise which of the nine bore holes recommended on the plan will not be put down?

Mr. BOVELL replied:

- (1) Messrs. Menzies and Hanrahan were unaware of an existing bore six chains from one of the suggested sites for a scout bore.

This existing bore supplies the information sought by the suggested scout bore; in consequence, it was omitted from the drilling programme.

- (2) Geological Survey.
 (3) The westernmost hole recommended on the Ewington area.

15. ROADS

Mitchell Freeway: Realignment

Mr. BATEMAN, to the Minister for Works:

On what date was the City of Melville advised by his department of the proposed realignment of the Mitchell Freeway?

Mr. ROSS HUTCHINSON replied:

Preliminary design proposals for the relocation of the Mitchell Freeway along the Mt. Henry route were submitted to the Melville and South Perth City Councils at a meeting held on the 12th September, 1966.

In a helpful spirit, perhaps I should add to this reply by saying that there is another date in which the honourable member may be interested; that is, that the Metropolitan Region Planning Authority's decision, accepting in principle the variation of the route, was conveyed to the Melville Town Council on the 21st December, 1967.

16.

RAILWAYS

Switch Points: Cleaning

Mr. MAY, to the Minister for Railways:

- (1) Has the Western Australian Government Railways entered into a contract for the cleaning of switch points at the Forrestfield and Kewdale marshalling yards?
 (2) If so, will he advise the name of the firm or persons concerned?
 (3) Were tenders called for this work?
 (4) If so, will he indicate the names of the tenderers?
 (5) What were the individual amounts tendered?
 (6) If (1) is "Yes" will he indicate the reason for this work being alienated from employees who have been satisfactorily carrying out these duties for many years?

Mr. O'CONNOR replied:

- (1) Yes.
 (2) Mr. J. Pitsikas.
 (3) No, but quotes were obtained.
 (4) J. Pitsikas.
 K. Green & Son.
 Other parties contacted were not interested.
 (5) Messrs. Green & Son were not prepared to quote for the whole area and the contract was let for \$100 per week.
 (6) Staff was not available and derailments have occurred from lack of attention to points.

17.

ROADS

Bunbury: Expenditure

Mr. JONES, to the Minister for Works:

- (1) What amount of Federal Aid Roads money has been spent in the Town of Bunbury from 1967-68 to date?
 (2) On what roads was the money expended?
 (3) What other Government money was expended in Bunbury from 1962-63 to date for the provision of roadways—
 (a) for land acquisition;
 (b) road construction?

- (4) What amounts were paid as matching grants—Commonwealth fund proportion—to the town council for the year 1968-69?
- (5) What amount is to be paid for the year 1969-70?

Mr. ROSS HUTCHINSON replied:

- (1) \$617,220.
- (2) The money was expended by the Main Roads Department as follows:—

(i) On road works:	\$
Armada-le-Manjimup Road	1,100
Bunbury-Collie-Wag-in Road	2,185
Bunbury-Yallingup Road	1,597
Blair Street and Ring Road	156,728
Strickland Street	10,318
Bunbury Outer Ring Road	6,930
	<hr/>
	\$178,858

(ii) On other works:	\$
Bunbury Slipway and Jetty	62,350
Leschenault Estuary Jetty	1,267
Koombana Bay Launching Ramp	300
	<hr/>
	\$63,917

- (iii) In payment to Bunbury Town Council for expenditure on roads \$374,445

(No information is available in the Main Roads Department regarding the roads on which these funds were expended).

- (3) Other Government road funds expended in the Town of Bunbury:

- (a) By the Main Roads Department (on road construction) 23,253

- (b) By Bunbury Town Council \$595,636

* This grant from the Central Road Trust Fund was paid to the Bunbury Town Council for expenditure on roads. No information is available in the Main Roads Department's records to show whether any of these funds were expended on land acquisition.

- (4) \$81,484.

- (5) In accordance with the new road grants scheme the Bunbury Town Council will receive from the Main Roads Department \$254,876 for 1969-70, of which \$212,398 has already been paid.

QUESTIONS (6): WITHOUT NOTICE

1.

MILK

Price Variation

Mr. RUSHTON, to the Minister for Agriculture:

- (1) Are Medina, Rockingham, Safety Bay, and Rockingham Park considered to be in the metropolitan area by the Milk Board?
- (2) If "Yes" why is the maximum price to consumers not 10c per pint in bottles in these areas?
- (3) If "No" will the Milk Board review its present decision to ensure consistency of price between similar areas?

Mr. NALDER replied:

I thank the member for Dale for giving me notice of this question. The answer is as follows:—

- (1) Yes.
- (2) Metropolitan prices apply to Kwinana Shire and the increased prices apply from the Rockingham Shire southwards.
- (3) It is a policy of the board to extend the metropolitan prices in accordance with urban development and as delivery and service costs become comparable with fully-developed districts.

2.

OUTDOOR SIGNS

Tenders

Mr. MAY, to the Minister for Railways:

In connection with question 10 on today's notice paper, will the Minister advise me of the date when the contract was let for the right to lease signs and hoardings on railway reserves to London & Provincial Poster Group Ltd.?

Mr. O'CONNOR replied:

At this stage London & Provincial Poster Group Ltd. has been advised of the letting of a tender to it. One of the directors of the company will be here during the coming week, and final details will be arranged at that time.

3.

DAIRYING

Marginal Dairy Farm Reconstruction Scheme

Mr. I. W. MANNING, to the Minister for Lands:

I believe that this morning reference was made by the Commonwealth Government to the

Commonwealth Marginal Dairy Farm Reconstruction Scheme.

(1) Has any recent advice been received by the Western Australian Government in regard to the implementation of this scheme?

(2) If so, can the Minister inform the House of the situation?

Mr. BOVELL replied:

(1) and (2) In a telegram dated today, and addressed to the Premier of Western Australia, the Prime Minister said —

The Commonwealth Government will be introducing legislation today for the Marginal Dairy Farm Reconstruction Scheme and tabling in conjunction with the Bill the agreement which it is proposed to enter into with your State

I am arranging to have delivered to you today a copy of the agreement to be tabled —

I do not know whether the Acting Premier has received a copy of the agreement.

Mr. Nalder: Yes, I have.

Mr. BOVELL: The Acting Premier has received a copy of the agreement.

To continue with the telegram—

— in Parliament and I will be sending you the engrossments of that agreement for execution. I have sent telegrams to all other Premiers informing them that the Commonwealth is introducing legislation to-day.

I understand that no other State except Western Australia has agreed to it. The Commonwealth Government has taken legislative action to ratify the agreement in respect of this scheme.

4.

DREDGING

Cockburn and Warnbro Sounds

Mr. RUSHTON, to the Minister representing the Minister for Mines:

Referring to question 9 of the 13th May it appears that the answer to part (2) is incomplete. Will he confirm this answer or supply the additional information?

Mr. BOVELL replied:

The answer given to question 9 on the 13th May is correct. In *The West Australian* dated the

13th May it was stated that in due course the company would withdraw its applications.

The applications for dredging claims by A.I.S. in Warnbro Sound have not yet been withdrawn.

5.

RAILWAYS

Indian-Pacific Train: Timetable

Mr. JAMIESON, to the Minister for Railways:

In view of the Minister's concern with the slow timetable of the Indian-Pacific passenger train, can he explain the reason why there is a need for a stopover at Parkleston of some 20 minutes, as well as a stopover at Kalgoorlie; and why the Parkleston stopover cannot be incorporated in the Kalgoorlie scheduled stopover?

Mr. O'CONNOR replied:

Recently an officer of my department went to the Eastern States and made a complete check of the timetable of the Indian-Pacific service from Sydney to Perth. The department proposes to improve the schedule in Western Australia, and the section mentioned by the honourable member is one of the spots where the department hopes to improve the timetable; that is, to reduce the timetable of the stop at Parkleston. I believe that the timetable in Kalgoorlie can also be reduced.

At the moment documents are in the process of being prepared for presentation to the A.T.A.C., in which we are asking the Ministers for Railways in the other States to assist Western Australia to reduce the timetable of the Indian-Pacific passenger service. The department intends to set an example by giving the other States the details of the timetable in Western Australia, and they will include the suggestions of the honourable member.

6.

SHIPPING

Chartering of Overseas Vessels

Mr. RIDGE, to the Minister for Transport:

Can the Minister advise me whether the information that is contained in a report in today's *Daily News*, to the effect that the Commonwealth has suggested that the Western Australian Government charter overseas ships for the coastal service to the north-west, is correct?

Mr. O'CONNOR replied:

The Commonwealth Minister for Shipping and Transport has been contacted several times in relation to our concern over the delay of the Commonwealth in advising us as to whether we can obtain ships for the coastal service, as set out in the proposals submitted to the Commonwealth.

At one stage the Commonwealth Minister suggested that Western Australia should endeavour to charter the Scandia type of vessel for the north-west coastal service. We have been endeavouring to do this for the last eight months.

I contacted the Commonwealth Minister and advised him that we were not able to obtain a Scandia type of ship for the coastal service of Western Australia. He advised that the Commonwealth might be able to obtain one for this State.

It was suggested that we contact Western Australian Farmers, the agent for these vessels. Western Australian Farmers is one of those who have been endeavouring for some eight months to obtain such a ship for us.

It is extremely difficult for us to obtain a ship of the right weight and type to suit the conditions of our coast. The Commonwealth Minister for Shipping and Transport made the suggestion, but neither he nor anybody else has been able to provide a ship of this type.

STATE HOUSING COMMISSION REPORT

Tabling

Mr. O'NEIL: Earlier in this session the Deputy Leader of the Opposition asked me about the tabling of the annual report of the State Housing Commission for 1969. I am happy to be able to report that I received this report from the Government Printer this afternoon. About 35 copies are available this afternoon. I seek leave to table the report.

The report was tabled.

IRON ORE (CLEVELAND-CLIFFS) AGREEMENT ACT AMENDMENT BILL, 1970

Returned

Bill returned from the Council without amendment.

LIQUOR BILL

Council's Amendments

Amendments made by the Council now considered.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

Mr. COURT: I seek your guidance, Mr. Chairman, on a point of procedure. Members who have a copy of the very extensive amendments made by the Legislative Council will appreciate from a quick glance that the great majority of them are, in fact, of a consequential and a drafting nature and do not involve any great principles. Therefore it will be found that the matters which are likely to be contentious will be very few.

In the interests of expedition I suggest that if we could identify the items that are likely to be controversial we could concentrate on them with a view to getting them out of the way. From my own study of the amendments, I am of the opinion that it will not take us an inordinately long time to deal with them because in most cases they have been thoroughly canvassed and we have fixed ideas whether we will hold fast on certain things or give way a little.

It is pertinent for me to add that we would be in somewhat of a dilemma if this Bill went to a Managers' Conference because we would not be able to define who is who. In the case of a Government Bill the procedure is well laid down and no problems are presented as to the people who would go in to the Managers' Conference. Having had experience of the debate on this measure and the extraordinary bedfellows we have had in the various divisions, I would not like to be the Acting Premier when he confers with the Leader of the Opposition as to who should go in to the Managers' Conference for the Legislative Assembly. It might be necessary for us to have first, second, and third emergencies to take over certain clauses. I hope we can arrive at a manageable solution.

In order to ensure that all members have had ample opportunity to identify in their own minds the amendments they consider to be formal and not of a contentious nature, and also to enable me to confer with my colleague in another place as well as with the Deputy Leader of the Opposition, I suggest that it might not be a bad idea—and I am not seeking to influence your judgment in the matter, Sir—if you left the Chair until the ringing of the bells and returned not before one-half hour.

The CHAIRMAN: I feel sure members will agree that the suggestion is a worthy one. It would certainly expedite progress and the half hour lost would be made up later. I will leave the Chair until the ringing of the bells in approximately half an hour.

Sitting suspended from 5.3 to 5.55 p.m.

Mr. COURT: Mr. Chairman, would you like me very briefly to explain the reasons for the amendments, dealing with them individually, or could I move a motion concerning the first seven because I intend to move that we agree to all of them. However, No. 8 does require an amendment. I seek your guidance.

The CHAIRMAN: We will have to leave this to the Committee to decide, but I suggest that you move your motion concerning amendments Nos. 1 to 7. However, every member must be satisfied with the procedure.

Mr. JAMIESON: I object to the amendments being grouped. I believe we should have an explanation regarding each amendment or we could end up with messages going backwards and forwards between the two Chambers and we might never reach a conclusion.

Mr. COURT: Fair enough. I was trying to ascertain the attitude of the Committee. I am quite agreeable to the honorable member's suggestion.

Council's amendment No. 1.

Clause 3, page 2, line 31—Delete the word "hotel".

Mr. COURT: I move—

That amendment No. 1 made by the Council be agreed to.

This amendment is necessitated by the amendment to the heading of part V, division 3, which occurs in amendment No. 62. Members will appreciate that because of amendments made subsequently, with which this Chamber has concurred, it is necessary to take out the word "hotel." It is merely a drafting formality.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 2.

Clause 6, page 4, line 28—Delete the subclause designation (1).

Mr. COURT: I move—

That amendment No. 2 made by the Council be agreed to.

This amendment is simply a draftsman's correction. The subclause designation was apparently inserted in the early preparation of the Bill and was never deleted, although there is no subclause (2).

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 3.

Clause 6, page 5, line 27—Add after the word "him" the words "on the vineyard or orchard".

Mr. COURT: I move—

That amendment No. 3 made by the Council be agreed to.

This amendment was agreed to by another place as a measure to prevent the big wine interests of other States buying up a small

vineyard and selling their produce made elsewhere from that vineyard. It is believed that the fear is a little unrealistic, but even if there is a remote possibility of this occurring, it is felt the amendment should be made.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 4.

Clause 6, page 5, lines 28 and 29—Delete the words "one reputed quart" and substitute the words "twenty-six ounces".

Mr. COURT: I move—

That amendment No. 4 made by the Council be agreed to.

This amendment is consistent with those made elsewhere in the Bill deleting the expression "reputed quart." Elsewhere the words "one third of a gallon" were used in relation to two bottles, but the weights and measures people inform us that in the case of wine the bottle contains 26 ounces and not 26½ ounces.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 5.

Clause 6, page 6, lines 1 to 3—Delete all words from and including the word "is" down to and including the word "on" and substitute the words "is not sold or supplied on or from".

Mr. COURT: I move—

That amendment No. 5 made by the Council be agreed to.

This amendment was introduced to ensure that vigneron would be enabled to deliver wine ordered from their vineyards. This provision was under argument in this Chamber on a previous occasion when it was vigorously sponsored by the member for Toodyay and others.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 6.

Clause 6, page 6, line 5—Delete the word "sold" and substitute the word "manufactured".

Mr. COURT: I move—

That amendment No. 6 made by the Council be agreed to.

This is a drafting correction because, as the subparagraph read, liquor could only be sold on the premises from which it was sold, which is nonsensical. I think this is a classic admission from a draftsman. The word "manufactured" has accordingly been substituted.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 7.

Clause 7, page 6, line 24—Add after the word "not" the words "but a room or rooms reserved for the private use of the lodger is not a bar".

Mr. COURT: I move—

That amendment No. 7 made by the Council be agreed to.

This amendment was sought by another place to ensure that the bedroom of a guest who is served with liquor in that room is not thereby deemed to be a bar. An attempt was made by the draftsman to overcome this by the use of the words "in or from which liquor is sold or supplied directly to the recipient." Another place, however, was not satisfied these words served the purpose and has therefore made the amendment which may possibly go too far in that the resident licensee is also a lodger and if he were to serve liquor in his private room it would still not be a bar by reason of the amendment. However, having weighed up the practicalities of the matter it is felt it is something which can be accepted.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 8.

Clause 7, page 7, line 1—Delete the words "its or their curtilage" and substitute the passage "of the land on which it is, or they are, erected".

Mr. COURT: I should point out that this amendment was recommended by the Licensing Court which believed that the use of the word "curtilage" might be too narrow to take in other land surrounding the buildings of the licensed premises.

By way of quick explanation I would point out that there is some doubt whether, when we refer to land on which a building is erected, we mean the actual area covered by the building or the title generally applicable to that piece of land. When we talk about land on which a house is built we generally mean the quarter or half-acre to which the owner has title. However, there is some doubt at law as to the meaning.

Unfortunately the amendment does not appear to be quite as happy as it might be and Mr. Medcalf, I think it was, in another place, pointed out the situation which could develop and the draftsman has now had a look at this. I suggest to the Committee that we delete the words after "land" and substitute the words "adjoining it or them."

The Licensing Court has the final say as to what piece of land is, in fact, the licensed premises for the purposes of the Act. The object is to avoid the situation where a *bona fide* beer garden—which is

an integral part of the operations of a hotel—is excluded from the land. That would be quite farcical. I move—

That amendment No. 8 made by the Council be agreed to, subject to the substitution for the passage "on which it is, or they are, erected" the words "adjoining it or them".

Mr. JAMIESON: I would assume that this could include a parking area provided by a hotel. One notices, particularly during the summertime, that people who go to hotels and do not want to go into the bar often have a drink in their cars in the hotel parking area. I assume this amendment will give the court power so that it can control such drinking which is associated with the premises, but not actually on the premises.

Mr. COURT: Perhaps it would be desirable if I were to record, in advance, how the amended interpretation will read. The interpretation is to be found on pages 6 and 7 of the Bill and it will read as follows:—

"licensed premises" means that part or those parts of a building or buildings and of the land adjoining it or them defined by the Court as being the part or parts to which a licence relates;

So we leave it entirely to the court to define what is the area covered by the licensed premises. As I see it, it is terribly important to see that there is no restriction on the court in deciding boundaries.

I could not be precise on the definition of a parking area associated with licensed premises. As far as the amendment is concerned, the crucial words are "defined by the Court as being the part or parts to which a licence relates".

Mr. JAMIESON: I think there should be a limitation so that the area cannot be extended beyond the actual title of the hotel land. Many new shopping complexes have multiple car parks and it is difficult to define where the hotel car park ends and the shopping centre car park begins. The Boans, Morley, complex, is a classic example. The hotel area would have to be specified otherwise people might offend against the licensing laws.

Mr. COURT: The point made by the honourable member is valid, but I believe we have the position well covered by allowing the court to define the area. I do not know whether members have seen the type of approval which the court gives but there is no doubt as to what are the actual licensed premises. That is very important to the licensee because he has certain rights and responsibilities within that area.

I would be prepared to go along with the idea of the court having the right to define the area. The member for Belmont is aware that there might be conflicting

interests in a car park used by a community of interests. It is more likely that the car park would be owned by the centre and not by the hotelier—beyond a certain point. I do not think this will be any great problem because, in my experience, the court is pretty sensitive on this question of defining licensed premises.

Mr. Jamieson: That type of car park is more the rule these days than the exception.

Mr. COURT: I would not like to attempt to draft something to cover this situation.

Mr. Graham: I would think that no hotelier would want a general car park to be included in his licensed premises.

Question put and passed; the Council's amendment agreed to subject to the amendment made by the Assembly.

Council's amendment No. 9.

Clause 7, page 7, lines 7 to 10—Delete all words.

Mr. COURT: The definition of "light meal" was inserted by the Assembly at the behest of the member for Toodyay. It will be recalled that I doubted whether the drafting of our illustrious friend would be approved by the draftsman. This proved prophetic, and the Council dealt with the matter in another way. Personally, I believe it is a better way, and it will allow the court to approve of what is a "light meal." I would imagine that a light meal would change from time to time; some suggested it could be a pie or a pasty, a hamburger, or an entree. Rather than see it actually defined I would like the court to determine a light meal. I move—

That amendment No. 9 made by the Council be agreed to.

Mr. CRAIG: I agree with the views of the Minister on this matter. I was anxious to include in the interpretations a definition of a light meal. The interpretation not only affected the Australian wine license, but also some other licenses. As the Minister has pointed out, a certain light meal might be appropriate in one district, but not in another. The Deputy Leader of the Opposition will recall a certain area with which we are associated. Possibly, a seafood would be an appropriate light meal in that area, but not in another. I therefore suggest we agree with the Minister on this amendment.

Question put and passed; the Council's amendment agreed to.

Sitting suspended from 6.15 to 7.30 p.m.

Council's amendment No. 10.

Clause 7, page 8, line 25—Delete the word "hotel".

Council's amendment No. 11.

Clause 7, page 8, line 26—Delete the words "those licences" and substitute the word "them".

Council's amendment No. 12.

Clause 7, page 8, line 31—Delete the words "those licences by the" and substitute the passage "them, by the renovation."

Mr. COURT: I move—

That amendments Nos. 10 to 12 made by the Council be agreed to.

These three amendments are all tied together and are designed to tidy up the definition "rationalization." The definition was changed by reason of applying the power to rationalize to every kind of license. Members will recall that when the Bill was last before the Committee, the Committee decided to depart from the concept that had been put forward by the investigating committee. Naturally there had to be a change in the definition "rationalization." I think I foreshadowed this at the time. These are, accordingly, purely drafting amendments and do not change the sense of the definition.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 13.

Clause 11, page 11, line 27—Delete the word "and".

Council's amendment No. 14.

Clause 11, page 11, after line 27—Add a new subparagraph to stand as subparagraph (ii) as follows:—

(ii) the granting, extension, variation or cancellation of provisional certificates; and .

Mr. COURT: I move—

That amendments Nos. 13 and 14 made by the Council be agreed to.

These two amendments were required by the Licensing Court, because it was not satisfied that its jurisdiction was fully enough expressed to cover the grant, etc., of provisional certificates and the subparagraph was added to take care of this.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 15.

Clause 19, page 16, line 3—Delete the words "an inspector" and substitute the words "a surveyor".

Mr. COURT: I move—

That amendment No. 15 made by the Council be agreed to.

It is a formal amendment. The explanation is that since the Health Act Amendment Act, 1970, was enacted, each inspector under that Act will be designated "surveyor." The Bill has accordingly been amended so that it will be up to date in this respect. It will be seen that this amendment occurs several times. I shall explain them as they arise, but without going into the same amount of detail. The

effect of the amendment is merely to change the reference to "surveyor" from "inspector."

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 16.

Clause 20, page 16—Delete the passage commencing with the word "he" in line 34, down to and including the word "Court" in line 35, and substitute the passage "the Court shall—".

Council's amendment No. 17.

Clause 20, page 17, line 1—Delete the passage "(b) send a copy of the report" and substitute the passage "(a) cause a copy of such part of the report as it adopts to be sent".

Council's amendment No. 18.

Clause 20, page 17, line 7—Delete the passage "(c) retain a copy of the report and make it" and substitute the passage "(b) make such part of the report as it adopts".

Mr. COURT: I move—

That amendments Nos. 16 to 18 made by the Council be agreed to.

The explanation is that these amendments were requested by the Licensing Court. In the course of its administration, the court receives many reports but does not necessarily concur with all of their recommendations. It believes it would be a futile exercise to allow owners and others to receive a full copy of the report when it could well be that only part of the recommendations would be adopted. The amendments accordingly make provision for the publication of such parts of the report, only, as the court adopts. This is purely to cut down unnecessary red tape and procedure. It is recommended and requested by the Licensing Court, and has been agreed to by the Legislative Council.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 19.

Clause 20, page 17, line 16—Delete the word "inspector" and substitute the word "surveyor".

Mr. COURT: I move—

That amendment No. 19 made by the Council be agreed to.

The reasons given in support of amendment No. 15 apply to this clause in that the amendment seeks to change the designation from "inspector" to "surveyor."

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 20.

Clause 23, page 19, after line 17—Add a new subclause, to stand as subclause (4), as follows:—

(4) Subject to the succeeding provisions of this Act, a person may apply for, and

the Court may issue, any of the permits mentioned in items 2 and 3 of the Fourth Schedule.

Mr. COURT: I move—

That amendment No. 20 made by the Council be agreed to.

Clause 23 sets out the different classes of licenses that may be applied for and granted. The Licensing Court was of the opinion that the clause should also draw attention to the types of permits that might be issued and the subclause was inserted for this purpose. The amendment does not affect the operation in any way. It is purely a drafting amendment to take cognisance of the fact that we now have permits as distinct from licenses.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 21.

Clause 24, page 19, lines 31 to 35—Delete all words and substitute the following passage:—

Sunday; or

(ii) between such other hours, on a Sunday, as the Court may authorise, under subsection (2) of this section, for consumption on the premises, only;

Mr. COURT: I move—

That amendment No. 21 made by the Council be agreed to.

When the Sunday trading hours for the various licenses were made uniform, the only difference remaining between metropolitan and country licensees lay in the ability of the latter to supply two bottles of beer during each of the morning and afternoon sessions. This occasioned subparagraph (ii) to become virtually redundant and it was undesirable that the Bill should be cluttered up with this subparagraph, which had for its only purpose the provision of the sale of two bottles on a Sunday in country areas. It was accordingly decided to delete the subparagraph—as occurs in amendment No. 22. This is really a consequential amendment before something else happens, if there is such a thing. The idea is to use the subparagraph for a reference to the amendment sought by the Deputy Leader of the Opposition. This has been done by amendment No. 21.

Members will recognise the amendment to which I refer, which was foreshadowed by the Deputy Leader of the Opposition. We mutually agreed that the matter would be handled in another place.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 22.

Clause 24, page 20, lines 1 to 13—Delete all words.

Mr. COURT: I move—

That amendment No. 22 made by the Council be agreed to.

There is now a redundant subparagraph and, therefore, the amendment deletes old subparagraph (ii).

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 23.

Clause 24, page 21, after line 2—
Insert a new subclause, to stand as subclause (2), as follows:—

(2) Notwithstanding any provision of subsection (1) of this section—

(a) the holder of an hotel licence may, if his licensed premises are situated within a prescribed area, in each of any two periods during which he is authorised to sell and supply liquor on a Sunday, sell and supply beer, in sealed containers, in quantities not exceeding one-third of a gallon to any one person, for consumption off the premises; and

(b) the Court may, having regard to the circumstances existing in the neighbourhood of the licensed premises and the needs of the public, from time to time, on the application of the holder of an hotel licence, authorise the holder of an hotel licence to sell and supply liquor, during a specified period not exceeding, or two specified periods not exceeding in the aggregate, five hours, on a Sunday other than Anzac Day, for consumption on the premises only; and an authority so conferred shall remain in force until the Court otherwise orders.

Mr. COURT: I move—

That amendment No. 23 made by the Council be agreed to.

This amendment inserts a new subclause carrying, in paragraph (a), the right to sell bottles on a Sunday. This paragraph (a) originally provided for the sale of bottles in areas outside the 30-mile radius

but was subsequently amended to provide for the sales on Sunday in prescribed areas. It is very important that members appreciate the significance of this, because there is a later amendment which deals with prescribed areas.

The intention of the mover was that this should be restored to the present goldfields areas. There has been a certain amount of misgiving about the sale of bottles on a Sunday in areas which are now not permitted to have bottle sales on a Sunday. I believe apprehension has been expressed in some of the provincial tourist centres which have beaches—for instance, Geraldton, Albany, Bunbury—and the other place decided that it was best to revert to the situation where the existing areas, which we broadly know as the goldfields, which are a very large part of the State, would have the right to bottle sales but the new country areas would not.

Paragraph (b) of the new subclause brings into this particular clause the amendment, sought by the Deputy Leader of the Opposition and others in the Assembly, enabling the court to set different hours for Sunday trading, with an overall maximum of five hours. This amendment was foreshadowed here and I undertook to bring it to the notice of my colleague. The Deputy Leader of the Opposition also undertook to see that some action was taken in another place. It has been done in this amendment.

Mr. GAYFER: In my part of the agricultural areas, at any rate, we are virtually giving away the right to sell two bottles at each of the sessions, to which we agreed in this Chamber last week. The Minister has now said that the reason for this is that the people at a lot of the beach resorts, and so on, do not want this practice to be continued. My interpretation of "the goldfields area" is that it includes Esperance, Ravensthorpe, Hopetoun, other beach resorts around the south coast, and also the northern areas. I think this is fairly weak. We were not very keen about the provision for the sale of two bottles on a Sunday but I think it was intended to give it back to those areas that had had it in the past, to preserve the *status quo*. We are not going to take away something that has prevailed in certain areas in the past but we are not going to give it to anybody else.

Mr. Court: That last sentence sums it up perfectly.

Mr. GAYFER: So what we had last week we have not got now. I suppose it is fair enough. We will go along with it.

Mr. GRAHAM: The Minister said that the "prescribed area" was provided for elsewhere. I have endeavoured to find it in the Bill and in the amendments, but so far unsuccessfully.

I would have thought it would be a far better proposition to allow the provision to continue in those areas that have the right or permission to sell a limited number of bottles at a certain time, but that in other areas it should be prescribed by the court from time to time. Perhaps an excellent case could be put up in isolated centres or districts—I venture to suggest a far stronger case than Kalgoorlie has, for instance, where there are grass lawns, a swimming pool, power for air-conditioning, and so on. It is a large, civilised community with all sorts of amenities. I do not want this to be construed as suggesting that it should be denied to Kalgoorlie, where it has been in existence ever since this provision was put into the legislation; but why not in other remote areas?

It seems to be the feeling that it should not apply to the metropolitan area and we cannot get everything we want, so we will let it go there; but there could be areas in other parts of the State that are isolated and where there are considerable numbers of working people who have not their own refrigeration, so it is a matter of having luke-warm liquor at home instead of being able to obtain something cool and appetising on a Sunday from licensed premises that might be in the vicinity.

I do not want to set about prescribing areas, as this Parliament did years ago. Leave it to the Licensing Court, upon application being made and cause being shown, to decide whether this amenity shall be enjoyed in certain places. I would like to see where this "prescribed area" appears, and in what terms, so that we can give further consideration to it.

Mr. COURT: The "prescribed area" appears if one looks at amendment No. 81. The Minister for Justice has convinced the other place that he is endeavouring to preserve the *status quo*. It is wrong for us to say we are taking away something we had the other night, because we did not have it until the Bill had been through the other place. I think it is wise to leave this to a prescribed area. If we find in the light of history that we want to change it, it is competent for us to do so.

Mr. Bickerton: How do you feel about the suggestion of the Deputy Leader of the Opposition that it be left to the court? That sounds like common sense as far as the sale of bottles is concerned.

Mr. COURT: The Minister concerned would get his advice from the court, and the wording in Legislative Council's amendment No. 81 is surely broad enough. If one looks at the Bill with this amendment incorporated in it, it does make a lot of sense, and it does leave it with the court. The intention of the Minister, as declared in another place, was to make sure that the goldfields are protected.

Mr. JAMIESON: I can think of areas, such as mill towns, where this would be desirable. It is stupid to listen to arguments that bottles will be thrown on to beaches and that sort of thing. There are other clauses prohibiting the taking of liquor onto reserves that will give protection. People will take bottles to those places under the lap anyway. Whether it is on a Saturday, a Tuesday, during holidays, or the Christmas period, people will do it.

I mentioned mill towns, where people might be working overtime on a Sunday, and they might attend a session and want to take a couple of bottles home. I do not see why we should be more restrictive in those areas than on the goldfields, where the same conditions exist. I agree with my deputy leader's suggestion that it should be left to the Licensing Court. We could not have many worse problems than we have now, when Coke cans and broken cool drink bottles are left on beaches and such places.

At least we still have the other provision which forbids people to take such things onto reserves, and most beaches of any import are reserved in the local authority. So we have plenty of protection. I think another place has over-legislated on this point. Surely if we left it up to the Licensing Court people could obtain sufficient bottles to take home.

An industrial centre such as Pinjarra may not offer many amenities for the locals to enjoy apart from a hotel and what goes with it. The people there could go to the hotel and then possibly take home a couple of bottles. I think those people would appreciate that privilege, and they are entitled to it. I think we should ensure that we give the court jurisdiction so that it can take action where there is substantial indication that it is needed.

I do not think we should restrict the provision; if we do we will get away from the whole concept of the Bill. It is a non-party measure, but we will be handing it over to the Administration. Whilst we are retaining the *status quo* in this respect, we would certainly not be doing so in regard to many others. If we revert to what was put up by the Administration then this clause would become a Government proposition. So I would like to see it left to the Licensing Court.

Mr. COURT: I shall try to clarify the situation.

Mr. Graham: I think the Minister, unintentionally perchance, misled the Chamber in his earlier statement.

Mr. COURT: No, I was trying to explain the situation. I do not want the Committee to get the idea that this amendment is an Administration amendment. This is the result of a non-party decision made in another place by people who, I presume, think rather the same as we do.

Mr. Jamieson: But you suggested that it came from the Licensing Court.

Mr. COURT: I am about to clarify the situation. The objective of the Minister was to satisfy the members in another place, and he gave an undertaking that people on the goldfields would not be deprived of their present privilege, bearing in mind that the Bill introduced into this House made provision for sales of bottles on a Sunday outside the 30-mile radius. It is not a question of the Administration trying to inflict itself on the Legislative Council or the Legislative Assembly. It is an attempt to overcome the situation because of the apprehension expressed in another place. The Minister there gave an undertaking that the "prescribed area" would include the goldfields.

Mr. Jamieson: Only?

Mr. COURT: Well, at least the goldfields. It is important that members refer to the reprinted Bill as it left this House, and we all have a copy of it. I think where I might have misled the Committee is that I could have given the impression that the court itself would make the declaration. What I intended to convey was that the Minister would seek the advice of the court, which has an understanding of the different areas and localities. However, the Minister gave an undertaking about a prescribed area mainly to satisfy the goldfields people that nothing would be taken away from them. I want to make the point that the regulation-making powers are not restrictive. The Council's amendment provides that the Governor may make regulations "prescribing any part or parts of the State as an area to which paragraph (a) of subsection (2) of section 24 applies."

Another Administration would not be bound by this and, in fact, the present Minister could go further if he wished after considering representations and the advice of the court.

Mr. Bickerton: Would you be satisfied in your own mind that, if the court, after this Bill is proclaimed, decided that two bottles should be sold in the suburbs on a Sunday, it could do that without recourse to Parliament?

Mr. COURT: What we are providing is that, without limiting the generality of subclause (1) of this clause, the Governor may make regulations. Those regulations will be tabled in this Chamber, and if Parliament decides that the Governor has gone too far, on the advice of the Executive Council, those regulations can be disallowed. I believe this is a practical way of dealing with a situation which is obviously causing some concern. Therefore I agree with the Council's amendment.

Mr. GRAHAM: The confusion arose because of the manner in which the Minister explained the situation. He said there

was a proposition that two bottles could be sold on Sundays outside the metropolitan area; but he said the Legislative Council disagreed, and it is now proposed that the goldfields should be allowed to retain the two bottles proposition. He went on to tell us about the evils that might occur at Geraldton and other places. He informed us that any part, indeed every part, of Western Australia could be granted the privilege of being able to buy two bottles of liquor on Sundays at the instigation of the Government—not even the court—and a regulation could be proclaimed to include, for argument's sake, all the towns in the great southern.

There could be a difference of opinion as to whether the Government should be responsible for the regulation—admittedly, it would be subject to a check by Parliament—or whether a body that is reputable—the Licensing Court—should, after hearing representations, make a decision which would probably be on a more judicial basis than a Cabinet decision, which could be based on political considerations.

My point is that this concession should not necessarily apply to only one section because it has been so for the last 15 years. It is now left entirely at the discretion of the Government. As I understand it, the Government has given an undertaking that those who enjoy the privilege at the moment will be allowed to retain it, but that it may from time to time make additions; or, in other words, grant the same concession to other parts of the State, or the whole of the State, including the metropolitan area.

So the potential now goes further than what was decided by this Chamber when it agreed to exclude the metropolitan area: that area can now be included.

Mr. GAYFER: I partly agree with the Deputy Leader of the Opposition. I cannot help but think that we were originally striving for uniformity of the law and now it is intended to bring in the possibility of allowing hotels, and hotels only, in a prescribed area to sell two bottles of beer on a Sunday.

If this amendment does not represent "playing up" to the A.H.A., I do not know what does. The member for Merredin-Yilgarn and I have towns in our electorates where the only disposal point for the sale of bottled beer is a club. I have been trying to tell members this for three days. However, the Committee apparently intends to agree to this amendment made by the Council which will deny the right to sell bottled liquor to those places situated in the districts which were known as prescribed areas before this Bill was introduced.

Let us have complete uniformity, or not have anything at all. We should not attempt to draw a line and say that a

certain number of agricultural towns are in a prescribed area and a certain number of towns are in the goldfields in which bottled beer can be obtained on a Sunday. I am thinking mainly of the farmer who works around the clock, seven days a week, who cannot always go into town on a Saturday to obtain a bottle of beer. Let the Committee make the provision uniform. I do not care whether I buy a couple of bottles of beer on a Sunday or not, but let us make the provision uniform throughout the State, not only for the benefit of local residents but also for travellers.

Mr. COURT: I ask members to look at the amendment objectively and quietly. At the moment clubs situated outside the goldfields are not permitted to sell bottles of beer on a Sunday. I am not here to sell the amendment to members. If members do not want it they can reject it. I am only trying to interpret what was done in another place by people who I presume have average intelligence, who act as we do, and represent the interests that we do.

Mr. Bickerton: They can make mistakes.

Mr. COURT: Sure! Do not all of us?

Mr. Bickerton: Yes, the both of us.

Mr. COURT: This prescription of areas in which bottles of beer can be sold on a Sunday will cover hotels, taverns, wine-houses, and clubs. If it applies to the hotel in Mukinbudin, it will also apply to the club in Mukinbudin if it is within a prescribed area.

Mr. BICKERTON: I agree with the Deputy Leader of the Opposition; namely, this is something that should be left in the hands of the Licensing Court. I represent an area where people already enjoy this privilege of being able to buy bottles of beer on a Sunday. I think if the prescription is to apply to one area it should apply to all, and the body that should prescribe the area should be the Licensing Court and not the Government by regulation.

A great deal of nonsense is said about the sales of bottled beer on Sunday. It is true that from Monday to Saturday one can take to one's home as many cases of beer as one can afford and can drink them almost where and when one likes. However, on Sunday we have this stupid restriction that one can buy only two bottles of beer, in most instances during the morning session, if there is a morning session.

If one were to argue this point logically, one could put up another argument: that only bottles of beer should be sold on Sunday and not draught beer; because it would be reasonable to assume that a person who wants to drink on Sunday could go to the bottle department and obtain his bottle supplies, take them home and drink them, instead of consuming as

much liquor as possible in two hours to get him to the state he wished to get in a minimum of time.

So the proper body to decide whether bottled beer should be sold on a Sunday is the Licensing Court. I think the Deputy Leader of the Opposition has a good point; namely, it is wrong that the Government should prescribe areas by regulation.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 24.

Clause 26, page 24, lines 30 to 34 inclusive—Delete all words and substitute the following passage:—

Sunday; or

(ii) between such other hours, on a Sunday, as the Court may authorise, by virtue of subsection (3) of this section,

for consumption on the premises, only; .

Council's amendment No. 25.

Clause 26, page 24, line 35 down to and including line 9 on page 25—Delete all words.

Mr. COURT: I move—

That amendments Nos. 24 and 25 made by the Council be agreed to.

These two amendments bring the provisions for the tavern licenses into line with those just discussed under amendments Nos. 21 to 23. They are correlated amendments.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 26.

Clause 26, page 25, lines 28 and 29—Delete the passage "(4) and (6) to (10)" and substitute the passage "(3), (5) and (7) to (11)".

Mr. COURT: I move—

That amendment No. 26 made by the Council be agreed to.

These are consequential amendments following amendments Nos. 24 and 25, but it should be noted that the new subclause (2) of clause 24 has been brought into this clause and applied to tavern licenses.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 27.

Clause 27, page 26, line 5—Insert after the word "day" the passage "other than Good Friday".

Mr. COURT: I move—

That amendment No. 27 made by the Council be agreed to.

This amendment, which seeks to insert the words "other than Good Friday" merely brings the subparagraph into line

with others, and the amendment is purely for the sake of consistency, otherwise there would be an anomalous situation.

Mr. BICKERTON: I seek your guidance, Mr. Chairman. There are many amendments before us. When the Minister handling the Bill began to discuss the Council amendments, I think it was the member for Belmont who queried whether or not the Minister should explain every clause. To my way of thinking this is unnecessary unless some member of the Committee has a query to make on a particular clause. I would like to know whether you, Sir, would rule that, instead of the Minister explaining every amendment he could group the ones in regard to which there is no dispute. It would be preferable if members could indicate the amendments upon which they required some information, which could then be given by the Minister, rather than continue to give an explanation of every amendment.

The CHAIRMAN: I point out to the member for Pilbara that a suggestion similar to his was made at the start of these proceedings, but it did not suit the members of the Committee. We are getting along very well, and I do not think we can do better than we are doing now.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 28.

Clause 29, page 27—Delete the passage in the clause after the word "licensed" in line 8, down to and including the word "weekday" in line 29, and substitute the following—

premises—

(a) during ordinary trading hours;

(b) if the licensee has elected, by virtue of subsection (3) of this section, to do so—

(i) between the hours of eleven in the morning and one in the afternoon and between half-past four and half-past six in the afternoon, on a Sunday; or

(ii) between such other hours, on a Sunday, as the Court may authorise, by virtue of subsection (3) of this section,

for consumption on the premises, only;

(c) with or ancillary to a meal supplied by the licensee, between the

hours of ten in the evening, on a week day, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day, if the meal is supplied and taken in good faith, and the liquor is consumed, in a dining room on the premises;

(d) if the licensee obtains an occasional permit, by virtue of subsection (3) of this section, during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

(2) The holder of a winehouse licence is required to make light meals, of such a nature as the Court may approve, continuously available for purchase and consumption on the premises, during ordinary trading hours.

(3) The provisions of subsections (2), (3), (5), (10) and (11) of section 24 apply, with such adaptations as may be necessary, to the holder of a winehouse licence.

Mr. COURT: I move—

That amendment No. 28 made by the Council be agreed to.

Following the changes made to winehouse licenses in the Assembly, the winehouse license became more akin to a tavern license than to a restaurant license, as proposed by the committee of inquiry. Members will recall that the Deputy Leader of the Opposition and the member for Toodyay both became involved in this. The Council, however, decided to retain the right of winehouse licenses to remain open between the hours of 10 p.m. and 12.30 a.m. on the following day. The tavern licenses, of course, shut at 10 p.m. Between the hours of 10 p.m. and 12.30 next morning the liquor sold on the premises must be sold with or ancillary to a meal. It will be recalled that the Assembly changed the requirement for meals to be supplied by the holders of winehouse licenses to light meals. The position will, accordingly, be that during ordinary trading hours the licensee will be required to serve light meals and after that period—that is, until 12.30 a.m.—he will be required to serve full meals.

Up till 10 p.m. it is ordinary trading hours and, to meet the point raised by the Deputy Leader of the Opposition, I confirm that "ordinary trading hours" means sales for consumption both on and off the premises. If the licensee trades beyond 10 p.m. till 12.30 a.m. he must serve full

meals. The amendment makes provision for new subclause (2) of clause 24 to apply to winehouse licenses. This is to be found in the new subclause (3).

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 29.

Clause 34, page 31, line 13—Delete the expression "(9)" and substitute the expression "(10)".

Mr. COURT: I move—

That amendment No. 29 made by the Council be agreed to.

This is purely a consequential amendment that should have been corrected in the Assembly and was overlooked.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 30.

Clause 35, page 32, lines 4 to 22 inclusive—Delete all words and substitute the passage "company";.

Mr. COURT: I move—

That amendment No. 30 made by the Council be agreed to.

The amendment affected by this item merely brings clubs into line as to Sunday trading with hotel, tavern, and winehouse licenses. It makes no change other than bringing the clause into order.

Mr. GRAHAM: Unfortunately we have not had the amendments before us for long and, speaking for myself, we have had no opportunity, virtually, to study the various matters. I appreciate the view expressed by the member for Avon which, incidentally, was that of the Legislative Assembly as a whole. We have already had discussions on the sale of bottles on a Sunday.

There is nothing specific in the legislation, but this will be permitted in respect of hotels in any area prescribed by regulation. We have been told this is to apply to what is commonly referred to as the goldfields area but the Governor may, at any time, alter the boundaries of the prescribed area. I repeat, that applies to hotels.

The feeling is the provision should also apply to clubs in a prescribed area. In other words, if in a certain town on the goldfields there are a couple of hotels and a club they should all be permitted this right. Some country centres have no hotel; they only have a club and if it is in the prescribed area it shall have this right. But neither hotel nor club shall have the right if it is outside the prescribed area. In order to give effect to this it is necessary for me to move an amendment. The purpose is to bring about uniformity in the generally accepted drinking places on Sundays—normally hotels and clubs—in any area which falls within the prescribed area and they shall both be permitted to

sell and supply liquor in sealed containers to a limit of two bottles or one-third of a gallon.

Clubs can do this at the moment. In other words, if the Government gives effect to the Minister's undertaking—and I do not doubt that—the position in respect of hotels and clubs will be in the future as it has been for some years, but there will be an additional feature that the present area which we call the prescribed area can be modified, enlarged, or reduced in size from time to time on the Governor's issuing a regulation. I have used words that appear in application to a hotel and accordingly they will in no way cause drafting difficulties or questions of misinterpretation.

The CHAIRMAN: Before I put this, I take it the honourable member is going to agree to the amendment suggested by the Minister.

Mr. GRAHAM: The Minister has moved that the Legislative Council's amendment No. 30 be agreed to and I want to add that it be conditional on the words in my amendment. I move—

That amendment No. 30 made by the Council be agreed to subject to the following further amendment:—

Clause 35, page 32—Insert after line 4 the following new subclause to stand as subclause (2):—

(2) Notwithstanding any provision of subsection (1) of this section the holder of a club licence may, if his licensed premises are situated within a prescribed area, in each of any two periods during which he is authorised to sell and supply liquor on a Sunday, sell and supply beer, in sealed containers, in quantities not exceeding one-third of a gallon to any one person, for consumption off the premises;

Mr. COURT: I hope the Committee will not agree to this amendment on the Council's amendment, because we could have a crazy set-up. It is apparently overlooked that the provisions of clause 24 (2) have been incorporated into the hotel licenses, the tavern licenses, the winehouse licenses, and the clubs.

I have referred to the importation of the new provisions. They have been brought into clause 35. The whole idea is to bring them all into line with hotel licenses, tavern licenses, and winehouse licenses. When the prescribed area is fixed, it will—I reiterate—apply to the licenses of hotels, tavern, winehouses, and clubs.

Mr. Graham: I agree that this is the result of having too much on one's plate. Legislative Council's amendment No. 32 will achieve what I am seeking to do.

Mr. COURT: The Council's amendment No. 32 seeks to delete from clause 35 the word "subsection" and substitute the passage "subsections (2) and".

Mr. GRAHAM: It is an error on my part, because in the private discussions we had this was one of the matters which received attention. The Council's amendment No. 32 brings to the clubs the same provisions for the sale of bottles of beer on Sundays, as those applying to the hotels. In view of that I seek leave to withdraw my motion.

Amendment on the Council's amendment, by leave, withdrawn.

Mr. GAYFER: We have before us a copy of the Bill as it left this Chamber, and we have a schedule of the Council's amendments. We have had only a few hours to insert all those amendments into the Bill. I understand there are only six copies of the Bill as it left the Council, and I have not seen one. For those reasons if I have caused any inconvenience I apologise.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 31.

Clause 35, page 33, lines 14 to 30—Delete the subclause and the proviso thereto.

Council's amendment No. 32.

Clause 35, page 33, line 31—Delete the word "subsection" and substitute the passage "subsections (2) and".

Mr. COURT: By importing the provisions of the new subclause (2) of clause 24, the existing subclause (2) of clause 35 and the proviso became redundant, and they are deleted accordingly. Virtually everything that was provided by subclause (2) is to be found in subclause (2) of clause 24 now imported into clause 35. This follows on the discussion we have just had, and gives effect to the undertaking I gave. I move—

That amendments Nos. 31 and 32 made by the Council be agreed to.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 33.

Clause 35, page 34, line 1—Delete the words "for the purposes of this section" and substitute the passage "Except in the case of a club that has as its object, or one of its principal objects, the conduct of its competitive, outdoor sport".

Mr. COURT: The Licensing Court pointed out the impracticability—and this will be music to the ears of the Deputy Leader of the Opposition—of having the guest book signed by visitors to large sporting clubs, such as football clubs, bowling clubs, and the like. The Legislative Council accordingly agreed to exempt

those types of clubs from the requirements of having the visitor's book signed by guests of members. I move—

That amendment No. 33 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendments Nos. 34 to 83.

Mr. BICKERTON: I move—

That amendments Nos. 34 to 83 made by the Council be agreed to.

We will have adequate opportunity in the future to make any necessary amendments after this legislation has been in operation. I have had as much time as other members to look through the amendments of the Legislative Council, and I cannot see anything in them which will inconvenience the operation of the Bill when it becomes an Act until such time as this Parliament meets again.

If members study the Bill they will find that it is to be proclaimed at some time; in other words, there is no specific time. I do not think it would inconvenience anyone if the balance of the amendments made by the Council were agreed to.

The CHAIRMAN: If this motion is put and defeated then all the amendments will be ruled out and members will not have the opportunity to discuss them.

Mr. GAYFER: I oppose the motion, because the Minister for Industrial Development has given an undertaking to discuss the amendment to clause 45. I want to hear his explanation on this amendment, because it relates to the granting of cabaret licenses in country areas. I would agree to a motion to deal with amendments Nos. 34 to 44 as a group.

The CHAIRMAN: If the member for Pilbara has in mind the saving of time I suggest that he ask leave to withdraw his motion. The position is that members either agree to the lot *en bloc*, or reject the lot *en bloc*. In either case members will not have the opportunity for further debate.

Mr. BICKERTON: Surely that is for the Committee to decide. All I have done is to move the motion.

The CHAIRMAN: I am pointing out to the member for Pilbara that irrespective of the way the vote goes, members will not be able to discuss the amendments any further.

Mr. BICKERTON: I seek leave to withdraw my motion.

Motion, by leave, withdrawn.

Council's amendment No. 34.

Clause 35, page 34, line 9—Insert after the word "club" the passage ", and limit the number of persons who may, at any one time, be admitted as guests of members of the club."

Mr. COURT: I move—

That amendment No. 34 made by the Council be agreed to.

The Licensing Court has here again pointed out that in the large sporting clubs, such as football clubs, the possible introduction of three guests per member could cause the premises to be so crowded as to disenable members from enjoying their rights. It was accordingly agreed that the court should have power to limit the number of guests who might be introduced into a club at any one time.

Mr. GRAHAM: My experience has been that committees of clubs are responsible people and they would not allow a situation to develop to the stage where the members, who are the backbone of the club, were so inconvenienced that they were disgusted and unable to enjoy themselves. In other words, I think this is a matter to be determined and resolved by the clubs themselves. Not all the members of a club are present at the one time. Some members of a football club would make use of the amenities at half time and after the match, while others would make use of the amenities before the match. I know that a certain football club went to excesses and not only did the police complain but the members complained and it soon reformed itself.

Domestic matters of this nature should be left to the committee of management concerned. A social could be held at, for instance, the Italian Club, of which I am one of 7,000 members. Even if they turned up without any guests, they could not fit into the place or anything like it; it is crowded if there are 700 present. I repeat that the responsibility should be left with the committee of management.

Mr. GAYFER: I am a little worried about this amendment. How can it be policed? The court would not know whether 300 or 500 turn up at a function. It seems the limitation will be the subject of a regulation and I view this with a little alarm. I am afraid I do not appreciate the amendment very much and I rather support the Deputy Leader of the Opposition.

Mr. DUNN: I go along with the previous two speakers. I cannot see any great advantage from the amendment. I can envisage only that it will create a great deal of work. Before I agree to the amendment, could the Minister give us some more information concerning why the amendment is required and what it hopes to achieve? The number of guests is already limited to three and surely the management of registered clubs would be conscious of their responsibilities in regard to the convenience of their members and visitors, and would run their functions accordingly.

Mr. DAVIES: Before the Minister replies I would like to raise a query also, and he might as well answer all the objections together. I also oppose this amendment because I believe it cannot be practically applied. For instance, at a football match, how in the name of goodness are the door-keepers going to keep count of the number of members compared with the number of guests on the premises? It would be impossible.

The statements by the previous speakers are very sound. The committees of management are responsible people and indeed they set aside sections of their premises for the exclusive use of members and guests. They would certainly keep an eye on the number of people being admitted. I believe we are trying to introduce legislation which it will be impossible to police.

Mr. COURT: I want to make it clear that I could not get a sweat up or become excited about this amendment. The amendment has been made, based on the court's recommendation, in order to preserve some semblance of decorum about the clubs, and it is in the interests of the clubs. If the situation gets out of hand, the pendulum swings—

Mr. Graham: But has it? Of course not.

Mr. COURT:—then Parliament steps in, and then goes too far. This is not a Government amendment and I am not pressing it, although I believe it is a sensible one. I would like members to refer to the subclause in question and take special note of the points which are to be taken into consideration by the court when it is deciding to limit the number of guests. I think that is important.

Mr. Graham: Can the Minister imagine what he would feel like if he went along to a club and took three guests with him and he and his guests were turned away because the quota was already present?

Mr. Bertram: It only says "may."

Mr. COURT: When a club is given a license it has responsibilities and if a club does not want the responsibilities it will not hold a license for long. I am only submitting what the court has suggested. This is not a Government amendment. My job is to explain what it does, but I think it is a sensible amendment.

Mr. DUNN: I am still at a loss to understand why the amendment is necessary, because I can see no valid reason for it. Who is going to check the number of people who go into a football match at any time during the match? Honorary members are going in and out all the time.

Mr. Court: You are making out a good case for the amendment.

Mr. DUNN: Who is going to count them? A license is given to a club for 500 members, but 5,000 could go through the gates backwards and forwards. I can see nothing logical in the amendment.

I cannot see what the amendment hopes to achieve. It will only put the court in an embarrassing position because someone will have to police the provision. We are attempting to do what the committee desired, and expand the outlook and approach to the question of the liquor laws. I do not agree with the amendment.

Question put and negatived; the Council's amendment not agreed to.

Council's amendment No. 35.

Clause 36, page 34, line 18—Delete the word "afternoon" and substitute the word "evening".

Council's amendment No. 36.

Clause 36, page 34, line 24—Delete the word "afternoon" and substitute the word "evening".

Mr. COURT: These two amendments relate to a club license and a store license, and, as is set out, the word "afternoon" is changed to "evening". I move—

That amendments Nos. 35 and 36 made by the Council be agreed to.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 37.

Clause 37, page 35, line 9—Insert after the word "sell" the words "and supply".

Council's amendment No. 38.

Clause 38, page 35, line 20—Insert after the word "sell" the words "and supply".

Council's amendment No. 39.

Clause 39, page 35, line 25—Insert after the word "sell" the words "and supply".

Mr. COURT: These amendments refer to clauses 37, 38, and 39. For the sake of consistency the words "and supply" have been added to the three clauses. I move—

That amendments Nos. 37 to 39 made by the Council be agreed to.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 40.

Clause 40, page 36, after line 10—Insert a subclause, to stand as subclause (2), as follows:—

(2) In the case of a restaurant, the area of the floor of a reception area shall not exceed one-fifth of the area of the floor of the dining area and provision shall not be made for the accommodation, in the reception area, of more than

one-fifth of the number of persons who may be accommodated in the dining area.

Mr. COURT: There has been a change of circumstances since we rejected something along these lines when the Bill was before this Chamber. At that time we could have had a ludicrous situation but that has now been changed by other amendments. Representation was made to the Legislative Council that there was a danger of a reception area in a restaurant—and I emphasise "restaurant" because on a later amendment I will explain how we have kept the restaurant licence pure, for the want of a better phrase, for restaurants—becoming something in the nature of a bar to the exclusion of the dining area. The Legislative Council, therefore, resolved to limit the floor area of the reception area in the case of restaurants, and to limit the number of persons who could be catered for in such an area.

The Leader of the Opposition is not here tonight but he moved an amendment, not quite in accordance with this, to achieve the same effect. At the time I pointed out that the Bill in its then form could have the effect of embarrassing the very people advocating it. I move—

That amendment No. 40 made by the Council be agreed to.

Mr. GRAHAM: This, to me, savours very much of the top hat—the stove pipe hat. To what ridiculous lengths are we going when there has to be a formula to measure the number of square feet in a dining room and divide it by five to see how many people are allowed into the reception area? We are treating these people like school children. Clause 34 of the Bill authorises a licensee to sell liquor as an ancillary to a meal.

The implication of the amendment from the Legislative Council is, firstly, that the restaurateurs will get up to tricks and, secondly, people will stand shoulder to shoulder with glasses of sherry in their hands. Surely we want something civilised.

If there is to be a reception area, do not let us hark back as we tend to do in Australia. Let there be spacious easy lounge chairs where people can sit in reasonable comfort and have an appetiser before going in to a meal. It could be that fountains, greenery, and all those things will have to be sacrificed to make a room larger so that it will conform with the formula. This is ridiculous in the extreme.

No wonder we have a Bill containing 177 clauses to administer the conditions under which a single commodity, namely, liquor, shall be available to the public. If it is found that any restaurateur is, in fact, packing people into his reception room, and plying them with liquor in

contravention of the law, then he runs the very grave risk of incurring the displeasure of the law. He could suffer a penalty even to the extent of losing his license. There are ample safeguards, so do not let us get down to this ridiculous formula. We should leave it to the common sense of people to follow what is laid down. I hope the Committee will reject this proposition.

Mr. COURT: Let me endeavour to explain the position. I find myself in the extraordinary position of having to put forward the argument used by the Leader of the Opposition.

Mr. Graham: Which was rejected by a previous Committee.

Mr. COURT: Yes, for a different reason. I undertook to have this point studied and I suggested that the people advocating this amendment should look at it because I feel they would be hoist with their own petard. We now have a different definition of a restaurant, so the point of view advocated by the Leader of the Opposition is now a valid reason for the reception area to be related to the restaurant dining room proper. The Leader of the Opposition referred to the actual drinking as being ancillary to the food taken. If care is not exercised the restaurant could become a straightout subterfuge for drinking.

The best-class restaurants throughout the world conform to this particular requirement. They do not have big reception areas, but smaller areas where one can be served with a drink while waiting for a table. The restaurants are deliberately planned that way so they do not become just glorified pubs.

Mr. Brady: What if it is catering for a wedding and all the guests come at the same time?

Mr. COURT: That is a different form of license. A provision has been incorporated in the Bill whereby it will be an offence for a person to turn up in one of these areas to drink when he does not intend to eat or when he does, in fact, not eat. This was included with great care in order to avoid the restaurant license being abused and to ensure that it will be purely what it is intended to be; namely, a restaurant license.

In the recasting that has taken place over the last few days the restaurant license has, in fact, been cleared from the possible encumbrances it had before and it stands on its own. This makes it important that there shall be some restriction on the size of the reception area. Otherwise, there could be a reception area that was five times as big as the dining room. If that would not be a racket I do not know what would be.

Mr. Graham: Both the licensee and the patrons would incur the displeasure of the law if that was so and if they were there for the purpose of imbibing.

Mr. COURT: They would commit an offence. I ask: Why get away from the principle of the license? It is my responsibility to explain the reasons for this and there is a good reason for limiting the size of the reception area as compared with the size of the dining room. It is quite a *bona fide* request. In fact, I think it is rather quaint that I am trying to explain to the Committee the arguments which were advanced previously by the Leader of the Opposition.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 41.

Clause 45, page 38, lines 17 to 19
—Delete subparagraph (ii).

Mr. COURT: I move—

That amendment No. 41 made by the Council be agreed to.

Clause 45 could be a rather difficult and controversial clause and I shall endeavour to make the explanation as clear as possible, based on the decision of the Legislative Council.

Members of the Council sought to liberalise the prohibition on bringing liquor into dance halls. When I say "dance halls" the term also covers a number of other functions, but I shall leave it at that for the moment. While the Council generally agreed that it is undesirable that liquor should be brought to certain functions, such as "stomps," discotheques, and the like, it wished to provide for the bringing of liquor to family parties and charitable affairs and, most particularly, in country areas, to halls that are not served by any caterer's permit or, indeed, by licensed premises within the area. In order that the matter could be raised in this Chamber—because the Legislative Council could not find a way around it and the draftsman has wracked his brains ever since—the Legislative Council deleted subparagraph (ii) of subclause (1). The matter has to be further examined but, in the meantime, some of us have been trying to find a way around this so as to come forward with a practical solution.

I am speaking from my own personal point of view when I say that I personally would have preferred to see the situation that existed. However, I acknowledge that one has to be realistic in these matters and, in view of the fact that we have not been able to come up with something that would work, the only practical way which I can suggest to the Committee is that we allow the amendment made by the Legislative Council to prevail, with a minor modification.

I shall suggest this modification purely for drafting purposes, but at the moment we can leave it out of the reckoning so long

as we do not pass the amendment without doing something about it. On second thoughts, perhaps I should mention the minor amendment now so that the Committee does not forget. I shall move to delete the words "or in a public hall" which occur in lines 5 and 6 on page 39. It would be quite silly for those words to be left in the Bill—if the Committee goes along with the clause—as sent to us by the Legislative Council.

The only protection would be under clause 47. I put forward the proposition, for the consideration of the Committee, that we accept the deletion of the subparagraph, which was made by the Legislative Council. This would not only have effect in the country, but would apply through the whole of the State, including the metropolitan area. I suggest that we should rely on clause 47 which says, in part—

47. (1) Where the Court, on the complaint of a supervisor, a member of the Police Force or a person authorised in that regard by the council of the local authority for the district within which the premises are situated, is, after giving the occupier an opportunity of being heard, satisfied that an unlicensed restaurant—

It then enumerates certain conditions under which the court, by order, may prohibit liquor from being brought into and consumed upon the premises of an unlicensed restaurant.

In other words, we would have to rely on the fact that if any misbehaviour occurred at a stomp or a discotheque, or any similar place, and a decent standard was not generally observed, the person who occupied, managed, or controlled it could lose the right to have any liquor on the premises at all. I think this is fair enough. It is a practical way around the situation. It may be that we shall have to find some other way later on, if we find that there is a revival of sly grogging or excessive drinking by juveniles on these premises.

Some of us feel strongly about the situation that has developed but, as a realist, I go along with the situation that we accept the amendment made by the Legislative Council, subject to the minor drafting correction I have mentioned. I suggest that we rely on clause 47 for the protection of the situation. In other words, if there was any abuse in any of these places, the police, a surveyor, or an authorised representative of the local authority could then make representations to the court and, if the court was satisfied, it would not be possible for liquor to be taken onto the premises at all for as long as the court prescribed.

I put this forward as a practical solution, because we have not been able to find a drafting mechanism that will overcome the situation and satisfy both metropolitan and country members.

I should like to offer a brief explanation to help members understand the predicament of the Legislative Council. One of the members in another place, who is metropolitan based, wanted a selective type of approval. For instance if an august body of people had had dinner at his home or seven, eight, or ten friends wanted to celebrate a silver wedding by going to one of the nearby dance places, he wanted them to be able to take in a few bags of liquor. We cannot have it on that basis. It has to be that either anyone can take it onto the premises or no-one; otherwise it is open to abuse. That was the position at the metropolitan end. We have heard the point of view from the country end *ad infinitum*. I need not repeat it. I will leave the Committee to make up its mind how best to handle the matter.

The CHAIRMAN: There is a slight alteration to be made. The Minister is moving to delete subparagraph (ii). However, the word "or" will have to be deleted as it is not part of subparagraph (ii).

Mr. COURT: Could that be made at the Table?

The CHAIRMAN: Yes, we will adjust it, and accept the motion that amendment No. 41 made by the Council be agreed to.

Mr. GRAHAM: Having regard to the fact that I was highly critical of the standard of the Legislative Council on the previous amendment which it suggested, I wish to compliment the Council on this occasion. I think it is a sensible move and, as the Minister in charge of the Bill has pointed out, there is a provision under which appropriate action can be taken if there is any abuse of what the amendment will allow. I support the amendment.

Mr. GAYFER: I add my support. This fills the bill as far as I am concerned. In my home town last week a hall which holds 1,000 people was hired for a cabaret by the girls' hockey clubs. Only 45 people actually turned up because of different functions that were being held in the district. Unfortunately it was a flop but I can imagine what would have happened if they had had a license and had set up a bar. I think the person who thought of deleting this paragraph should be complimented.

The CHAIRMAN: In dealing with this motion I would suggest that the Minister move that this be agreed to subject to a further amendment. We have not added those words and this is what he desires. I think.

Mr. COURT: There is another amendment to the same clause coming up.

Question put and passed; the Council's amendment, as corrected, agreed to.

Council's amendment No. 42.

Clause 45, page 38, lines 28 and 29—Delete the passage "half-past ten in the evening," and substitute the passage "twelve midnight,".

Mr. COURT: I move—

That amendment No. 42 made by the Council be agreed to.

This amendment enables persons to bring liquor into unlicensed restaurants up to midnight instead of up to 10.30 p.m. as provided by the clause. This is consistent with the change provided by amendment No. 44, which we have yet to consider.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 43.

Clause 45, page 39, line 5—Delete the word "adjoining" and substitute the words "annexed to".

Mr. COURT: I move—

That amendment No. 43 made by the Council be agreed to subject to the deletion of the words "or in a public hall" in lines 5 and 6 of page 39.

It will be recalled that the use of the word "adjoining" in relation to a sports ground was criticised in this Committee as being too vague in its description of a building. I promised to have a look at it. The word has accordingly been replaced by the expression "annexed to."

Question put and passed; the Council's amendment agreed to, subject to the Assembly's further amendment.

Council's amendment No. 44.

Clause 46, page 39—Delete the passage "half-past ten in the evening, on any other day," in lines 25 and 26, and substitute the words "twelve midnight".

Mr. COURT: I move—

That amendment No. 44 made by the Council be agreed to.

This amendment, which complements amendment No. 42, will enable persons to consume liquor in unlicensed restaurants up to midnight as opposed to 10.30 p.m., as originally proposed.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 45.

Clause 51, page 45, line 15—Delete the passage "subparagraph (i) of".

Mr. COURT: I move—

That amendment No. 45 made by the Council be agreed to.

This amendment is purely technical and consequential.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 46.

Clause 52, page 47, line 3—Insert, immediately after the numeral "5" the numeral "1".

Council's amendment No. 47.

Clause 53, page 47, line 8—Delete the word "genuiness" and substitute the word "genuineness".

Mr. COURT: I move—

That amendments Nos. 46 and 47 made by the Council be agreed to.

These are corrections of printer's errors only.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 48.

Clause 55, page 49, after line 18—Add the word "and".

Council's amendment No. 49.

Clause 55, page 49, lines 21 to 29 inclusive—Delete all words.

Council's amendment No. 50.

Clause 55, page 49, line 21—Add a new subclause, to stand as subclause (2), as follows—

(2) An objection to the granting of—

(a) an hotel licence, tavern licence and a club licence or a provisional certificate for any of them may be made—

(i) by the holder of an hotel licence or a tavern licence whose licensed premises are in the affected area or by an association of licensees of which any of those persons may be a member;

(ii) by a resident of the affected area; and

(iii) by a person authorised in writing in that regard by the Chairman of the Western Australian Tourist Authority, constituted under the Tourist Act, 1959;

(b) a limited hotel licence or a provisional certificate for such a licence may be made by—

(i) the holder of an hotel licence or a limited hotel licence whose licensed premises are in the affected area, or by an association of licensees of which either of those persons may be a member;

- (ii) a resident of the affected area; and
- (iii) a person authorised in writing in that regard by the Chairman of the Authority mentioned in paragraph (a) of this subsection;
- (c) a winehouse licence or a provisional certificate for such a licence may be made—
 - (i) by the holder of a tavern licence or a winehouse licence whose premises are in the affected area or by an association of licensees of which either of those persons may be a member; and
 - (ii) a resident of the affected area;
- (d) a canteen licence or a provisional certificate for such a licence made under section 66, may be made by the holder of an hotel licence or tavern licence whose licensed premises are situated within a distance of twenty miles of the premises to which the application relates or by an association of licensees of which either of those persons may be a member;
- (e) a cabaret licence or a provisional certificate for such a licence may be made by a resident of the immediate vicinity of the premises to which the application relates; and
- (f) a store licence or a provisional certificate for such a licence may be made by the holder of an hotel licence, a tavern licence, a winehouse licence or a store licence, whose licensed premises are in the affected area or by an association of licensees of which any of those persons may be a member.

These three amendments should be considered together as they are all related and refer to clause 55. Members will recall that this was a crucial clause which was postponed when it was before this Committee because it dealt with the philosophy put forward by the investigating committee in respect of licenses. It has been the subject of considerable amendment in another place, which I think will, generally, be acceptable.

These three amendments are intended to cut down the right of objection that was thrown wide open in this Chamber. Logically, some licensees ought not to object to the granting of some other licenses; for example, a cabaret license ought not to be permitted to object to the granting of a hotel license or a store license, and the converse could be said to apply. The new subclause (2) restores the limitation to some extent but the subclause allows many more objections than did the original subclause deleted by this Chamber.

A genuine attempt has been made in the Legislative Council to rationalise the nature of objections by taking into account the types of licenses that might cut across the business of others. However it will be seen that none but official objectors may object to a restaurant license, as the committee of inquiry is adamant in its view that the growth of the number of restaurant licenses is in the public interest. We are referring to this as a concept on its own. It will be seen by a later amendment, No. 58, that a restaurant license will not be held in conjunction with any other license on the same premises. It would be ideal if the clause, as amended, could remain unchanged. It seems to be the result of a very careful approach to a difficult proposition.

Question put and passed; the Council's amendments agreed to.

Council's Amendment No. 51.

Clause 57, page 51, line 6—Delete the word "suplying" and substitute the word "supplying".

Mr. COURT: I move—

That amendment No. 51 made by the Council be agreed to.

This is the correction of a printer's error only.

Question put and passed; the Council's amendment agreed to.

Council's Amendment No. 52.

Clause 57, page 51, line 17—Insert immediately after the word "licence" where first occurring, the passage " , limited hotel licence".

Council's Amendment No. 53.

Clause 57, page 51, line 18—Insert after the word "licence" the passage " , a store licence".

Mr. COURT: I move—

That amendments Nos. 48, 49, and 50 made by the Council be agreed to.

Mr. COURT: I move—

That amendments Nos. 52 and 53 made by the Council be agreed to.

We are in an area of amendments now where I think I should make an explanation. The member for Murchison-Eyre when he was putting his amendments forward had some rather bad luck—quite unfairly, as it transpired, because his amendments were disallowed on the assumption that other amendments to clause 55 in the postponed clauses would be defeated. I wanted to record that the representations of the member for Murchison-Eyre were duly noted.

This amendment to clause 57 enables the grounds of objection appearing in paragraph (a) of subclause (2) to be applied to both a limited hotel license and a store license. This amendment is consistent with the widening of the rights of objection appearing in clause 55.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 54.

Clause 57, page 52, after line 4—Insert a new paragraph to stand as paragraph (c), as follows:—

(c) a canteen licence or a provisional certificate for a canteen licence are—

(i) that the number of persons engaged in work being carried on, and the number of persons who may, from time to time, be present for the purposes of carrying on business, in the neighbourhood of the premises to which the application relates is insufficient to warrant the granting of the licence or certificate; or

(ii) that there is an hotel licence or tavern licence operating within such proximity to the premises to which the application relates as to be reasonably capable of meeting the requirements of persons engaged in work, and from time to time present, in the neighbourhood; .

Mr. COURT: I move—

That amendment No. 54 made by the Council be agreed to.

As certain other licensees will be enabled to object to the granting of a canteen license, this amendment set out a new ground of objection to such a grant. It is

consistent with the provisions appearing now in clause 66 of the Bill. This is another amendment which is necessary to allow for the new situation following the amendments made by this Chamber and another place.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 55.

Clause 66, page 59, line 25—Insert after the word "corporate" the passage "or a person nominated by a body corporate."

Mr. COURT: I move—

That amendment No. 55 made by the Council be agreed to.

This amendment is to restore the provisions now existing in the Licensing Act, 1911, whereby a company which would be entitled to the grant of a canteen license may nominate some other company to take the grant and operate the license. I think members are aware of the situation in some places where a firm of skilled caterers operates the canteen and messing facilities in cases where it would be quite incongruous for the company to do so.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 56.

Clause 69, page 61, line 32—Delete the word "divisible" and substitute the word "divisive".

Mr. COURT: This amendment is merely to correct a printer's error. I move—

That amendment No. 56 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 57.

Clause 71, page 68, line 6—Insert after the word "licences" the words "or other licences".

Mr. COURT: This amendment enables the court on the hearing of an application for the grant of a store license to consider the facilities provided by other types of license in the affected area. Once again, the amendment follows on from other amendments which have been made. I move—

That amendment No. 57 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 58.

Clause 71, page 68, line 23—Add immediately after the word "Court" the passage "or the Court shall not grant a restaurant licence in respect of premises to which any other licence relates".

Mr. COURT: This amendment relates to some comments I made earlier regarding restaurant licenses. While the investigating committee was anxious that there

should be a ready means of increasing the number of restaurant licenses, it had not envisaged the attachment of these licenses to any others. At the moment it is necessary for the holder of a publican's general license who wishes to sell liquor with meals after 10 p.m. to take out a restaurant license; but this will no longer be necessary under the Bill.

This is part of the idea of getting the restaurant license to stand on its own as a proper restaurant license. It is not desirable that other types of licenses should be enabled to extend their hours by the mere act of taking out a restaurant license.

Mr. O'NEIL: The amendment refers to clause 71, page 68, line 23. If my copy of the Bill is correct, line 23 is in clause 72. The amendment should be to clause 72 and not to clause 71.

Mr. COURT: I thank the honourable member for pointing out that drafting error. I move—

That amendment No. 58 made by the Council be agreed to, subject to deleting the figures "71" and substituting the figures "72".

Question put and passed; the Council's amendment, as corrected, agreed to.

Council's amendment No. 59.

Clause 79, page 70, line 28—Delete the passage "(3) and (4)" and substitute the passage "(2) and (3)".

Mr. COURT: I move—

That amendment No. 59 made by the Council be agreed to.

This amendment is consequential upon the restoration of a new subclause (2) to clause 55; therefore it is a drafting amendment only.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 60.

Clause 90, page 76, line 20—Insert immediately after the word "licence" the passage "; and, where the applicant is not the owner of the premises from which he seeks to remove the licence, he shall give notice of his application to the owner of those premises".

Mr. COURT: The Licensing Court pointed out that under subclause (2) of this clause, as drafted, it would be possible for a licensee who is not the owner of his licensed premises to apply for the removal of the license without the knowledge of the owner of those premises. The amendment consequently makes it mandatory that notice should be given to the owner of an application for removal. I think the merit of this amendment will be obvious. I move—

That amendment No. 60 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 61.

Clause 99, page 81—Delete the word "inspector" where appearing in lines 10, 14, 16 and 20, and substitute in each case the word "surveyor".

Mr. COURT: I move—

That amendment No. 61 made by the Council be agreed to.

These substitutions are those I mentioned earlier in respect of amendment No. 15. To refresh the memories of members, this relates to the question of using the word "surveyor" instead of the word "inspector" in respect of health surveyors.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 62.

Clause 111, page 88, line 1—Delete the word "Hotel".

Mr. COURT: Just to remind members, I would mention clause 111 is the critical clause regarding rationalisation. The deletion of the word "hotel" is necessary because the division now relates to all types of licenses.

Unfortunately, the attention of the Legislative Council was not drawn to the necessity to delete the definition "Rationalization" in clause 111. As the definition has been tidied up in clause 7, it is now redundant in this clause and, in any event, it is inconsistent with the other. Therefore I ask the Committee to resolve to delete all words in lines 6 to 18 on page 88. If this is not done an unfortunate and unbalanced situation will exist in the Bill when it is enacted.

Would it be competent for me, Sir, to move that we agree to amendment No 62, subject to the deletion of the words on page 88, lines 6 to 18?

The CHAIRMAN: Yes.

Mr. COURT: I move—

That the amendment made by the Council be agreed to, subject to the following further amendment:—

Clause 111, page 88, lines 6 to 18—Delete all words.

Question put and passed; the Council's amendment agreed to subject to the Assembly's further amendment.

Council's amendment No. 63.

Clause 114, page 90, line 30—Insert before the word "some" the passage "where the proceeding relates to an hotel licence,".

Council's amendment No. 64.

Clause 114, page 91, line 16—Delete the words "if the holder of an hotel licence or an" and substitute the passage ", if the holder of an hotel licence or the".

Council's amendment No. 65.

Clause 114, page 91, line 17—Delete the word "hotel" and substitute the passage "hotel".

Council's amendment No. 66.

Clause 114, page 91, line 31—Insert immediately after the word "licence" the passage ", where the proceeding relates to an hotel licence".

Mr. COURT: I move—

That amendments Nos. 63 to 66 made by the Council be agreed to.

When clause 114 was made to apply to all licenses, as opposed to hotel licenses only, certain references to hotel licenses were left in the clause, and, while they are necessary, they do not sit happily as the clause is presently drafted. The four amendments, therefore, tidy up the position without changing the provisions and may be considered as drafting amendments only.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 67.

Clause 121, page 95, line 20—Delete the word "bedrooms" and substitute the word "bedrooms".

Mr. COURT: I move—

That amendment No. 67 made by the Council be agreed to.

This amendment only seeks to correct a printer's error.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 68.

Clause 122, page 96—Delete all words from and including the word "and" in line 26, down to and including the word "licence" in line 29, and substitute the following passage:—

and applies,—

- (a) except to the extent that it relates to the provision of lodging, to the holder of a tavern licence and a winehouse licence; and
- (b) except to the extent that it applies to the provision of food and lodging, to the holder of a store licence.

Mr. COURT: It is important that members understand the full significance of clause 122, which is the subject of Council's amendment No. 68. In view of the extended privileges given to the holders of store licenses, a move was made to impose some of the obligations that are to be found in the case of other licenses. One of these obligations is to stay open for certain hours. Accordingly, the Legislative Council resolved that it should be incumbent upon

the holder of a store license to remain open during his permitted trading hours. In other words, it would be mandatory and obligatory.

This is highly controversial, and some members have expressed concern about how it would work, particularly as there is a variety of store licensees, some of whom conduct stores which handle liquor and nothing else, and others who hold a store license which involves a large business. For instance, members will know that in one of its stores, Charlie Carters holds a gallon license. A very large business is carried on in conjunction with what is known as a gallon license at present. If the amendment were not agreed to such a licensee would not be able to close his store because part of it would be covered by a license. That is, he would have to remain open on week days after 5.30 p.m., and after 12.30 p.m. on a Saturday.

It has been argued that some of these firms will find it difficult to remain open in view of the activities they conduct; and, after a good deal of research, and in a genuine endeavour to put forward an alternative, as there is a very strong feeling in another place and among some members here that they should remain open during the normal trading hours, it has been suggested as a compromise that we agree to amendment No. 68 with the proviso that we add, immediately after the word "licence" at the end of proposed paragraph (b), the passage ", unless the Court, having regard to the nature of the licensee's business and the requirements of the neighbourhood, on the application of the licensee, otherwise orders".

Members will note that the provision provides for the court to take into account two factors; namely, the nature of the licensee's business, and the requirements of the neighbourhood. For instance, if there is an area where there is not likely to be a customer after 5.30 p.m. and the court has noticed this, it could fix the hours accordingly. I think this is a practical compromise, and I propose to move that we agree to amendment No. 68, subject to the amendment I have suggested, copies of which I have circulated amongst the Committee. Accordingly, I move—

That amendment No. 68 made by the Council be agreed to, subject to the following further amendment:—

Add, immediately after the word "licence" at the end of the proposed paragraph (b), the passage, ", unless the Court, having regard to the nature of the licensee's business and the requirements of the neighbourhood, on the application of the licensee, otherwise orders".

Mr. GAYFER: I support the Minister in his endeavour to have the Council's amendment amended. The Council's

amendment was completely unacceptable to most of the holders of gallon licenses in my electorate. In the main, they conduct a business which sells groceries, drapery, and numerous other lines. Members are well aware of their trading hours and that they require as much rest as anyone else. No-one would condone a provision which requires such stores to remain open until late at night. I strongly support the amendment on the Council's amendment and I hope other members of the Committee will support it also, because it is mainly the remote country areas that will be affected.

Question put and passed; the Council's amendment agreed to subject to the Assembly's further amendment.

Council's amendment No. 69.

Clause 122, page 96, line 30—
Delete the word "which" and substitute the word "whom".

Mr. COURT: I move—

That amendment No. 69 made by the Council be agreed to.

This amendment is purely a grammatical correction.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 70.

Clause 122, page 96, line 31—
Delete the word "relates" and substitute the word "applies".

Mr. COURT: I move—

That amendment No. 70 made by the Council be agreed to.

This amendment is purely for the sake of consistency.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 71.

Clause 122, page 97, line 21—
Delete the word "habits" and substitute the word "behaviour".

Mr. COURT: I move—

That amendment No. 71 made by the Council be agreed to.

A person could not, at any particular time, be said to have a habit, as this exists for all time. Accordingly the word "behaviour" would be more apt.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 72.

Clause 122, page 97, line 22—
Delete the words "at the time of requesting the service" and substitute the words "or is known to be".

Mr. COURT: I move—

That amendment No. 72 made by the Council be agreed to.

The Legislative Council has reinserted the provisions that were in the Bill when it first came to us and which were amended

by the Committee of this Chamber. It restores paragraph (b), for the sake of reference, to subclause (5) to read as it did before it was amended by this Chamber.

Mr. Graham: No, that is not so. It is different from the original version.

Mr. COURT: Not according to my research.

Mr. Graham: The original wording was "is known to be." Under the Legislative Council's amendment it would read "is or is known to be."

Mr. COURT: There was a division in this Chamber on this clause. It was discussed at great length and I will not go over the same ground. I supported the Bill in its original form because I felt it was fair to the licensee. There would be, however, undesirable situations that the licensee could not deal with if the Bill were adopted in the form in which we sent it to the Legislative Council. The Legislative Council adopted the present version, which is before us, without a division. There seems to be agreement that it is reasonable, having regard to the position of licensees and their general responsibility. I move—

That amendment No. 72 made by the Council be agreed to.

Mr. LEWIS: My ministerial colleague is doing such a wonderful job that I regret having to rise to oppose the Legislative Council's amendment. The original clause in the Bill which we approved allowed the hotelkeeper to do certain things and exempted him from penalty. It said he may refuse service if among other things the person is known to be quarrelsome, disorderly, or seeking to obtain liquor by begging. This Committee altered it to read "is, at the time of requesting the service, quarrelsome, or disorderly, or seeking to obtain liquor by begging."

The other place has amended that to read that the hotelkeeper may refuse service if among other things the person is or is known to be quarrelsome, or disorderly, or seeking to obtain liquor by begging. This makes it retrospective, as the Bill did when it came to this Chamber. As the Minister so rightly said, this Committee rejected the provision on a division.

The argument we advanced then still holds good. Who is to judge whether a person is quarrelsome? Is he to be refused service because he was quarrelsome on a previous occasion? Does it mean that he will necessarily be quarrelsome again? We should judge a person as he is at the time he seeks service.

It is the right and duty of the hotelkeeper to immediately cease providing service if a person begins to get quarrelsome.

Because a person is quarrelsome on one occasion does not mean he will be quarrelsome on the next. I must oppose the Council's amendment.

Mr. HARMAN: I support the view of the Minister for Education. The Council's amendment will provide too much flexibility for the licensee. It will mean a publican or a group of publicans could be informed that a particular person has been quarrelsome in the past, or that he has been unclean in his person and behaviour in the past, and they could decide not to serve him. A licensee should make his decision when a person enters the premises and seeks service. I have read the report of the committee of inquiry and I found no reference to such a recommendation. It has obviously come from some other source, possibly from the hotels' association.

The Minister may be able to give some reason for insisting on the Council's amendment being accepted. An individual who was refused service would be placed in an awkward situation by the amendment. It would be necessary for him to go cap in hand and explain that he had changed his ways and was seeking permission to have a drink with his friends. This should not be necessary. If the amendment is approved, licensees in country towns could refuse such people service without their being given the opportunity to prove they were not quarrelsome, or disorderly, or seeking to obtain liquor by begging. I oppose the Council's amendment.

Mr. COURT: I hope the Committee will take a flexible view of this and not be wedded to the fact that we decided to do something different last time. I tried to keep away from histrionics when it was previously before us, because it is not my job to sell anything to the Committee but merely to state the situation. The Council's amendment is fair and reasonable.

We had a case in a city hotel in recent days of a person who was known to be quarrelsome, known to be undesirable and known to be one whom, if we were publicans, we would not like in our place—nor would our clients want him—but he could not be refused service. It was only a matter of time before the inevitable happened: he picked up a chair and struck out. He put at least one person, if not two, in hospital, and he injured another. This was a case where the publican was denied the right to protect his customers. He had to allow that person in next day, if the person wanted to go into the hotel. The publican could not deal with him to safeguard the interests of his customers, unless the man picked up a chair and did a similar thing again.

If this provision does not work out we will have a chance to take it up again on a subsequent occasion. If either the Minister for Education or the member for Maylands feels that some publicans in the

city or in the country will abuse this right then it will not be long before questions are asked in the House and a request for an amendment is made. Under the circumstances I would like the Committee to agree with the amendment of the Council. We could deal with the provision if it is found that it does not work out. I should point out that the other place did not divide on this amendment, and the members there thought it to be fair and reasonable.

Mr. LEWIS: Had the incident mentioned by the Minister for Industrial Development occurred, the offender should have been charged with disorderly conduct. If he was charged he would not be able to go into the hotel to offend again. Furthermore we do not know how many drinks that person had before he became violent. If he was known to be a violent person the hotelkeeper would have been justified in serving him with one drink and telling the person that in doing so he had complied with the law. He did not have to serve that person with any more liquor.

The incidents which I mentioned previously do occur, otherwise I would not be on my feet. Blind prejudices do arise in this State, although not in many cases, and some people are not served liquor by the publicans. This is not caused by disorderly conduct on the part of those refused service. They are not served, because of racial prejudices. Such cases will continue to occur if we fail to do anything about the matter. It is all very well for the Minister for Industrial Development to say that something can be done about such refusal to serve liquor to people, but it is not so easy.

We have the opportunity now to do something. Some of the Aboriginal population have to be educated to drink, as they are taught to do many things. In this respect we should teach them by example; and if they kick over the traces they should be dealt with. I have heard publicans complain that these people become violent after drink. I asked them why they continued to serve those people. They told me that as long as those people were able to stand up and had enough money to pay for the drinks they would continue to serve them. Yet when those people create a disturbance the publicans expect the police to take charge of the situation.

I also claim that the hotelkeeper is not performing his duty in adjudging that someone will repeat an offence which he committed last week, last year, or five years ago. I therefore press my objection.

Mr. JAMIESON: The Minister for Education is quite correct. I mentioned earlier in the debate about an outback hotel. If the publican of that hotel has a dislike for a person he can easily provoke him, so that he is regarded as a person who cannot be served. All the publican has to do is to say, "You cannot have a drink."

The person will doubtless become quarrelsome. Yet in this case the publican is the one who has provoked the argument. Such a person would be refused service in the hotel until a new publican came along.

It is not the intention of the Legislature to confer such powers on publicans as would enable them to take action against people who provoke quarrels. It is only fair to disagree to the Council's amendment, and to retain the provision as it was.

If a person's behaviour is undesirable, and this is caused by excessive consumption of liquor, the publican can make an application under another section of this law to bar that person from the licensed premises. The publican should not be given the power to make the final decision.

Mr. COURT: I believe we are taking a very narrow view of this matter, and are not allowing for the fact that this provision will be interpreted in a sensible way, because a publican has to live in his district and under the authority of the Licensing Court. I am sorry that two speakers saw fit to introduce the racial aspect into this question, because the two worst cases known to me did not involve coloured people but bad white people of whom there are many in the community. Surely we should give the publican a chance to protect the decorum of his establishment and the interests of his customers; otherwise this could be likened to a person who is killed on a crosswalk: he had his rights but he is still dead.

This provision will enable the publican to refuse admission to a person who is known to be quarrelsome. If we find it is abused, it lies within our powers to alter it in the future. The Minister for Justice has asked me to put this forward on the basis of applying it not to any one section of the community, but to the community as a whole.

Mr. May: Do you not agree that two people who may not have been into hotels before might have a fight and be barred from going into the hotels?

Mr. COURT: That is not done. After all, the publican wants business.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 73.

Clause 122, page 97, line 36—Insert after the word "who" the passage "not being the holder of a store licence".

Mr. COURT: Subclause (7) clearly relates to licensees who are unable to supply liquor for consumption on the premises. But the words to be inserted make it clearer that the subclause is not to apply to the holder of a store licence. I move—

That amendment No. 73 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 74.

Clause 129, page 105, line 8—Insert, after the word "obtains" the passage "or attempts to obtain".

Mr. COURT: The new paragraph (1) added by the Assembly to subclause (1) makes it an offence to obtain liquor in a reception area, when not intending to take a meal. The amendment is added to make it an offence to attempt to do so. It will be recalled that I moved an amendment to make it an offence for a person to obtain liquor in a reception area without the intention of having a meal, and this amendment makes it an offence for him to attempt to obtain liquor under such circumstances. I move—

That amendment No. 74 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 75.

Clause 129, page 105, line 19—Insert after the word "other" the word "than".

Mr. COURT: This inserts a word that was inadvertently omitted in the Assembly, and is a grammatical correction. I move—

That amendment No. 75 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 76.

Clause 138, page 111, line 14—Add immediately after the word "it" the passage "unless the vessel, bottle, case or package in which the liquor is contained is labelled, on the outside, with the name and address, in writing, of the vendor, of the purchaser and of any other person to whom the liquor is to be delivered or those particulars and a description of, and the quantity of, the liquor is set out in an invoice or other document in the possession of the carrier and the invoice or other document is produced to a member of the Police Force, on demand".

Mr. COURT: I think this particular subject was contained in clause 139 when the Bill was before us last time. The explanatory notes are to this effect:

When the Illicit Sale of Liquor Act was introduced into the Bill as a consolidating measure, all relevant clauses that are presently on foot in that Act were included in the Bill. One section, however—namely, section 7—did not find favour in this Chamber. I do not need to remind members that there were some rather rude words said about the drafting of it.

Mr. Graham: All justifiable, too.

Mr. COURT: The provisions were included in the Bill as clause 139, but that clause was deleted. Discussion with the

Police Department shows that this section is continuously applied to prevent persons hawking liquor about. I understand that it has a great practical application. The deleted clause was, in fact, meant to complement clause 138, which still is to be found in the Bill and which makes it an offence to hawk liquor.

The provisions which did not find favour in this Chamber have now been revised. It will be seen that subclause (2) of clause 138 provides a presumption against a person who carries liquor from one place to another, and it is believed that the objection in this Chamber to what was to be found in clause 139 will be overcome by inserting the provision as an addendum to subclause (2) as a rebuttal of the presumption. That is to say, a person who is prepared to label his packages or carry the necessary invoice or document will no longer be caught by the presumption that is to be found in subclause (2) of clause 138.

I think this is a compromise in the drafting so as to overcome the most serious objection. My main purpose is to advise the Committee that this particular provision is an essential one in the administration of the liquor laws and it is very ardently pressed for by the Commissioner of Police. I therefore move—

That amendment No. 76 made by Council be agreed to.

Mr. GRAHAM: There is no reason to disagree with this amendment. I think, if anything, it is on the generous side, because we have already agreed that the onus of proof lies on a person to establish he is not carrying liquor for the purpose of sale or something of that nature. The amendment eases the position even further. Therefore it is not a compromise; it is a further liberal amendment.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 77.

Clause 147, page 115, line 28—Delete the passage, "drunk," and substitute the passage, "drunk or who is, or is known to be,".

Mr. COURT: This amendment is consistent with what is provided by amendment No. 72 and the same explanation prevails. I move—

That amendment No. 77 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 78.

Clause 160, page 122, line 12—Delete the numerals, "160", and substitute the numerals, "159".

Mr. COURT: I move—

That amendment No. 78 made by the Council be agreed to.

The change of section numbers is consequential upon the deletion of clause 139. The amendment would ordinarily have been made in the Assembly at the time.

Question put and passed; the Council's amendment agreed to.

Council's amendment 79.

Clause 168, page 128, line 8—Delete the word, "inebriates", and substitute the word, "alcoholics".

Council's amendment No. 80.

Clause 168, page 128, line 17—Delete the word, "inebriates", and substitute the word, "alcoholics".

Mr. COURT: Advice has been received that the word "inebriate" does not apply to a person who is suffering from the disease of alcoholism. As it is the latter which is intended to be the subject of the clause, the word has been changed under this amendment. I think members will have seen some correspondence in the papers about this. I move—

That amendments Nos. 79 and 80 made by the Council be agreed to.

Question put and passed; the Council's amendments agreed to.

Council's amendment No. 81.

Clause 176, page 131, after line 7—Insert a new paragraph to stand as paragraph (c) as follows:—

(c) prescribing any part or parts of the State as an area to which paragraph (a) of subsection (2) of section 24 applies.

Mr. COURT: This amendment is consequential upon the amendment made regarding the sales of bottled beer on Sundays in prescribed areas. I also invite the attention of members to amendment No. 23 and the comments made thereon. I move—

That amendment No. 81 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 82.

New clause, page 130—Insert a new clause to stand as clause 176 as follows:—

176. (1) Upon the application of the owner of premises that are or have been licensed premises under this Act or any prior Act regulating the sale of liquor, the Governor may, by Order published in the *Gazette*, declare those premises to be an historic inn if he is satisfied that the premises or any substantial part of them, are or is of national, special, historic or architectural interest, and should be preserved for the

benefit of the public, generally; and upon any such Order being made and notwithstanding anything contained in this Act, the Governor may, subject to such conditions as he sees fit to impose—

- (a) sanction and authorise the issue by the Court of a licence for the sale of liquor at an historic inn that is not already licensed under this Act; or
- (b) exempt an historic inn and the owner and the licensee of the inn from such provisions of this Act as he may determine.

(2) The Governor may, from time to time, vary, add to or revoke any conditions imposed, or exemptions granted, as provided by this section, and may, in the absence of any such conditions or exemptions, from time to time, impose or grant them.

(3) Subject to any conditions imposed by the Governor and exemptions granted by him (being conditions or exemptions for the time being in force), the provisions of this Act relating to hotel licences, or tavern licences, the holders of those licences, licensed premises, and persons resorting to them, shall as regards any licence issued in respect of an historic inn apply, to and in respect of those persons or things, with such adaptations as may be necessary.

(4) The Governor may, before declaring any premises to be an historic inn under this section, refer the matter to the Court for inquiry and report; and each preservation society shall be notified in writing by the clerk, of any such reference and shall be entitled to be heard at the inquiry.

(5) Where an application is made pursuant to Division 4 of Part IV or Division 1 of Part V of this Act, in respect of an historic inn, the clerk shall cause a copy of the application to be given to each preservation society and each of them is entitled to be heard at the hearing of any such application.

(6) Where the Court authorises the making of any material alteration of or addition to an historic inn, or issues any direction for the renovation, or structural alteration of an historic inn, by virtue of Division 1 of Part V, the Court may refer the matter to the Minister for consideration as to whether the Order declaring the premises to be an historic inn should be revoked.

(7) The Governor may, if the Minister so recommends, revoke an Order declaring premises to be an historic inn and those premises shall, thereupon, cease to be regarded as an historic inn under this section.

(8) In this section "preservation society" means The National Trust of Australia (W.A.), the Royal Western Australian Historical Society (Incorporated), the Royal Australian Institute of Architects (Western Australian Chapter), and any other body specified by the Minister in a notice published in the *Gazette*.

Mr. COURT: By its recommendation No. 25, the committee of inquiry sought the establishment of historic inns. The matter is not of a controversial nature and like provisions are to be found in the New South Wales and South Australian legislation. Unfortunately, the draftsman, through pressure of work, overlooked the recommendation and the necessary clause was omitted from the Bill. Its absence was not discovered until the Bill was being considered in another place. I move—

That amendment No. 82 made by the Council be agreed to.

Question put and passed; the Council's amendment agreed to.

Council's amendment No. 83.

Fourth Schedule, page 135, line 3 of item 3—Delete the expression "\$5" and substitute the expression "\$2".

Mr. COURT: This amendment will be of particular interest to the member for Belmont. As it is not considered that the granting of function permits should be a source of revenue, because they are needed merely to enable a check to be kept on this type of function, it is considered that the amount of \$2 will be an adequate fee. I move—

That amendment No. 83 made by the Council be agreed to.

Mr. JAMIESON: I still challenge the desirability of this fee. I did suggest that some other kind of permit or license should

be provided for because the proposal under this particular item in the schedule is to deal with an occasional permit. I do not see anything wrong with the payment of \$5 or \$10 for a permit for a ball. However, I can see a lot of danger in insisting on the payment of \$2 by a hockey club, soccer club, or any other club of this nature. I still think the amount is too much and, in an endeavour to test the feelings of the Committee, I move—

That the amendment made by the Council be amended by deleting the expression “\$2” and substituting the expression “\$1”.

Mr. COURT: I do not think any of us will get steamed up about this but I do think it is a little absurd to reduce the figure below \$2, the equivalent of the old £1. The book work and actual cost will be more than \$2.

Mr. Graham: It is not the club's fault, is it?

Mr. COURT: I believe that no club would hold a function so small and unimportant that it would not be prepared to pay \$2 in order that it might run the function in an open and decent way. The amendment of the member for Belmont will not make or break the Treasury. The fee has been imposed so that the police will know what is going on. The amount has already been reduced and I think that is fair enough.

Mr. JAMIESON: I do not want to be a stinker on this one, but I would point out that the other organisations being dealt with in this Bill have had the advantage of powerful lobbyists associated with them.

Mr. Ross Hutchinson: But this group has had the member for Belmont!

Mr. COURT: You have done better than the rest!

Mr. JAMIESON: I have not got very far at all. I have ascertained that the Minister for Industrial Development has many small clubs in his electorate. It is unreasonable to expect that they should pay this fee out of their own pockets. The Minister has said that this is not a revenue-raising fee. I might realise that, but it is not the club's fault that they must get this license.

The cost to the club will be far in excess of the fee which it has to pay. The secretary has to attend somewhere to get the permit. I have disagreed with the Minister, right through, in respect of this matter. In the case of a ball or a big function the Government is justified in charging a fee so that a policeman can look in on the activity. There have been incidents, and near-riots. The fee would be justified in the case of the larger functions, but I do not think the small clubs which hold small functions should bear this additional impost.

Mr. Court: It is only \$2.

Mr. Bickerton. The charge should not be there at all.

Mr. JAMIESON: It does not sound to be very much to the Minister; perhaps the people from Nedlands can afford to pay it. By the time the clubs pay dues here and fees there the expenses mount up and become a burden on the club.

The clubs are doing a good job by organising youth in sporting groups. It is good insurance for the community and overcomes a lot of problems. I do not want a fee of \$2 to prevail, because the organisers of functions will be placed in an awkward position. The organisers will tend to take risks and if the police happen to walk in while they are taking up a collection the club could be fined \$60 or \$80. It might be said that the fee is good insurance against a fine of \$60 or \$80, but I think that is unreasonable.

A club occupying unlicensed premises can obtain a permit for \$5 which will cover it for a whole year, just because the club is in the position of being a little more financial, and having premises for which it can obtain a permit. However, every time a small club holds a function—which might be eight times a year—it has to pay the fee for a permit.

Mr. BICKERTON: I do not think the suggestion of the member for Belmont is as petty as the Minister endeavours to make it.

Mr. Court: Most functions are run to make money.

Mr. BICKERTON: I support the member for Belmont and it seems that whenever I follow this action I invariably lose. However, there is good reason why the small clubs should not be charged anything at all. Someone said that surely the clubs can afford \$2. I suppose the clubs can afford the \$2, but if it is such a petty amount then surely, because of its pettiness, it should not be collected. I do agree that the clubs should obtain a permit, but they should not be charged for it. The police should know what is going on.

The small clubs are providing a service to the community. Do we always have to squeeze the last drop of blood out of them? That is what is being done. I do not suppose the loss of the \$2 fee would make or break the Treasury unless things have changed since the Treasurer has been away. I do not think the member for Belmont is being petty at all; I think he is being very sensible.

Amendment on the amendment put and a division taken with the following result:—

Ayes—23

Mr. Bateman	Mr. Jones
Mr. Bertram	Mr. Lapham
Mr. Bickerton	Mr. May
Mr. Brady	Mr. McIver
Mr. Burke	Mr. McPharlin
Mr. Craig	Mr. Moir
Mr. Fletcher	Mr. Norton
Mr. Graham	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Harman	Mr. Toms
Mr. Hutchinson	Mr. Davies
Mr. Jamieson	

(Teller 1)

Noes—17

Mr. Bovell	Mr. Mitchell
Mr. Cash	Mr. Nalder
Mr. Court	Mr. O'Neill
Mr. Dunn	Mr. Ridge
Mr. Gayfer	Mr. Stewart
Mr. Henn	Mr. Williams
Mr. Kitney	Mr. Young
Mr. Lewis	Mr. I. W. Manning
Mr. Mensaros	

(Teller 1)

Amendment on the amendment thus passed.

Question put and passed; the Council's amendment agreed to subject to the Assembly's further amendment.

The CHAIRMAN: At this stage, it will be necessary for the Clerks and me to check over the details of the amendments to make sure that everything is in order before we report. I therefore intend to leave the Chair until the ringing of the bells in approximately 15 minutes.

Sitting suspended from 10.11 to 10.45 p.m.

Report, etc.

Resolutions reported and the report adopted.

A committee consisting of Mr. Graham (Deputy Leader of the Opposition), Mr. Gayfer, and Mr. Court (Minister for Industrial Development) drew up reasons for not agreeing to amendment No. 34 made by the Council.

Reasons adopted and a message accordingly returned to the Council.

Sitting suspended from 10.50 p.m. to 12.23 a.m. (Friday).

Council's Message

Message from the Council received and read notifying that it had agreed to the further amendments to Nos. 8, 43, 62, 68, and 83; that it did not insist on amendment No. 34; and that it agreed to the corrections made to amendments Nos. 41 and 58.

CLERK OF THE ASSEMBLY*Retirement of Mr. L. P. Hawley*

MR. NALDER (Katanning—Acting Premier) [12.24 a.m.]: Before I ask the House to agree to adjourn, I wish to say a few words in connection with an announcement which you, Mr. Speaker, made yes-

terday afternoon, I thought initially, but I realise it must be a couple of days ago now.

I am sure most members of the Chamber were surprised to know that Mr. L. P. Hawley, Clerk of the Assembly, has announced that he will retire from that position. Most members had accepted Mr. Hawley as part of Parliament and we were extremely surprised to know that the time had come for him to retire.

As far as I know, Mr. Hawley has been in Parliament longer than any serving member of Parliament. Probably he has had some extremely interesting experiences through dealing with raw recruits. He has dealt with all members: those who were in Parliament for a short period and those of us who have been here for a longer period.

If he had the time and the inclination, I am sure he would be able to write an interesting book on the people he has met in the Parliament of Western Australia. I am not suggesting that he might feel inclined to do this, but I am sure his experiences would enable him to.

I should like to express the appreciation of the Parliament for the work that he has done over a long period of years. We all know that from time to time officers of the House give advice, guidance, and help to almost every member. There are many things which members need to know when they come into the atmosphere of Parliament. They need guidance and help and this assistance has always been readily available from officers of this House, and Mr. Hawley has been no exception. I myself recall some 20-odd years ago seeking advice. Mr. Hawley has always been on hand and keen to offer assistance and guidance whenever they have been required.

All members wish Mr. Hawley a happy retirement and we wish him, and his family, a very happy time in the years ahead. We hope he will enjoy good health and will have the opportunity to spend his time in whatever hobby or activity he wishes. I wish to express our very best wishes to him and to thank him most sincerely for the work that he has done on behalf of the Parliament of Western Australia.

MR. GRAHAM (Balcatta—Deputy Leader of the Opposition) [12.28 a.m.]: The Opposition would, of course, desire to be associated with the remarks made by the Acting Premier. I think it would be true to say that many of us take for granted the very many services and courtesies rendered by so many of our staff. We play our part and, somehow, automatically things go on. It would appear that way; but of course it is on account of the diligence and application of members of the staff.

The Acting Premier has pointed out that we seek advice. This happens when we arrive at a ticklish point and are a little uncertain as to how we should disentangle ourselves from a situation. Members of the staff come readily to our aid.

As has been said, Mr. Hawley has been in Parliament for a very long time. I remember coming in myself very many years ago. I was then a tiro, but Mr. Hawley was a veteran of this place. At that time, he was occupying a different seat, but eventually he went to the left of the Speaker's Chair and, finally, to occupy the senior post. In that position he does, of course, follow a long line of distinguished occupants.

Let me not indulge, as I perchance so often do, in tedious repetition but, on behalf of all who sit on the left-hand side of the Speaker, say: Thank you, Mr. Hawley for what you have done for us. We hope that you will be spared to have a long and enjoyable retirement. I think I would speak on behalf of everybody who knows your charming wife when I say that I hope she, too, will be long spared to enjoy your retirement with you.

I say no more than that. Mr. Hawley knows where Parliament House is and, no doubt, from time to time we will see him here as a visitor, as has been the case with Mr. Fred Islip. To Mr. Hawley I say, "Thank you very much," and I again wish both him and Mrs. Hawley good luck and good health in his retirement.

MR. BOVELL (Vasse—Minister for Lands) [12.31 a.m.]: Might I be permitted to join with the Acting Premier and the Deputy Leader of the Opposition in expressing appreciation to Mr. Hawley for the service he has given to this Parliament, and to myself in particular. I rise to speak because one of Mr. Hawley's brothers is a member of my own family. He married a daughter of a former member for Sussex who was an uncle of mine; therefore I have been personally associated with the Hawley family for many years.

I would also like to pay a tribute as, perhaps, the longest serving executive member of the Commonwealth Parliamentary Association, Western Australian Branch, to Mr. Hawley for his services as secretary of that branch. I wish him and his wife and family well in his retirement.

MR. JAMIESON (Belmont) [12.32 a.m.]: I, too, would like to pay a tribute to Mr. Hawley for his services to this Parliament. I have not served for as long as the previous speaker, but I know that Mr. Hawley has always given advice that would be most appreciated by any member of the Parliament. My main reason for speaking is to draw attention to the fact that after Mr. Islip retired I suggested that the Government of the day should show more appreciation towards a retiring servant than it did on that occasion.

Some testimonial to his services should be accorded to a retiring servant. Government departments do that, and on the last occasion I recorded clearly—as you will remember, Mr. Speaker—in this Chamber my disgust at the thought that a servant who had served such a long time—in that case from his 15th year to probably his 67th year—should go out with only a whip around amongst members and staff. I would hope that would be done for Mr. Hawley also, but I think he deserves some form of testimonial. I leave it to the Government to make up its mind what can be done in that regard.

As for my personal remarks, I would extend to Mr. Hawley my best wishes in his retirement. If he enjoys his retirement as much as his predecessor is doing, I am sure he will have a very happy future.

MR. BICKERTON (Pilbara) [12.34 a.m.]: I would like to think something more will be given to Mr. Hawley than just the few remarks we make tonight. I will leave it to the Government, because I do not wish to speak in Mr. Hawley's presence and embarrass him. However, I agree with the member for Belmont that surely something could be done by the Government to let him know that the people of the Assembly appreciate what he has done over the years.

I probably got closer to Len—which is probably the wrong thing to say—when we were at the last conference in New South Wales. He did an extremely good job, and I was very grateful to him. I would like to make my gratification public, and I think that people who serve us as well as Len Hawley and his assistants have should not just go out with a couple of words of thanks but that something should be done for them. I hope that the Government will make at least some contribution towards Len's going out. I thank him very much for the advice I have received from him over the years.

MR. MAY (Clontarf) [12.35 a.m.]: I would like to say a few words in connection with the retirement of Mr. Hawley. I entered Parliament in 1938 as an employee under Mr. Hawley, and I can say, quite frankly, that from that time onwards I have admired the way he has conducted the activities in regard to the staff of Parliament House, of which I was a member when we had an office at the back of the building. Those members who have been in Parliament for quite a while will realise we had a lot to put up with. Mr. Bartlett and Mr. Hawley were always very helpful in those days.

Since becoming a member of Parliament I have been helped by Mr. Hawley many, many times. In regard to my trip overseas last year he was especially helpful and made the trip a great success for me. I would like to wish both Mr. Hawley and

Mrs. Hawley a happy retirement and I trust that Mr. Hawley will be able to return to Parliament House on many occasions and enjoy the comradeship he has had over the many years he has been here.

THE SPEAKER (Mr. Guthrie) [12.37 a.m.]: I would like, firstly on my own behalf, and secondly, I am sure, on behalf of all the staff, to endorse everything that has been said in regard to Mr. Hawley. In my experience here he has always been the acme of courtesy and has always shown great alacrity, as has been said, in helping all members. In addition to that, during the period that I have been Speaker and also Chairman of the C.P.A., I have learned to appreciate his wisdom and advice, always freely given. I can safely say that in all our dealings there has never been a disagreement between us. I appreciate, as do other members, the tremendous assistance we receive from the staff in this place.

I have said privately on many occasions, and I now say publicly, that of all the offices and all the organisations I have dealt with in a fairly long career, spread over the length and breadth of Western Australia, this building is the most efficiently run. I say advisedly and without hesitation that it is more efficient than any public or private enterprise that I have known. There is a courtesy here which is unique, I feel, and things are literally

done at the double. It is pleasing to see it, and it is something that has been the pride of the staff here. Mr. Hawley, during his term both as Clerk Assistant and as Clerk, has played his part in carrying it on and in building it, and I am sure his successor will carry it on in the future.

Having said that, I now change my cloak, as Mr. Hawley does not have the privilege of replying, and on his behalf I thank all members who have spoken. I am sure he would wish me to say that he appreciates what has been said tonight—or this morning. We will, of course, arrange some occasion a little less formal than this before he actually leaves this House, when he, himself, will be able to stand on his own flat feet and say just what he thinks, without relying on me to act as his spokesman. Nevertheless, tonight I do so, and I ask him to convey to Mrs. Hawley the remarks that have been made; and on her behalf I also thank you all.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. NALDER (Katanning—Acting Premier) [12.40 a.m.]: I move—

That the House at its rising adjourn until a date to be fixed by the Speaker.

Question put and passed.

House adjourned at 12.40 a.m. (Friday).