HOUSE OF ASSEMBLY.

Wednesday, October 26, 1960.

The SPEAKER (Hon. B. H. Teusner) took the Chair at 2 p.m. and read prayers.

ROAD TRAFFIC BOARD BILL.

His Excellency the Lieutenant-Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as were required for the purposes mentioned in the Bill.

QUESTIONS.

COUNTRY HOSPITALS.

Mr. FRANK WALSH—Can the Minister of Lands, in the absence of the Premier, say whether country subsidized hospitals must reserve at least one bed for age pensioners who may become sick, and also whether such hospitals have accommodation for patients in the event of the outbreak of an infectious disease?

The Hon. Sir CECIL HINCKS—I shall obtain a report for the Leader by tomorrow.

NARACOORTE SOUTH PRIMARY SCHOOL.

Mr. HARDING—Recently, the Education Department purchased eight acres of land for the proposed Naracoorte South primary school. As I have been informed that 170 trust houses are to be built in that area, can the Minister of Education say whether plans are in hand to have the school site cleared and building commenced this financial year?

The Hon. B. PATTINSON—Unless there is some unexpected development, of which neither the Education Department nor the Public Buildings Department is aware, including that to which the honourable member has just referred, the Naracoorte South primary school is required for school opening in February, 1963. To achieve this target it is anticipated that tenders will be called by the end of 1961 for the erection of the school. As the clearing of the site will be included in the building contract, this work will not be commenced until a contract is let.

GOOLWA WATER SUPPLY.

Mr. JENKINS—Has the Minister of Works a reply to the question I asked yesterday about the river level at Goolwa?

The Hon. G. G. PEARSON—The Engineer-in-Chief reports:—

In connection with the question asked by Mr. W. W. Jenkins, M.P., on October 25 and your reply thereto attention is invited to the enclosed report of the Engineer for Irrigation and Drainage. The level was lowered for several reasons, viz., inspection of the stop logs at the Goolwa Barrage, improvement of the quality of the water at Goolwa, and to enable the Highways Department to fix walings on the approaches to the new Goolwa ferry. When the barrage was opened it was found that the flow in the Goolwa channel was below normal and that this was caused by the formation of a sand bar. The barrage was therefore left open for the time being in the hope that the higher water velocity would remove the sand bar by scouring.

Although the level above the Goolwa Barrage has been about 1ft. below normal during this period, wind effect has caused it to fall to 1ft. 9in. below normal on several occasions. However, the level of the lakes as gauged at the Tauwitchere Barrage has ranged from 6in. below normal pool level to 7in. above this level, the fluctuations being caused by wind. In view of the difficulties being experienced by irrigators, arrangements have now been made to replace sufficient stop logs to restore the water to the normal level of river level 109.50. Those who irrigate by pumping from Currency Creek are pumping from shallow water and any fall in the level can cause difficulties to arise. However, there is no reason whatever for those pumping from the Murray itself to experience difficulties as it is merely a matter of slightly lowering the suction pipes of their pumps.

In conclusion, I advise that while every effort is made to operate the barrages in the common good there are a number of conflicting interests and it is at times necessary to effect some compromises. There should be a substantial flow in the river until the middle of December and, in these circumstances, it is hoped that much of the sand bar to which reference was made above will be scoured away.

PORT PIRIE HOSPITAL.

Mr. McKEE—Has the Minister of Works a reply to the question I asked yesterday about the resumption of work on the Port Pirie hospital?

The Hon. G. G. PEARSON—Yes. Yesterday I indicated from memory that tenders were now being called. That was correct. The Director, Public Buildings Department, reports that tenders for the completion of the work at Port Pirie hospital close at 2 p.m. on Friday, October 28, 1960.

EMERGENCY HOUSES.

Mr. FRANK WALSH—Many emergency houses are being sold by the South Australian Housing Trust and I have inspected some of these units at Parafield, near the aerodrome. With modifications and improvements they have been made most attractive, but I understand that they do not comply strictly with the requirements of the Building Act as regards ceiling heights. While I do not desire to

override the authority of councils which permit the erection of this type of building, in view of the number available for sale will the Minister of Lands, in the absence of the Premier, investigate whether it is necessary to amend the Building Act to cover these houses, and obtain a report for me next week?

The Hon. Sir CECIL HINCKS—Yes.

RAILWAY BUILDING ACCOMMODATION.

Mr. LAWN—I have received many inquiries, some in the nature of complaints, about a firm supplying motor car number plates which is located in the railway building adjoining the Motor Vehicles Department. Can the Minister of Lands, in the absence of the Premier, inform me how this firm has been able to secure rental accommodation in this building and, if not, will he obtain that information?

The Hon. Sir CECIL HINCKS—I will take up the matter with the Minister concerned and obtain a report.

MOUNT BURR COMMUNITY HALL.

Mr. CORCORAN—Has the Minister of Works, in the absence of the Minister of Forests, a reply to the question I asked yesterday about the construction of the Mount Burr community hall?

The Hon. G. G. PEARSON—The Conservator of Forests reports as follows:—

It is correct that a temporary hold-up occurred in building operations at the community hall at Mount Burr due to the non-supply of certain joinery timber. This has been overcome and building operations are proceeding normally.

MOUNT GAMBIER HOSPITAL.

Mr. RALSTON—I have had many requests from Mount Gambier regarding the official opening of the Mount Gambier hospital which is rapidly nearing completion. Can the Minister of Works say whether a date for the opening has been determined and, if not, will he obtain that information from the Minister of Health?

The Hon. G. G. PEARSON—I shall gladly do so. I have not heard any discussion or suggestion from the Minister about the plans, if there are any.

HEADMASTERS' PROMOTIONS.

Mr. FRANK WALSH—Has the Minister of Education further information about the question I asked yesterday concerning the appointment of a headmaster to the Hectorville primary school?

The Hon. B. PATTINSON—Yes. Firstly, the report in the press, to which the Leader called my attention yesterday, was issued in error. Just prior to lunch today I received a lengthy report from the Director of Education, which states:—

From the beginning of 1961 there will be a vacancy in the headship at Ferryden Park through the appointment of the present head to Woodville primary school. Also, in view of the increased enrolments it is proposed to raise the Hectorville school from Class II to Class I as from January 1 next. Mr. M. A. Farrow, headmaster at Largs Bay, will have completed four years at that school at the end of this year. Mr. A. M. S. Ward, the present headmaster of Hectorville, will have completed two years at that school at the end of this year. Mr. Farrow has been a Class I head for a number of years and is considerably senior to Mr. Ward, who is at present a Class II head, although he will be eligible for promotion to Class I as from the beginning of next year. The problem is whether to allow Mr. Farrow to transfer from Largs Bay to Hectorville or whether Mr. Ward should be allowed to remain at his school and take his promotion at Hectorville.

Regulation XXV provides that "when a vacancy occurs in a school, the respective names of registered teachers in the class to which such school belongs, shall be first considered". Accordingly Mr. Shaw, as Acting Superintendent, offered Hectorville to Mr. Farrow, who has stated that he is anxious to be transferred from Largs Bay to Hectorville. Apart from seniority, he gives as his reasons the fact that his home is reasonably close to Hectorville and that he has found that the journey to Largs Bay every day is beginning to impair his health. His services at Largs Bay have been markedly successful and he has conducted a difficult school well. On the other hand Mr. Ward, who admits, of course, that he is much junior to Mr. Farrow, claims that he should be left at Hectorville for at least three years so that he may carry through to completion many of the plans which he has made for the advancement and better management of that school. Mr. Ward is certainly an able head and has conducted Hectorville with marked success.

There is, of course, no suggestion in either case that any change will be made at either school until the beginning of next year. This is in accordance with the policy of which you have approved and which is being strictly enforced. In any case there would not be a vacancy until the end of this year. I feel that the claims of the two men are nearly equal. On balance, however, I consider it would be better for Mr. Farrow to be transferred from Largs Bay to Hectorville for two reasons:—

(*a*) This would ensure that the headship of Hectorville remains unchanged from the beginning of next year for at least three years and probably for six years.

(*b*) The appointment of Mr. Ward to Ferryden Park school, which presents a number of difficulties in management, would bring to that school the strong leadership it requires. It is likely that Mr. Ward would remain at Ferryden Park for at least three years and it could well be four or five.

Accordingly I recommend that you should confirm the decision to transfer Mr. Farrow to Hectorville and Mr. Ward to Ferryden Park as from January 1, 1961. I greatly regret the delay in this report. Immediately after our discussion on October 20, following on your reply to Mr. Frank Walsh in the House on the previous afternoon, I instructed Mr. Shaw to hold the notices of appointment and not to send them out until he heard further. Mr. Shaw has held the notices accordingly.

I add my apology to the Leader for the seeming discourtesy of the notices appearing in the press before I had replied to him, and the discourtesy to the two headmasters, who had not been notified. During the lunch hour I considered the Director's report and recommendations, and I intend to approve them so that in fact the notices that appeared will, in effect, be valid and binding in the future.

SERVICES ON NEW SUBDIVISIONS.

Mr. LAUCKE—A subdivider within the Tea Tree Gully district council area is prepared to enter into an agreement with the Engineering and Water Supply Department for water to be provided to each allotment within the proposed subdivision at the cost of the subdivider. As considerable cash savings to the department could be made if such offers were accepted, will the Minister ask the department to do all in its power to implement such schemes?

The Hon. G. G. PEARSON—Propositions, such as the honourable member suggests are offered to the department, have been considered and accepted by the department and ratified by Cabinet. If the subdivider concerned will submit his proposition to the Engineer-in-Chief and discuss it with him, and if it is similar to propositions that have been accepted in other cases and is acceptable to him, subject to the department's total liability in future years for these things, the matter can be favourably considered. Although such proposals relieve the department's present Loan fund position they do, of course, involve the Government in an undertaking to reimburse the subdivider for his capital expenditure on a specified basis—generally speaking, on the basis of the number of houses completed within the proposed subdivision within a given period, so there is a liability in the contract to the department and, of course, to the Government. The total sum that can be provided out of our annual Loan grant must, of course, govern the extent to which the department can enter into future commitments. Subject to those conditions, if the subdivider to whom the honourable member refers contacts the Engineer-in-Chief, I do not doubt that an amicable discussion and result can be achieved.

PORT PIRIE WEST SCHOOL.

Mr. McKEE—I have asked the Minister of Education questions regarding the erection of new toilet blocks at the Port Pirie West primary school. As the parents and members of the school committee have become concerned at the recent outbreak of hepatitis, will the Minister give further information about the progress of this matter? If he has no recent information, will he give the matter urgent attention?

The Hon. B. PATTINSON—I shall be pleased to do so but I emphasize again, as it appears to be necessary to do so, that I have not the power to construct buildings of any type; they are referred by me through the Director of Education to the Director of the Public Buildings Department. On at least three occasions I referred the honourable member's requests to the Director and on the last two occasions I received the same reply: that tenders were being called during October. I have not received further information and I do not see how I could during October. However, I shall be only too pleased to bring the matter before the Director once again and I shall also take up the matter with the Minister of Works, emphasizing the great importance that the honourable member attaches to it.

PRICES ACT AMENDMENT BILL (No. 2).

Second reading.

Mr. MILLHOUSE (Mitcham)—I move—

That this Bill be now read a second time.

Its sole object, as members will see from clause 3, is to repeal sections 34 to 42 inclusive of the principal Act. These are headed "Land Transactions" and confer the most sweeping powers on the Prices Minister to control all sorts of land transactions. Members will see that this power is contained in section 34. Subsection (1) thereof is as follows:—

Except as provided by this Act a person shall not without the consent in writing of the Minister—

(*a*) purchase any land;
(*b*) take an option for the purchase of any land;
(*c*) take any lease of land;
(*d*) take a transfer of assignment of any lease of land; or
(*e*) otherwise acquire any land.

I propose that this section be repealed. The remaining sections which will be repealed are hardly more than consequential. I shall explain them briefly. Section 35 contains exemptions and 17 are set out in subsection (1). Section 36 deals with applications for consent and valuations and section 37 with the consent of the Minister. Section 38 imposes a duty to comply with any conditions. Section 39 validates land transactions entered into in contravention of the Act. Section 40 gives the Registrar-General power to require evidence that land transactions are not in contravention of the Act. Section 41 provides for the recovery of moneys paid for land in excess of the price to which consent has been given.

Section 42 makes it an offence to contravene the provisions of sections 34 or 38. I remind members that under section 50, which I do not propose to repeal, the punishment for an offence is, if it is prosecuted summarily, a fine not exceeding £100 or six months in gaol or both; or, if it is prosecuted upon information in the Supreme Court, a fine not exceeding £500 or up to two years or both. These penalties are quite severe.

The sections to be repealed are a complete scheme in themselves for controlling land transactions and they contain, as I have said, very wide powers indeed to be exercised by the Minister. Just as they stand by themselves as a scheme so will the remainder of the Act continue to operate if they are repealed. Indeed, the operation of these sections was suspended by an order published in the *Government Gazette* of September 22, 1949, at page 764. The exemption is in the following terms:—

(*a*) All purchases of land based upon contracts of sale and purchase entered into on or after September 22, 1949.
(*b*) All options for the purchase of land taken on or after September 22, 1949.
(*c*) All leases of land granted on or after September 22, 1949, except leases granted pursuant to an agreement made before September 22, 1949, or pursuant to proposals or terms to which the consent of the Minister was applied for before September 22, 1949.
(*d*) All transfers and assignments of leases of land, being transfers or assignments made on or after September 22, 1949.
(*e*) Every other acquisition of land effected on or after September 22, 1949, except such an acquisition taking effect pursuant to an agreement made before September 22, 1949.

This order shall come into force on September 22, 1949.

Since that date, for over 11 years, these sections have been a dead letter. Members may ask, then, what is the point of repealing them. My answer is that they could at any time be enforced again by the Government revoking the Order to which I have just referred. Power to do this is contained in section 45 of the principal Act which is not to be repealed by this Bill. I do not think it desirable that the Government, by Executive act, should have this power. If it is ever necessary to exercise the power contained in these sections—and I do not believe it will be so in the foreseeable future—then it should only be done after debate and consent of Parliament by Statute. I am sure all members will agree that these great powers should be exercised only with the authority of Parliament. For 11 years the Government has not found it necessary to use them—a very fair test that they are not required. Unused for over 11 years, most people have forgotten that the sections are even in the Act.

I point out that land transactions are not the same as those involving goods and services. The very fact that these sections have been inserted in the Act itself, and land transactions were not left to be dealt with by Orders, as were goods and services, underlines the contrast. Except for those who favour control for the sake of control, and Governmental power for the sake of power, I do not believe that there should be any opposition to the Bill.

Mr. Speaker, there are one or two other points I should like to add. Members will see—and they have just been supplied with copies of the Bill—that the drafting is excellent; I drafted it myself, actually, and I think we can agree that it is impeccable.

Mr. Lawn—There can be no argument over this Bill, then.

Mr. MILLHOUSE—That is so. It is, of course, as the member for Adelaide is no doubt aware, a modest measure. For some reason or other this House has endorsed for another 12 months the principle of price control. I do not intend by this Bill to detract from the operation of price control as we have experienced it in this State for the last 11 years. Members may ask, then, why I have

introduced a private member's Bill for this purpose, and why I did not seek an instruction from the House. Mr. Speaker, other members may have forgotten, but I have not, that during last session I did my best to seek an instruction for this very proposal, but I received no support whatever from either side of the House and my experience then convinced me that the opinion of the House was rather flowing against instructions. I am surprised, incidentally, that other members did not, because of my experience, come to the same conclusion. However, because I feel that instructions are out of fashion at present I have introduced this Bill, and I now commend it to the House.

The Hon. Sir CECIL HINCKS (Minister of Lands)—The Government has considered this Bill, has no objection to it, and is prepared to accept it in its present form.

Mr. LAWN (Adelaide)—I move—

That this debate be now adjourned.

We have only just been handed copies of the second reading explanation.

Mr. Millhouse—Your Leader had a copy of my explanation two days ago.

Mr. LAWN—I have only just received a copy.

Motion carried; debate adjourned.

HAWKERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 1516.)

Mr. QUIRKE (Burra)—I expressed concern yesterday on behalf of two people who for many years had operated as hawkers in the country, and I asked leave to continue my remarks so that I could consult them on this matter. I now feel that the person who communicated with me on this subject will be protected by the Act. The other person is now perfectly happy with the position, and I therefore do not now object to the legislation.

The essence of this matter is that the administration is still in the hands of local councils, who are the protectors in this instance of the business of the district council area concerned, and if in their wisdom they see fit to allow people to hawk seasonal goods they can do so. In that regard I have in mind the seasonal influx into country towns of truck loads of cheap oranges from the River Murray areas when there is a glut. Although they are not the best oranges they are perfectly good, and it would be a pity if councils prohibited the annual trips to country towns at the top of the orange harvest when really good fruit is provided at cheap prices. I think it would be tragic if any council prohibited that sort of trade in country areas. It is entirely in the hands of local government, and because I am perfectly satisfied that the people I wished to contact are satisfied with the legislation I do not oppose it. In fact, one of those persons is discontinuing his business; to use his own words, he is giving it away because it is becoming too troublesome. The other person will, I think, be safeguarded by the Act. For those reasons, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Amendment of principal Act, section 20."

Mr. MILLHOUSE—Yesterday on the second reading stage I raised a query about subclause (2) which makes the amendment retrospective to 1948. I said then that I felt on principle that retrospective legislation was most undesirable, although if there is a real need for it, of course, I am prepared to accept the breaking of the general rule. The Minister has not yet seen fit to explain why this provision is necessary, and before he does so I should like to point out something that I did not mention yesterday, and that is, of course, that any moneys that have been paid to councils for hawkers' licences in the meantime would be moneys paid under a mistake at law, because people would have thought that by law they would be obliged to pay them. The legal principle is that moneys paid under a mistake at law are not recoverable, so it would not be legally possible, as somebody suggested to me privately yesterday, for people to take action against any councils levying these fees and succeed in recovering them. If we remember that, I cannot see any other need for this provision, which seems to add nothing to the amendment. So, unless the Minister can give some really good reason for inserting subclause (2), I shall feel bound, with regret, to oppose the clause.

The Hon. G. G. PEARSON (Minister of Works)—The honourable member has taken the points (*a*) that there is no need for this subclause to restore the position as it existed prior to 1948 in respect of the collection of fees, and (*b*) that it is retrospective legislation, which is objectionable. He says there is no need for it because moneys have been paid during the interim period from 1948 simply because neither the people liable for the fees nor the local authorities imposing such fees were aware that the authority had been inadvertently withdrawn; therefore, the fees have been collected under a mistake at law

and, automatically, they would not be recoverable.

I am not a lawyer but I think that statement is open to challenge. First of all, it may be established, possibly after some legal argument, that it was a mistake in law, and that therefore considerable litigation could occur to establish whether or not it was a mistake in law. So there is no certainty that the position that the honourable member postulated would in fact be the case.

Secondly, he objects to retrospectivity. There is always some distaste about legislation for retrospectivity, but this is not a case of retrospectivity in the ordinarily understood use of the word. The distaste for such legislation arises always from the fact that retrospective legislation can impose a retrospective liability that was not extant at the time when the original legislation was framed but was imposed later and involved some unwitting people in a liability in which they had no idea they would be involved—in some payment or some other circumstances of which they could not have had cognizance prior to the passage of the legislation, or for which they could not have made any provision. This is not such a case. It has none of the disagreeable features of retrospective legislation in that respect. Prior to 1948 the fees were chargeable and recoverable and were paid. In 1948 Parliament in its wisdom—and I think under a misapprehension—removed from the section more than it intended to and left the section without the power to charge and recover fees under this portion of the Act. Parliament was not aware of it at the time. Obviously the draftsman was not aware of it and legislation was passed that removed rather more from that section than it was intended to remove. Therefore, the situation has continued as before, with the rather notable exception that there was no legal basis for it. The fees have undoubtedly been charged and collected, and everybody is happy.

Mr. Quirke—You are trying to legalize what you have collected?

The Hon. G. G. PEARSON—The honourable member postulates that it could not be demanded in return. That is open to doubt and I do not want an unnecessary doubt to remain, for it would involve innocent people in much litigation that might arise.

Mr. Quirke—It will not call up any bad debts?

The Hon. G. G. PEARSON—No; nor will it embarrass anybody. It has none of the objectionable features of retrospective legislation. It does not impose on the hawker a liability to pay fees, a liability of which he was unaware. He has already paid them. The sensible thing to do is to stick to the clause in the Bill and everybody will be happy. Nobody will be done an injustice. I suggest that the clause as drafted be accepted.

Mr. MILLHOUSE—I cannot accept the Minister's explanation or his support of subclause (2). He says, "The proposition that money that was paid under a mistake at law is irrecoverable is open to some doubt and, therefore, to save there being any possible lawsuits, these words should be inserted."

The Hon. G. G. Pearson—I did not say that.

Mr. MILLHOUSE—I would respectfully join issue with the Minister on that point. I think he went on to say, "If we insert subclause (2), there cannot be any doubt or any vexatious legal actions." Although he did not use those words, that is what he had in mind.

The Hon. G. G. Pearson—I had no such thought.

Mr. MILLHOUSE—At least, the Minister was not trying to stop a harvest for lawyers! While there may be a grain in what the Minister says, although I do not for one moment agree that there is any doubt about the recoverability of money paid under a mistake at law, I suggest that breaking the principle of not making legislation retrospective is a far greater evil than the one he seeks to remedy by this means. Somebody next session, when there is a proposal that something shall be made retrospective, will say, "We did it last session and they did not say anything about it then."

Mr. Quirke—They could not say that.

Mr. MILLHOUSE—I hope they will not say that but that could easily occur. It is undesirable light-heartedly, as we are apparently doing it for no real reason, to make something retrospective when it is not necessary to do so. I suggest that that is the position here. If the Committee accepts this clause it will make itself look ridiculous, because the clause must pass the Upper House before it becomes law. If the Minister feels that there is any doubt about the points I have raised will he refer the matter to the Parliamentary Draftsman, whose advice he can confidently take? I realize it does not matter much in this legislation, but it seems wrong to let it go in when it is so unnecessary.

Mr. Lawn—Is not the intention of this clause to make the Act as we thought it would be?

Mr. MILLHOUSE—Yes, but by adding subclause (2) we do not do that any better than if it were left out. It does not matter

so far as validating the payment of hawkers' licence fees is concerned because at common law they cannot be recovered. It is bad that we should make this retrospective.

Mr. Lawn—Did not the Parliamentary Draftsman draft this Bill?

Mr. MILLHOUSE—Yes, but after all we sometimes insert provisions in legislation which, on maturer consideration, we realize are unnecessary.

Mr. Lawn—Aren't you asking the Parliamentary Draftsman to admit that he made a mistake on his original draft?

Mr. MILLHOUSE—The honourable member is a blunt man. I should not put it that way, but I should find it difficult to give a negative answer to his question. If the Parliamentary Draftsman's opinion is against me on this, I will withdraw my opposition.

The Hon. G. G. PEARSON—I spoke to the Parliamentary Draftsman about this matter yesterday.

Mr. Millhouse—What did he say?

The Hon. G. G. PEARSON—I accept what he said. He expressed an opinion similar in many respects to that expressed by the honourable member. He did not say categorically that there was no doubt. The member for Adelaide, by interjection, put his finger on the point. The amendment merely restores the position to what Parliament intended it to be in 1948. There is no precedent for retrospective legislation in this clause. This is not objectionable retrospective legislation. It does not impose a retrospective liability, which is what we object to in retrospective legislation: suddenly pouncing on a group of people and imposing a liability on them by retrospective legislation which they had no idea was coming and for which they could make no provision, when they had been acting in good faith for a long time. This certainly does not do that and I hope the Committee accepts the clause.

Clause passed.

Title passed.

Bill read a third time and passed.

BIRTHS AND DEATHS REGISTRATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 1515.)

Mr. FRANK WALSH (Leader of the Opposition)—This Bill seeks to facilitate the registration of death prior to the completion of an inquest by a coroner. Sometimes considerable distress is occasioned by delays in winding up estates and anything that can be done to reduce these delays is to be commended. Due inquiry is to be made prior to the registration of death but, in the event of the ultimate findings of the inquest necessitating any alteration to the records, provision is also made in this Bill empowering the Principal Registrar to make the appropriate alterations. Therefore, I support the Bill.

Bill read a second time and taken through its remaining stages.

HIGHWAYS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 20. Page 1492.)

Mr. FRANK WALSH (Leader of the Opposition)—I do not intend to speak at length on this Bill, but I am concerned about clause 3, which amends section 6 of the principal Act. Clause 7 amends section 43 (1) of the principal Act by inserting an additional five paragraphs. This section provides that the Governor may, upon the recommendation of the Commissioner, make all such regulations as are necessary or convenient for carrying the Act into effect, and sets out the particular things on which regulations can be made. Perhaps there is some explanation of why controlled-access roads should be dealt with by proclamation instead of by regulation, as is the case with matters dealt with under section 43 (1). I do not see how it would be wrong to provide that this matter be dealt with by regulation instead of leaving it to the Government of the day to deal with it by proclamation. A regulation would achieve the same purpose and would have the advantage of giving Parliament the right of review of such a decision. Local government authorities would also have a right to have some say on the matter.

Under clause 7 several things that may happen on controlled-access roads are dealt with by regulation, yet what shall be a controlled-access road is to be dealt with by proclamation. I can imagine that there might be much controversy about whether the Anzac Highway and certain other roads will come under this legislation. The correct way to deal with these matters is by means of regulation because in that way evidence may be submitted and the matter considered by Parliament. If certain roads are proclaimed controlled-access roads Parliament will have no say in the matter, yet certain things that will occur on these roads are dealt with by regulation. With these reservations, I support the second reading.

Mr. DUNSTAN (Norwood)—I do not like this Bill in its present form. I think it is most undesirable that we should proceed in this manner to widen the area of administrative law so that civil servants can decide on things by sheer proclamation. They may recommend something to the Government on which the Government makes a proclamation, as a result of which there is an alteration in the law that will seriously affect the rights of citizens in some cases, not only in relation to the use of roads but in relation to properties abutting those roads. I have people in my district who will be affected by such legislation, as there will be controlled-access roads in my area when the new freeways are constructed. That these people should have their properties affected by proclamations without having their rights in relation to those properties subjected to the scrutiny of Parliament, which can see that they are duly protected, seems to me entirely wrong. It will not hold up the administration of this legislation to have the making of controlled-access roads by regulation so that, after a constituent tells him and that he is adversely affected and that he does not think it is fair and just, and gives good reason, a member will be able to rise in this House and move for the disallowance of the regulation, showing what the position is and how people in his district are affected.

Mr. Clark—As he can in other cases.

Mr. DUNSTAN—Yes. The rights of individuals should be protected in this way. I cannot see why this Bill has been drafted to provide for proclaiming controlled-access roads instead of their being created by regulation. The later clauses refer to regulation-making powers and I cannot see why the making of controlled-access roads should not be in that category. People in my district are afraid that their properties will be affected by legislation of this kind. I feel that when this Bill reaches Committee it will be appropriate to see that the making of controlled-access roads is by regulation rather than by proclamation. I hope the Government will do something about redrafting the provision before we complete the Committee stages to allow for that view, as I feel certain that that view is shared by many members: that there is no reason to increase the power to make law by proclamation rather than by regulation, which can be scrutinized by this House and disallowed if it is shown adversely and unwarrantedly to affect an individual's rights and properties.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Amendment of principal Act, section 6."

Mr. FRANK WALSH (Leader of the Opposition)—Could "regulation" be substituted for "proclamation"? If not, could I move an amendment having that effect?

The Hon. G. G. PEARSON (Minister of Works)—I am not able at the moment to accede to the Leader's request. A similar suggestion was made in another place, but I have not been able to discover precisely the arguments adduced by the Minister of Local Government in reply to the proposal. There are several objections to the suggestion. I have duly noted the comments of the member for Norwood in which he expressed fear that by the simple act of proclamation people will find themselves seriously and adversely affected by the proclamation of controlled-access roads. As far as I know, it has always been the practice for certain action to be taken by proclamation, particularly action of this kind where certain delineations are made naming certain things by certain titles. The present proposal is strictly in line with what has hitherto been the practice. I think that is the right and proper way to do it.

With regulations, of course, there are certain safeguards, because Parliament has the right to discuss the matter. However, I point out that Parliament also has the right to object to a proclamation if it so desires. I agree that it is not as direct as in the case of a regulation but, after all, the Government has to have regard to the wishes of Parliament. If an authority desires to circumvent Parliament to some extent it can make a regulation the day after Parliament rises, and immediately it is made it has the force of law and continues in force until such time as Parliament re-assembles and has the opportunity to disallow it. Even under regulations, therefore, there are certain difficulties.

The member for Norwood envisages a freeway being built through his electorate. One of the main traffic arteries runs through that electorate and that fact, of course, must bring it into line for consideration in this respect. Obviously, freeways will be expensive investments and will be constructed having regard to many considerations. I think the principal considerations are, firstly, the way in which a freeway can best serve the flow of traffic and, secondly, the place where it can be most

conveniently and economically constructed. The route it traverses will in some places be the existing roads and in other places it may cross properties which will have to be acquired and which will, of course, result in heavy cost. I suggest that in any case ample evidence of intention will be forthcoming prior to a proclamation being made. Even now, the Commissioner of Highways has wide powers regarding routeing of roads and determining which shall be arterial roads and which shall be lesser roads.

I cannot see any objection to this legislation because it falls into line with so many other normal provisions in day-to-day administration. I think the member for Norwood made a valid point when he referred to the necessity to protect the rights of property owners, but he must consider this matter in relation to the other clauses. The later clauses provide adequately and widely for the protection of the rights of property owners. Not only is compensation available to them, but great benefit may accrue to owners of adjoining property. That is a matter we have had no experience upon in this State, but we can draw from the experience of other parts of the world in that matter. I think that these controlled-access roads will minimize the dangerous entrances to and outlets from these roads and so far from detracting from the value of adjoining properties I rather think a controlled-access road will confer a benefit and enhance the property values of the frontages which they abut. I cannot accept the Leader's amendment at this stage, and if he desires to persist with it I shall have to consider what further action to take.

Mr. FRANK WALSH—I am concerned with the difference between "proclamation" and "regulation". The Minister said the Commissioner was all-powerful, but that is not so: the Minister's approval is necessary before certain things can be done. I believe that Parliament should have the power and that members should be able to question the Minister. We know what we can do by regulation, and Parliament should have the say in these matters, not Executive Council. I move—

To strike out "proclamation" and insert "declaration".

The Committee divided on the amendment:

Ayes (8).—Messrs. Clark, Corcoran, Dunstan, Lawn, McKee, Quirke, Ralston, and Frank Walsh (teller).

Noes (9).—Messrs. Bockelberg, Harding, and Heaslip, Sir Cecil Hincks, Messrs. Laucke, Millhouse, Pattinson, and Pearson (teller), and Mrs. Steele.

Pairs.—Ayes—Messrs. Bywaters, Hughes, Hutchens, Jennings, Loveday, Riches, Ryan, Tapping, and Fred Walsh. Noes—Messrs. Brookman, Coumbe, Hall, Jenkins, King, Nankivell, and Nicholson, Sir Thomas Playford and Mr. Shannon.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clauses 4 and 5 passed.

Clause 6—"Enactment of Part IIA of principal Act".

Mr. FRANK WALSH—I move—

To strike out "proclamation" and insert "regulation".

It is most desirable to exercise this power by regulation rather than by proclamation. Regulation would afford ample opportunity for evidence to be given in these matters. I believe in democracy and am interested in greater freedom for the people. If we believe in local government, we should be prepared to consult the councils in these matters. Controlled-access roads must come within the jurisdiction of some local government authority. Should the Executive Council be given this power? Parliament should be given the opportunity to consider arguments for and against any controlled-access road. Another provision allows for regulation, so why cannot we provide for regulation in this case? Should not Parliament be given the right to challenge the Minister in these matters?

Mr. QUIRKE—I favour this amendment. I regard proclamation as the last power that the Government should seek. The three phases of government in this country are Parliament, the Executive Council and the Judiciary. Once Parliament gives the Executive Council proclamation powers, it has given away those powers and has no further control over them; in other words, it is a *fait accompli.* I do not disagree with that principle on minor matters but this is a tremendous thing that can run into many thousands of people and millions of pounds.

Also, it is arbitrarily said in one clause that, once it has been proclaimed, the Commissioner can send to a council and say to it, "We take over all your powers in relation to this." It can set about doing by proclamation everything that the council has to do and everything that the Commissioner has power to do, and this House has no comeback whatever. Parliament has given the powers to the Executive Council and, instead of Parliamentary

control, we have government by the Executive complete. That is my objection. I do not say that these powers are always or are ever used unwisely, but I do not agree, when there is an alternative for a closer approach by so many people through their member to the Parliament of which he is a unit, that that should be by-passed.

A proclamation flatly hammers down and rules out the rights and privileges of the people, who are then forced to go to the law courts or to arbitration to exercise their rights. Although they will have rights under a proclamation, there are no protesting rights; they are only rights. This power of proclamation is absolute. It is because it is so final and definite in such an important matter as this that it is a power that I believe the Commissioner of Highways, a public servant, should not have. Power should reside in Parliament and that is why I oppose the making of a proclamation under this legislation. It is dangerous to take power away from Parliament. I support the amendment.

The Hon. G. G. PEARSON—The clause states that "The Governor may, on the recommendation of the Commissioner, by proclamation", so he does not necessarily accept the Commissioner's recommendation. Therefore, the first part of the member for Burra's argument falls to the ground.

Mr. Quirke—No, it doesn't!

The Hon. G. G. PEARSON—The Commissioner has no power to make a proclamation.

Mr. Quirke—Of course he hasn't!

The Hon. G. G. PEARSON—The honourable member said just now—

Mr. Lawn—He said that Executive Council made a proclamation.

The Hon. G. G. PEARSON—The honourable member said that the Commissioner has wide powers.

Mr. Quirke—Only after the proclamation.

The Hon. G. G. PEARSON—I listened carefully to the honourable member and know what he said. The Commissioner's powers are limited to the making of a recommendation and not to the framing of a proclamation. The second, and more pertinent, argument was that the power of proclamation-making was being vested in Executive Council. The clause states that the Governor may "declare any road or part of any road", so the ambit of the proclamation is limited.

Mr. Quirke—A road may be widened.

The Hon. G. G. PEARSON—Roads are continually being widened. Every week Cabinet considers the purchase of land from adjoining landowners for road-widening purposes. Invariably the purchase is made after negotiation with the parties concerned. One of our major problems exists because earlier action was not taken to provide adequately for our road requirements. Land should have been purchased before it reached fabulous values and before road works necessitated disturbing existing premises. I point out that this clause does not, as has been envisaged by members, give to Executive Council the type of power they fear would be exercised and which would enable Executive Council, by mere proclamation, to take away people's rights. For the purposes of reasonable administration I believe the Government must adhere to the clause as drafted.

Mr. CLARK—I support the amendment. Regulations are carefully scrutinized by the underpaid and over-worked Subordinate Legislation Committee. Each year that committee carefully examines dozens of regulations that are laid on the table of the House. Members, if they object to a regulation, can move for its disallowance and thereby protect their constituents. However, I understand that the only way to upset a proclamation (and it would not be easy) would be to get a motion passed through this House asking the Government to rescind it. Even then, there is no certainty that the Government would rescind it. Because members representing their constituents are able to do something about a regulation, I believe it would be preferable to delete reference to proclamation in this legislation.

Mr. QUIRKE—The Minister, in order to break down my argument, said that the Executive Council, or the Governor, "may, on the recommendation of the Commissioner". He also said that they may not do it. Of course they may not! Somebody has to recommend it. The point I make is that if a proclamation is made, absolute power is conferred on the Commissioner. The Commissioner has the responsibility of planning roads in the metropolitan area and throughout the State and he may think it is necessary to undertake certain road works, but he has no power to do so until, by proclamation, power is vested in him. He is responsible for our roads, and he will recommend to the Governor that a proclamation be made. Once a proclamation is made it can only be upset by a tortuous process of protest in this House. Control is removed

from Parliament. No democratic country has ever fallen because of attacks from without. It falls because of attacks from within. Poland may have been an exception, but there a minority sapped the strength of the people, who became apathetic. There is apathy towards Parliament in Australia today and a contributing factor is the removal of power from Parliament. That weakness is now apparent in the House of Commons. Over the years Parliament glibly handed over powers to the Executive and in England today many people are concerned because they have been deprived of their powers through Parliament. Any student of modern history knows that dangerous practices can take place in a democracy. This is one of the dangers, as the power given to the people in the Constitution is taken away from them and given to the Executive. We are constantly taking these powers away. I disapprove of anything as vast as this matter being dealt with by proclamation. For those reasons, I oppose the use of the word "proclamation" wherever it appears in this Bill.

Mr. LAWN—I am a great believer in the Parliamentary institution as we know it. At one time the King of England made the laws and ruled England; he was what we now call a dictator. He appointed a Parliament to recommend the best means for him to raise the necessary taxation. Parliament eventually felt that it should stay in session longer than the King required; all it wanted was the right to recommend alterations in the law. The fight between Parliament and the King went on until the people won the right to make and alter the laws. Briefly, that is how our Parliamentary system came about. From time to time the press has criticized bureaucracy. If there were a Labor Government in this State and it passed a measure of this description, that is the term that would appear in the *Advertiser* tomorrow. After having gained the right to make and alter laws we are now asked to pass it back to either one person or nine persons. I protest about handing over the right to make laws by proclamation. As the member for Burra pointed out, under other Acts regulations are made, and they are examined by the Subordinate Legislation Committee. If the committee finds nothing wrong with them it makes no recommendation but, if it feels there is some fault in them, a member of the committee moves in either House for their disallowance. I think that should apply to this measure.

The Minister stressed that the clause provided that the Governor may do this, but said that he might not do it. Perhaps that is so, and if he does not act there will be no argument, but we are assuming that the Governor will act by way of either proclamation or regulation. Earlier the Minister said that, as this was similar to other legislation, he could see no objection to it. He also said, "This has always been this way." They are not valid arguments. Last year when we were dealing with the Hospitals Bill the Premier accepted an amendment by the late Leader of the Opposition to provide that hospital fees would be fixed by regulation instead of by proclamation. The Premier could have argued the same way as the Minister argued today—that it had always been done that way. However, that is no reason why it should continue; Parliament should govern the people. We know that the Government carries out the administration, but it should be subject to scrutiny and a vote in this House. The Minister would create greater confidence in the Parliament if he would agree to the amendment.

Mr. RALSTON—I support the amendment. The member for Burra said that when something is done by proclamation members of Parliament lose their right to debate the matter. He also said that this takes away from the people a right given them by the Constitution, and that matters of consequence like this Bill should be debated by Parliament. As this clause stands, the Commissioner of Highways can take away rights from local government and a council will have no right to protest through a member of Parliament. I have a great respect for the Commissioner, but he is not perfect in every way and his decisions should be subject to Parliament. As this measure will involve the expenditure of millions of pounds over the years, it is a shocking state of affairs to deprive members of the right to discuss what will be done. The Minister's arguments were not valid. Not long ago the Premier accepted an amendment to another Bill to delete the word "proclamation" and to substitute the word "regulation".

Mr. Jenkins—It was an entirely different Bill.

Mr. RALSTON—It did not involve such a big expenditure, so this Bill is more important. I think the Premier would be just as pleased

to accept this amendment as he was to accept the amendment to the Hospitals Bill. Although I think members opposite believe that the right of members to discuss matters of importance should be preserved, not one of them has spoken on this amendment. This matter affects their constituents as much as it does the constituents of members of my Party. If they were in opposition, they would be first to advocate that these matters should be dealt with by regulation.

Mr. LAUCKE—I have listened to this debate with keen interest. Some highly important matters have been referred to, the chief being the supremacy of Parliament, and I agree that that is a condition which at all times must be maintained. Parliament should not delegate authority to any other person where such delegation can be avoided. However, although conceding the principle enunciated by previous speakers, I cannot in this case see how a regulation could lead to the administration of the declarations in as satisfactory a way as a proclamation. In the actual machinery of putting a certain policy into effect, I see no undesirable delegation of powers as a result of a proclamation rather than a regulation, as has been suggested.

Mr. Dunstan—Parliament has the right to disallow regulations.

Mr. LAUCKE—It is provided that the Governor may, on the recommendation of the Commissioner, declare by proclamation any road or part of any road or any land acquired by the Commissioner to be a controlled-access road. That proclamation would be made after all the necessary land purchase and so on had been effected. For the purposes of administration, I feel that Parliament is not doing wrong in agreeing to a proclamation in this case. I do not think that regulations would result in such efficient machinery. By proclamation, one can do things at a given moment whereas, by regulation, that would not be possible.

Mr. Quirke—There is no doubt about that; that is what we are complaining about.

Mr. LAUCKE—I believe that the word "proclamation" should remain.

Mr. FRANK WALSH—The Opposition is concerned that the Governor may, on the recommendation of the Commissioner, do these things by proclamation. Much of the area I represent is built up, and certainly I will be very much concerned about this matter. Some areas in the member for Barossa's district are built up and others are being developed today, and I venture to suggest that one day he will be confronted by the councils in his electorate on this matter. He will no doubt be able to tell them that when this Bill was before Parliament he subscribed to the Government's legislation and denied those councils the right to put the views of ratepayers. I think the Minister of Education and the member for Mitcham will also be greatly concerned in this matter.

Some time ago I referred to the transfer of certain land to the Railways Department and said that that land was not necessarily for railway purposes. The built-up areas could be affected, and if we stick to this clause we will take away for all time the right of councils to have any say in the matter. I shall always attempt to amend any legislation when such amendment will give to the people greater freedom and the right to state their case.

The Committee divided on the amendment:—

Ayes (8).—Messrs. Clark, Corcoran, Dunstan, Lawn, McKee, Quirke, Ralston, and Frank Walsh (teller).

Noes (9).—Messrs. Bockelberg and Heaslip, Sir Cecil Hincks, Messrs. Jenkins, Laucke, Millhouse, Pattinson, and Pearson (teller), and Mrs. Steele.

Pairs.—Ayes—Messrs. Bywaters, Hughes, Hutchens, Jennings, Loveday, Riches, Ryan, Tapping, and Fred Walsh. Noes—Messrs. Brookman, Coumbe, Hall, Harding, King, Nankivell, and Nicholson, Sir Thomas Playford, and Mr. Shannon.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 7 and title passed.

Bill read a third time and passed.

ENFIELD GENERAL CEMETERY ACT AMENDMENT BILL.

Returned from the Legislative Council without amendment.

REAL PROPERTY ACT AMENDMENT BILL.

Returned from the Legislative Council with an amendment.

VERMIN ACT AMENDMENT BILL.

Returned from the Legislative Council without amendment.

EXCHANGE OF LAND: HUNDRED OF SKURRAY.

The Legislative Council intimated that it had agreed to the House of Assembly's resolution.

TRAVELLING STOCK ROUTES: HUNDREDS OF DAVENPORT, WOOLUNDUNGA, GREGORY AND WILLOWIE.

The Legislative Council intimated that it had agreed to the House of Assembly's resolution.

APPROPRIATION BILL (No. 2).

Returned from the Legislative Council without amendment.

GARDEN SUBURB ACT AMENDMENT BILL.

Mr. MILLHOUSE brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Ordered that the report be printed.

PREVENTION OF CRUELTY TO ANIMALS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 1525.)

Mr. QUIRKE (Burra)—Yesterday, I sought leave to continue my remarks so that clause 4 could be clarified. My objection to the new section 5b was that it was simply writing down and making smaller the space in which one could keep a bird. In other words, a little finch with a wing-spread of six inches one could keep in a six-inch cube box, and nothing in the legislation would make that illegal. One could not be charged with cruelty for confining it in a legitimate space if it was well fed and attended to. That confinement could not be called cruel because it was in a cage the dimensions of which were in accordance with the Act—although, of course, too small.

I would not keep any caged bird, but I know that such birds are a delight to many people. For instance, the canary has been kept so long in captivity that it now knows no other life and for people to say it is cruel to keep it caged is wrong, because it would be cruel to liberate it. If it were liberated today, sparrows and other wild birds would kill it immediately. The same applies to budgerigars. While people have devoted themselves to in-breeding those unfortunate birds so that they get a Joseph's coat pattern of colouring into them, I do not think they are a bit better to look at than the old parakeet from which they are descended, and of which a poet wrote:—

The parakeets go screaming by
With flash of golden wing.

One cannot imagine the budgerigar going screaming by. What sort of colour would one put on them? I do not think their wings look anything like the flashing golden wings of the parakeets in their natural state. Some people like to breed birds of that sort, getting that colour into them. Some are endeavouring to get a black one, while others try to get something else. Generally speaking, the birds are carefully cared for, and I do not object to that. I would not do it because I see no virtue, profit or value in it, but we are not all built the same way. I understand an amendment is to be moved that will overcome my objection to this measure. Having read the amendment, I think it meets my objection so I raise no further obstruction to the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Enactment of principal Act, section 5b".

Mrs. STEELE—I move—

After "freely" to insert "or which is smaller in any dimension than the minimum dimensions prescribed".

The amendment will dispel the doubts expressed yesterday not only by me but by others regarding the size of the cage or other receptacle in which a person keeps or confines any bird. I do not think that I need further amplify the cruelty that could be inflicted on a bird by keeping it in too small a cage or receptacle other than to say that most people would agree that a cage whose height, length and breadth were sufficient only to permit the bird to stretch its wings freely was not sufficiently large, and was indeed cruel; and, further, that as at present defined the legislation is open to abuse.

The Hon. Sir CECIL HINCKS (Minister of Lands)—As the member for Burnside says, this amendment will overcome the objection to this clause raised yesterday. Therefore, the Government supports the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

TRAVELLING STOCK RESERVE: HUNDRED OF EBA.

The Hon. Sir CECIL HINCKS (Minister of Lands)—I move—

That the portion of the travelling stock reserve north-west of sections 70, 81, and 82, hundred of Eba, and south-west of the Morgan to Whyalla pipeline, as shown on the plan laid before Parliament on August 9, 1960, be resumed in terms of section 136 of the Pastoral Act, 1936-1959, for the purpose of being dealt with as Crown lands under the provisions of the Crown Lands Act, 1929-1957.

A request for a lease of this area, which contains approximately 85 acres, has been received from a local resident who wishes to use it for grazing cows. It was stated that the area is no longer required for travelling stock. The question was referred to the Stockowners' Association, which has intimated that it saw no logical reason why the area should not be resumed and leased by the Department of Lands. The District Council of Morgan has advised that it has no objection to a lease being granted by the department. The Pastoral Board has examined the position and favours resumption and leasing of the land.

Since the plan was laid before the House, the Stockowner's Association has submitted an objection by Mr. S. R. Morphett, based on the claim that the resumption of the area would interfere with two routes used in moving stock between saleyards used by Elder, Smith & Company Limited, and the railway trucking yards. The Pastoral Board and the Surveyor-General, after considering the objection, do not consider that there is any need to alter the proposal, as there would be little difficulty in adjusting the boundaries to retain the routes desired by Mr. Morphett, and this could be done following resumption. In these circumstances, it is considered that the resumption should proceed, and I ask members to agree to the motion.

Mr. CLARK secured the adjournment of the debate.

EXCHANGE OF LAND: HUNDRED OF WATERHOUSE.

The Hon. Sir CECIL HINCKS (Minister of Lands)—I move—

That the proposed exchange of land in the hundred of Waterhouse, as shown on the plan and in the statement laid before Parliament on July 21, 1959, be approved.

The purpose of the exchange is to obtain an area of 28 perches of freehold section 299, hundred of Waterhouse, required by the South-Eastern Drainage Board in connection with the enlargement of Drain L near Robe. This section is held by Mr. C. E. P. Lee and Mrs. G. M. Lee, who are to receive in exchange 1 rood 15 perches of nearby Crown lands, numbered section 501, which was formerly portion of a drain reserve, but is now surplus to requirements. The proposal has been investigated by the Land Board, which has valued the 28 perches of section 299 at £3 10s., and section 501 at £8 11s. 11d. Under the arrangement with Mr. and Mrs. Lee, they will erect, at their own expense, fencing on the new boundaries, three chains on section 299 and one chain on section 501, the total cost of the four chains being estimated at £12. In the opinion of the Land Board the proposed exchange would be very satisfactory to the Government. In these circumstances, I ask members to agree to the motion.

Mr. CLARK (Gawler)—I have ascertained that there are no complaints about the exchange, which seems entirely satisfactory to all parties, and I support the motion.

Motion carried.

EDUCATION ACT AMENDMENT BILL.

The Hon. B. PATTINSON (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Education Act, 1915-1958. Read a first time.

The Hon. B. PATTINSON—I move—

That this Bill be now read a second time.

Its main object is to make provision for a Teachers Appeals Board which will take over the hearing of appeals in respect of certain promotions from the Teachers Salaries Board. These provisions are dealt with in clauses 6, 7 and 8, but before dealing with these I mention one administrative matter dealt with by clause 5. That clause makes a consequential amendment, regarding long service leave for teachers who become public servants, which was overlooked when the Act was amended in 1958. When the maximum entitlement for long service leave for public servants was increased, the Education Act was amended to make similar provision for teachers, but section 18b of that Act (which covered the case of teachers transferring to the Public Service) was not amended. The result is that a teacher who transfers to the Public Service after 26 years as a teacher and who has already become entitled to 189 days of long service leave can, on transferring to the Public Service, count only 20 years of his service as a teacher, giving him 180 days, a loss of nine days on the transfer. As the length of his service as a teacher is increased the loss is greater. To correct the anomaly, clause 5 will amend section 18b so as to permit a teacher on transferring to the Public Service to carry over the equivalent of the maximum amount of long service leave to which he could have become entitled under the Education Act. As there has been at least one case of a retired officer to whom an *ex gratia* payment was made, the amendment is made retrospective to the passing of the 1958 amendment.

I come now to the provisions governing the Teachers Appeals Board. Under the principal Act, the Teachers Salaries Board performs two functions. The first relates to the fixation of salaries and the second to the hearing of appeals concerning appointments to special positions. The vesting of both these functions in the one board does not appear to be very satisfactory in principle, although I should say that no criticism of the way in which the Board has performed its functions is implied in this statement. It is felt desirable to separate the two functions and the Bill accordingly provides for a new board which will be constituted in a different way and along different lines from the Salaries Board. That board consists of a chairman (being a special magistrate), two members appointed by the Governor and a male and a female teacher elected by male and female teachers respectively. The new Appeals Board will consist of five members, namely, an independent chairman and two members to represent the Director of Education to be appointed by the Governor on the Minister's recommendation, plus two members to represent teachers. But the members representing teachers will be elected by the various branches of the teaching service, each branch electing two representatives, and the board being constituted on each appeal so far as the teachers' representatives are concerned by those members who have been elected by the branch of the service in which the position concerned exists. These provisions, along with supplementary provisions regarding vacancies in membership and other machinery matters are provided by the new sections 28za and 28zb introduced by clause 7.

Clause 6 repeals section 28t of the principal Act. That section now provides that appointments to special positions are to be made provisionally in the first instance and that any teacher who has applied for such a special position may appeal against the provisional appointment. It is proposed to vary the procedure, not only by making the appeal to the Appeals Board rather than the Salaries Board, but also by requiring the appeal to be in writing. The Appeals Board is to consider the written submission of the teacher appealing and may confirm the Director's recommendation, that is, dismiss the appeal. But if the board considers that the written submission discloses that there are grounds for further enquiry, it may hear the appellant in person and the Director, consider the matter fully in the ordinary way, and either dismiss or allow the appeal. The object of the new procedure is to avoid a multiplicity of proceedings and lengthy hearings in cases where it is apparent from the written submission that an appellant has no *prima facie* case. These provisions are contained in new section 28zc which re-enacts the first three subsections of the repealed section 28t of the principal Act and adds the special provisions concerning appeals. It has been necessary to repeal section 28t of the principal Act and re-enact the first three subsections in the new section 28zc because section 28t now occupies a central position among the provisions of the principal Act governing the Salaries Board, and the form of the amending Bill is to insert a completely new part relating to appeals.

Clause 7 effects a further amendment to the law regarding appointments to positions. New clause 28zd provides that certain groups of special positions, to be defined by regulations, are to be filled from special promotion lists drawn up by the Director after consideration of all the applicants; two lists being made in each case, one including selected male applicants and the other selected female applicants. Any teacher who has applied for a position can appeal against his exclusion from or his place in the promotion list. The procedure on appeal is the same as that which applies to the ordinary special positions.

Complicated as the provisions regarding special positions and defined special positions may appear to be, they have the backing of the Teachers Institute and, in fact, all of the provisions in this Bill concerning the Appeals Board and appointments are based upon agreement reached after full and lengthy conferences between teachers on the one hand and the Minister and the department on the other. I believe that these amendments will give satisfaction not only to teachers but also to the department and should result in greater efficiency and better conditions throughout the service.

Mr. CLARK secured the adjournment of the debate.

MENTAL HEALTH ACT AMENDMENT BILL.

Returned from the Legislative Council without amendment.

ADJOURNMENT.

At 4.59 p.m. the House adjourned until Thursday, October 27, at 2 p.m.