LEGISLATIVE COUNCIL.

Wednesday, August 19, 1953.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2 p.m. and read prayers.

LICENSING ACT AMENDMENT BILL.

Second reading.

The Hon. C. R. CUDMORE (Central No. 2)—I move—

That this Bill be now read a second time.

Unlike yourself, Mr. President, and some other members of this Chamber, I am Scotch only on one side, but my Scottish blood induces me to remember a certain gentleman and a spider and, if at first I don't succeed, to try, try again. Therefore, I offer no apologies for my fourth effort to try to bring what I consider to be some sense into the licensing laws of this State. I want to make it clear that I have not been influenced by any individuals or any body of persons to take this move to have our licensing laws reconsidered by Parliament. I am not particularly concerned with hotelkeepers, licensed victuallers or brewers, although I would give them the same assistance and hearing as I would any other body in the community. I am concerned with the health, comfort and happiness of the people.

I have a copy of the amendment which I moved to bring in the English hours of trading when we gave the Licensing Act a thorough overhaul in 1935, and prior to that in 1933 I had moved for something on the lines of the English hours, so I think that should show that I have consistently adopted this attitude. I have always thought that our present system of hours and control of licences was wrong, and I spoke at some length on this aspect of it and will refer later to my speech in this Chamber on the Road Traffic Act in 1951. I think that those facts should convince the most sceptical that I sincerely believe in the proposition that I am putting forward as a genuine and desirable reform of our licensing laws, and a really worth while one.

The last time the Licensing Act was considered by Parliament was in 1938—15 years ago, and there has been a second world war since then and a lot of changes. Among those changes it is remarkable to find that there are only five members of this Council who were here when we considered the matter in 1938, As there are many new members I think it proper to give some slight review of the licensing legislation in South Australia. Apparently, in the very early days we carried on under British statutes and the first real consolidating Act that I can find was passed in 1863. In those days licensing matters were decided by the justices, and any J.P. in the State could sit on any hearing. That 1863 Act made provision for "permits." It is interesting to note this because there has been considerable talk in late years about the wrongness and newness of the permit system. In 1880 there was a new Act and it was decided that new licences could be obtained by application to a licensing bench of justices for the district. In other words, instead of the old scheme, when the numbers in the State were small, under which any justice of the peace could sit and determine these matters, a bench of justices was appointed by the Governor for the district concerned and a discretion was given to the bench to increase the number of licences, but not if two-thirds of the ratepayers objected. It is of interest to note that in those days it was the province of ratepayers and not voters for the House of Assembly.

In 1891 each municipal corporation and district council was declared a local option district and local option was then brought in for the first time. It was to be decided, under that Act, by a poll of ratepayers. In 1908 there was further consideration, and local option was then given to each Assembly district. In those days they were large districts with, in most cases, three members, but some with two. In 1910 there were minor amendments and in 1915, during the first war, a Bill was passed for the closing of hotels at 6 p.m. In 1917 the whole of the legislation was consolidated in a new Act, under which we are working today.

The matter of hours and licences came up for the first time after that in 1933 in the far famed legislation under which we established betting shops, because there was then consideration of the closing of hotels on Saturday afternoons and opening them in the evenings. I first entered Parliament that year and that was the first opportunity I had of moving for the opening and closing at English hours. In 1935 a very comprehensive Bill was introduced, at the instigation of the Licensed Victuallers Association, which made a number of amendments dealing with travellers, lodgers and various other matters, but the hours, although there was considerable debate on the question of their being altered, were left as they are. The last time this legislation was really considered was in 1938, when the licensed victuallers themselves sponsored a Bill, which

was moved in this Chamber by Mr. Whitford, in which they asked for broken hours, that is, they wanted hotels opened from 9 a.m. to 6.30 p.m. and then closed, and then for lounges only to be opened in the evenings from 8 p.m. until 10 p.m. That 1938 Bill was carried by a majority of seven in this House, but in the House of Assembly members got confused and eventually they considered only one question—whether it was better to close hotels at 6 p.m. or 6.30 p.m.—and the second reading was defeated by one vote. That is the story so far as previous consideration of licensing legislation is concerned.

I realize that this is a most controversial matter and I know that, perhaps amongst some members, particularly in another place, I have not been so popular because they have had to answer so many letters. Six considerations have emboldened me to reopen this question and to give Parliament an opportunity of reconsidering it. They are, firstly, my own personal observations in England when I visited that country in 1951; secondly, the success that has been achieved under the altered hours in Queensland, Tasmania and Western Australia. As members know, Queensland had hours of 8 a.m. to 8 p.m., which were altered in 1941 to 10 a.m. and 10 p.m. In Tasmania, in 1937, hours of 10 a.m. to 10 p.m. were introduced and in Western Australia, in 1922, the hours were from 9 a.m. to 9 p.m. Only in yesterday's press I noticed that there is an agitation in Western Australia to extend the hours and make them the same as in Queensland and Tasmania.

The third thing that made me think it was time that the 6 o'clock question was overhauled was the frightful disclosures in the Maxwell inquiry in New South Wales. It has been suggested to me that I should have waited until the Maxwell report was published but Judge Maxwell is not well and there is no knowing when that will be. My fourth reason is the consideration that is being given to the Licensing Act in Victoria. There, obviously as in New South Wales, the people are not satisfied with the existing position and are beginning to realize how absurd it is and, might I say, how extraordinary it is that the only places in the world where one is not supposed to consume liquor after 6 p.m. are New Zealand, New South Wales, Victoria and this State.

The Hon. N. L. Jude—New Zealand is altering its laws.

The Hon. C. R. CUDMORE—Yes. The fifth reason why I brought this forward—and which I am afraid I will have to bore members with by repeating what I said in 1951—is the question of drunken driving. I believe that the only way to tackle that problem is an alteration of our Licensing Act. The sixth and last reason that emboldened me was a report in 1951 of the Social Services Committee of the Church of England and the favourable reception that the report received from the press in this State. I shall refer, in more detail, to much that is contained in that report. I trust I will not weary members, but it is essential that I should speak at some length on a proposition like this. I trust also that, as in the past, this will be treated entirely as a non-Party matter and it was for that reason that I introduced it as a private member's Bill. This question has been twice considered on that basis, as they do in England when they get to social questions which are out of the general run of Party politics. That is highly desirable and I trust that members of the Government, as well as others, will consider the case on its merits.

Members of this Chamber have means of obtaining information which many other people have not and therefore I feel that we should be leaders and not followers of what is considered public opinion. I hope we will be able to discuss this matter dispassionately and on its merits, considering, all the time, the welfare of the people as a whole. There are far more fanatics on this question, on the one side, than on the other. The post office has already benefited considerably by people who are prepared to judge definitely before hearing the case even opened, which shows how unreasonable some people can be. The campaign of correspondence, of course, is organized and I have reason to believe that, apart from the real prohibitionists who work under the name of the Temperance Alliance, there are a very large number of interests which are opposed to any alteration in the present hours for their own protection, as they think. I do not mean, when I say particular interests, the liquor trade, but other people who think that the opening of hotels and of people having amenities in the evening, as they do in the inns and "locals" in England, will interfere with their business. I refer to the picture industry. I have no committee, or any organization or body, supporting me in this matter. I realize that honourable members have received circulars which prove that a big organization is working against what I am suggesting. Therefore, I must rely entirely on members to judge the

case on what is submitted here and not on letters from fanatical people who have not heard the case and do not know what it will be. Let us start where we are now. I will submit what I think is a real reform of our licensing system and will then ask members to consider the matter on that basis. Members have a copy of the Bill before them and at this stage it may be advisable for me to explain the clauses.

Clauses 1 and 2 are purely formal, as they are in every Bill. Clauses 3 and 4 are entirely consequential on the main effects of the Bill. Clause 5 is an interpretation clause which follows the English Act in defining "permitted hours." In the past, following the old English system, it has been provided that hotels must be closed between certain times. Clause 6 provides which court is to deal with the question of transferring licences. The Bill proposes that a licence may be transferred from one licensing district to another—in other words from any part of the State to another part. There are eight licensing districts at present and if a licence can be transferred, as I hope will be possible, from one district to another, my proposal is that the court in the district into which the licence is being transferred will decide the matter.

The Hon. F. T. Perry—Do you visualize the granting of more licences?

The Hon. C. R. CUDMORE—No, but I will deal with that later. I am not asking for more licences, as there are sufficient now, but the hotels are not in the right places. That is my contention in a nutshell. Clause 7 repeals section 61 of the Act which provides that a licence cannot be transferred from one local option district to another. This clause is therefore consequential.

Clause 8 is the main portion of the Bill and fixes the permitted hours. The hours I propose will reduce the number of hours during which liquor may be sold from 13 to nine. They will be from 11 o'clock in the morning until 2.30 in the afternoon with a break until 4.30 when they may re-open until 10 p.m., a total of nine hours trading as is the practice in London. In the country areas of England the time of trading is only eight hours. Clause 9 is also partly taken from the English Act and will enable a hotel to trade during other than the permitted hours. For instance, if a hotel near the East End market desires to open early in the morning, because its customers require the use of a hotel at that time, application may be made to the court for that hotel not to be bound by the permitted hours in this Bill but to trade during such hours as the court decides.

The Hon. R. J. Rudall—There may be different hours at different hotels?

The Hon. C. R. CUDMORE—That is quite possible. There must be a boundary somewhere and in England there are instances where hotels on one side of the road have certain hours and those on the other side slightly different hours.

The Hon. F. T. Perry—They are in districts?

The Hon. C. R. CUDMORE—Yes, and under this clause the question of hotel hours will depend on applications to the court. I do not know if any member has a better solution. I have considered this matter at great length and I wondered whether it might be better to afford hotels outside the metropolitan area the opportunity to retain the old hours. I have also considered the question of districts and after much discussion have come to the conclusion that this is the best I can put forward and I think it will work satisfactorily. I point out that the amendments which I introduced in 1933 and 1935 applied only to the metropolitan area, that is to hotels within 10 miles of the G.P.O. which, under the Licensing Act, is the area in which hotels have to provide certain accommodation which is not necessary in the country.

The Hon. R. J. Rudall—Under your proposal there may be one hotel in Adelaide operating under different hours from another hotel in the same area?

The Hon. C. R. CUDMORE—That would be left entirely to the court to decide. My proposal reads:—

No such order shall be made unless the court is satisfied that it is necessary or desirable to make the order to suit the convenience of a considerable number of persons attending the said public market or engaged or employed in the said primary or secondary industry or business.

The Hon. R. J. Rudall—Take your illustration of the East End market; that would be a locality for a particular group and the hours there might be different from the hours of a hotel further up Rundle Street.

The Hon. C. R. CUDMORE—Definitely, that is exactly what happens in London. In Covent Garden hotels are open early in the morning but they all close in the afternon. Hotels cannot have it both ways but can elect which hours suit their customers as the customers will be the people concerned. The same can apply in rural areas and that is why I have used the words "primary or secondary industry." When I introduced the English hours before and limited them to the metropolitan area I realized that there would be some small

country towns which would not want hotels open in the evening but would want them open during the afternoon when people drove into town—the wife to do her shopping and the man to attend a council meeting or sale or to arrange his banking. I have always realized that and that is why I propose that an opportunity should be given for the court to fix hours to suit localities.

Clause 10 relates to the time allowed for clearing the bar—10 minutes. I suggest that that should only apply after the 10 o'clock closing at night. At 2.30 p.m. it should be done at once with no 10 minutes grace. Clause 11 deals with permits to drink with meals, and of course that will be unnecessary when hotels are open until 10 p.m., except Sundays, Good Friday and Christmas Day. Clauses 12, 13 and 14 are purely consequential on the alteration of hours and deal chiefly with certain penalties for publicans having people on their premises. I will explain them in detail in Committee, but they do not affect the principle of the Bill. Clause 14 is an important one because it repeals local option.

It will be seen that, apart from the consequential and minor amendments, the Bill contains two matters—the abolition of local option and the shortening and alteration of the hours of trading. Since I gave notice of this Bill curiously enough the correspondence I have received has been almost entirely on the question of local option, and so far nobody has been in favour of it. Other members, I gather, have had quite a spate of correspondence, which I imagine has been a considerable benefit to the post office if no-one else. As local option seems to be the question least in dispute and least controversial I shall endeavour to deal with it first.

Local option everywhere seems to have had a chequered career. It was introduced here first in 1891 and it was then left to ratepayers to decide. In 1908 it became a question for Assembly district voters. The system is very one-sided; it is, I think, loaded against the public interest. I emphasize the fact again that I have not been influenced by any body to submit this amendment, but as I was determined to introduce amendments about trading hours, and as I had watched with anxious interest the effect of local option polls in 1950 and 1953 in connection with our State elections I thought I had better bring this matter forward as well. The local option provisions are rather extraordinary: 500 electors can put in a requisition for a local option poll to be held in any Assembly district. Voting at local option polls is not compulsory, whereas voting at House of Assembly elections is. At this stage I draw attention to section 232 of the Licensing Act. Members know, of course, that three questions are asked at the polls—(1) Are you in favour of reduction?; (2) Are you in favour of the *status quo*?; and (3) Are you in favour of an increase. The section provides:—

(*a*) If the votes recorded in favour of the first resolution constitute a majority of the valid votes recorded at the poll, the first resolution shall be adopted.

(*b*) If the votes recorded in favour of the first resolution do not constitute a majority of the valid votes recorded at the poll, the votes recorded in favour of the first resolution shall be added to the votes recorded in favour of the second resolution.

That is to say, the votes of those who say we have enough hotels and of those who want a reduction are added together, and this is usually the majority. The section goes on:—

(*c*) If the sum of the votes thus found constitutes a majority of the valid votes recorded at the poll then the second resolution shall be adopted.

(*d*) If the sum of votes thus found does not constitute a majority of the valid votes recorded at the poll, then the third resolution shall be adopted.

It is very seldom, therefore, that the third resolution can be adopted, but that is not the end of the inequity. If the first resolution is carried—that is for a reduction—the number of licences has to be reduced and that is the end of it and there can be no appeal, but if No. 3 resolution is carried—that is for an increase—those interested still have to satisfy the court, so it is completely one-sided legislation in that respect. Increase is behind scratch, whereas decrease is automatic.

At the last State election we had no fewer than eight local option polls. In four of the districts in which they were taken there probably would have been no Parliamentary election but for the desire of the people who wanted a local option poll and, in order to get a compulsory vote, nominated dummy candidates. The eight districts in which polls were held were Albert, Glenelg, Goodwood, Murray, Port Adelaide, Port Pirie, Prospect and Semaphore, and I would suggest that in Albert, Port Adelaide, Semaphore and Port Pirie there would not have been a Parliamentary election but for the desire for a local option poll.

The Hon. S. C. Bevan—What about the Communist candidate in Port Adelaide? Don't you think there would have been an election there?

The Hon. C. R. CUDMORE—The honourable member may be correct, and if so I accept it. These elections resulted in considerable expense to the taxpayer, and a lot of trouble and worry to a number of people which need not have occurred but for this demand for a local option poll. Do not misunderstand me. I am all in favour of the court deciding whether, in a certain district, it is desirable to have further hotel accommodation or not. Amongst my correspondents on this local option question is a letter from the secretary of the Tailem Bend Community Committee, and I think it is the most interesting I have so far received. It is as follows:—

My committee is keenly following your efforts on the abolition of local option and wish you every success with your amendment. We endeavoured to win a local option poll in 1947 and lost by approximately 1,000. We again tried at the last elections and lost by approximately 260 and we are convinced that under the present Act we would be unable to obtain another licence here. We have only one hotel, obtained in 1901, when the population was approximately 150. We now have over 4,000 in the whole district.

That may be a slight exaggeration, for Tailem Bend itself has a population of only about 1,500, but of course it is a big district. The letter goes on:—

This town voted solidly for an extra licence, but towns as far away as Mannum—38 miles away and with four hotel licences—voted against the increase, so we realize how difficult it is to convince people miles away to vote for us. We wish to apply for a licence for a community hotel if you are successful, so you can see how interested we are. The enclosed figures may assist you to prove the injustice of the method now in existence.

The writer then gives me figures for the voting in their district, which were as follows:—For reduction 1,082; no change 2,204; increase 3,021. It was the Mannum vote which decided the question, and Mannum is one of the places very well provided with hotels. In many parts of the State there is a general desire to establish community hotels. In the South-East I think there has been talk of one at Coonalpyn and there is this effort at Tailem Bend. There are other places which would like to have community hotels, but under our present system of local option there is little chance of their obtaining them. I am not advocating smaller local option districts for that becomes dangerous. We have got into this trouble, I think, since we made the House of Assembly districts single-member electorates, because things seemed to work reasonably well when we had the larger districts with two or three members. As I see it the whole system is wrong, and I am reminded of a remark by Lord Hewart, Lord Chief Justice of England, who, speaking on this subject some years ago, said:—

Unfortunately, in England local option nearly always turned to local coercion of the people who were entitled to amenities by those who were really not concerned.

What is the position about local option elsewhere? In England a committee which reported on the Licensing Act in 1929 rejected local option altogether. It said:—

Many of the proposals laid before us for licensing reform contain some measure, greater or less, of "local option," that is, the concession to the electorate in a locality of the right to determine by vote whether, or subject to what limits, the sale of liquor should be conducted in the locality. Many of the arguments are not peculiar to the liquor question but find root in a general faith in the merits of decision by local referendum. Into these arguments we do not think it necessary to enter. It is, however, contended that questions relating to the sale of intoxicants are specially suited for local decision by popular vote. We do not accept this contention. It is, we think, generally accepted by sponsors of the policy that only public facilities for obtaining intoxicants (including possibly clubs and wholesale establishments) could be brought within its orbit. This would leave untouched private cellars and private stores of a less pretentious character. It may be of doubtful advantage to drive drinking from the public house into the private home; and there is, we think, a grain of truth in the suggestion made to us, although the statement goes too far, that the travelling public stand to be the only sufferers.

Local option has had an interesting time in other places; in the late nineties and early 1900's, people thought it was a good thing, but it has been rejected in most places at various times since then. New South Wales repealed local option in 1946, Victoria has local option for increases but not for decreases. Queensland and Western Australia have no local option. I was interested in looking through the record of licensing legislation in Canada to note that they had, as they put it, gone through various stages—local option, provincial prohibition, dominion prohibition, provincial control of retail sales, provincial control boards, and so on, and in each case local option had been tried and found wanting. This has also been the case in most of the Australian States. I do not want it suggested that I want more hotels as that is not what I am asking for, but I suggest that the hotels we have should be in the right place. Whether it is for better or worse new industries have undustrialized South Australia and have brought about

a great change in the density of population in various districts, and it is partly for that reason that I have made my Bill apply all over the State, except where the new hours are definitely not wanted by the people or publicans.

We have a population of 750,000 and approximately 600 hotels, or an average of about 1,250 people to each hotel. Here we get an extraordinary position. We have, for instance, Willunga with 600 people and three hotels. In Whyalla there are 8,000 people and three hotels. At Salisbury there are 1,150 people and three hotels. At Renmark there are 5,470 people and only one hotel; at Burra, which has 1,750 people there are five hotels, and at Berri, with 3,750 people—more than twice as many—one hotel.

We want to be able to put hotels in districts that have not got them and are entitled to them. For example, one is wanted in an area stretching from South Road to Brighton, which is part of the district I represent. We find there are two hotels on the South Road but no hotel in that new and very large district from there to Brighton, with its new oval, shops and houses. They have tried twice at local option polls to get an hotel in the area, but without success because they are in the same area as Glenelg where the people voting on the question have hotels and do not think it is necessary to have any more.

I realize that if my Bill is carried and we do away with local option polls it will enable licences to be transferred from any part of the State to any other part. There is no prohibition in the Act for transferring from one licensing district to another. The prohibition is under section 61, which prohibits the transfer from one local option district to another. I realize also—and I point out that it is provided for in the Bill—that when there is an application to the court for a transfer people in the district into which the licence is to be transferred should be given an opportunity of considering it.

Another point is that every decision of the Licensing Court is subject to appeal to the Supreme Court. There is the safeguard. It has been suggested that it would be better in this case to have, as they had in the old days, and still have in England, a bench of justices appointed by the Government to deal with these matters. Personally I prefer the court because I think it is less subject to being influenced than any bench or board of justices or any committee of that kind. I prefer to leave the question to the court because, in the long run, there is always an appeal against any decision of the court to the Supreme Court, and that is the best place for it to be dispassionately decided on the evidence. As I see it, we would be better off and have our hotels better distributed, and possibly with more community hotels, if we abolished local option.

I come to the controversial question of hours. I admit that this is the crux of the Bill. Why should we alter the present system? Firstly, we know what the 6 o'clock swill is. Everybody is talking about it. We give people a very short time between knocking off work and the time hotels close to have a drink and they drink as much as possible in the short time allowed them. They pour in alcohol on an empty stomach and the result is disastrous. I think I can best give my views on drunken driving by referring to what I said two years ago on the Road Traffic Bill, therefore I quote the following extract from that speech:—

As regards drunken driving I desire to ask the Government and Parliament and the people of this State are we attempting to cure it in a realistic way? Are we really attacking it in a manner which will get rid of this drunken driving menace, which is very bad? I have some statistics on this matter, showing a comparison with other places. They show that fatal accidents per hundred thousand of the population were 21.2 per cent in the United States, 22.55 in Australia, and 9.45 in the United Kingdom.

The Hon. K. E. J. Bardolph—There is a much heavier volume of traffic in England?

The Hon. C. R. CUDMORE—Yes, but there is courtesy on the roads all the time. Two things occur to me about drunken driving. One was suggested by Mr. Rowe yesterday—that if we make penalties too severe we might find it harder to get convictions.

The Hon. R. J. Rudall—That is not before a jury?

The Hon. C. R. CUDMORE—No, before a magistrate. It is a question of imprisonment without the option of a fine. Are we attacking this drunken driving question at its source? Are we being quite logical, practical, and sensible in saying, "We have a tremendous lot of drunken driving accidents. We want to try to stop this. What should we do?" I ask, "Why do we have so many drunken people?" That is where we have to go if we are really to look at this thing straight in the face. Why do we have so many drunken people? Is that not the real question? When overseas I drove about 6,000 miles in England and about 1,000 on the Continent. I was in 29 counties and Scotland, and during that time I saw hardly one person drunk either on the road or in or out of a motor car. The explanation is that we have two things which cause drunkenness. They are the 6 o'clock swill and the mixed drinks that so many young people take after the hotels close.

I emphasize that because people do not seem to realize the danger of it. I continued:—

Everybody knows what is the position. In no other country—England, Scotland, Belgium or France—are people seen lining up like pigs at a trough as we see them here in every hotel between 5.30 and 6 p.m.

That not only happens in the hotels, but if a person drives down Port Road he will find people drinking out on the pavements and all over the place. I continued:—

It is just ludicrous. That is the start of the trouble. Everybody pours down so many drinks quickly during this short period that many become half drunk. Moreover, young people will go to a dance or party in the evening and one will take a couple of bottles of beer. Another will take a bottle of gin, a third Brandivino cocktail, and yet another Australian whisky. All these drinks are mixed together and members of the party get drunk. That is the position here.

I said that then and I repeat it now. I stated:—

It is no laughing matter; it is a most serious one. That is where we have to look if we are to cure this drunken driver business.

What is the position in England? In the past I have moved for the adoption of English hours for hotel trading in this State, but without any success up to date. On the average, hotels in England do not open until 12 midday and close at 2.30 p.m. In other words, they are open during the luncheon period. They repoen at 5.30 p.m. or 6 p.m. and close at 10 p.m.; in the West End of London it is 11 p.m. Hotels are allowed to be open for eight hours. But when people finish work they go home, have their tea, and then proceed to the local hostelry. The "locals" are wonderful institutions in England and in every county my wife and I visited we could enter the bar. Workmen, with their wives, would enter, have a game of darts and two or three glasses of beer, and I never saw any of them the worse for liquor. The real way to tackle the drunken driving job is for Parliament to take its courage in its hands and revise our licensing laws, which are doing infinite harm to our young people and the State.

The Honourable F. J. Condon interjected, "Do the same things apply in Tasmania as in England?", and I replied:—

Tasmania, like Queensland, has sensibly altered the law to 10 p.m. closing, but South Australia is carrying on under its outmoded panic legislation of the first world war. This is the chief feature in drunken driving, and that is why I mention it now. I believe in attacking things at the base; it is no good tinkering with them.

The Honourable R. J. Rudall asked, "How do those licensing provisions affect the young people?" I said:—

Instead of filling up their cars with all this poisonous stuff as they do here they can in other countries go to a hotel in the course of the evening and have a drink, and there is no trouble. We did not have all this bother before 6 o'clock closing was introduced; the young men could leave the dance hall or the picture show or the theatre, have a drink and go back again. We are not sufficiently realistic in tackling this problem where it should be tackled.

I ask all members who have been in States where hotels close at 9 p.m. or 10 p.m. whether the position there is not better than it is here? Those who have visited the other States and England know what real pleasure it is to go into an hotel at any time? Members should seriously consider if the position is not better in Tasmania, Queensland and Western Australia than it is here. One of my reasons is the agitation that is going on in Victoria for a national inquiry, and I want to show that there is a feeling that something must be done about this 6 o'clock business. In the Melbourne *Argus* of August 5 this article appeared:—

For some inscrutable reason the question of the trading hours of Victorian hotels provokes in a very large number of people a tendency towards loss of judgment, and intemperate, inaccurate language. They'd be ashamed of this were it to manifest itself in a discussion on, say, bi-metallism or the lesser known habits of the giant earthworm. Why? Surely the subject is capable of reasoned approach. Must this simple question of use of hotels be surrounded with an aura of allegedly religious and moral argument? I think not! To me, the question is one of simple facts. The facts are these:—

(1) Whether certain people like the habit or whether they don't, it is beyond argument that a substantial number, if not the majority of the citizens of Victoria like to consume alcoholic liquors.

(2) That number has existed since Victoria was founded, and will continue to exist until Victoria finally disappears.

(3) The consumption of alcoholic liquors has been a practice of man since the dawn of history.

(4) Prohibition by legislation—usually inspired by the non-drinking minority—has consistently failed to cause the drinking section of any community to alter its habits. Indeed, it has added to the number and has caused stark disaster, the United States most pointedly, illustrating the truth of this remark.

(5) Older countries of the world treat the sale of liquor as an amenity and a convenience, and never attach to it the importance which it is given here.

(6) The convenience of those who use hotels should be studied and their desires should be met.

That feeling exists in each of the three misguided States of Australia where 6 o'clock

closing operates. What about the rights of visitors, people who come here and who state that they are astounded when their glasses are snatched from their tables at 8 o'clock when they are entertaining friends? I realize that in some communities—Canberra and, I believe, Western Australia—special provisions are contained in their Licensing Acts which enable lodgers in a hotel to entertain guests if the names of the guests are recorded. The guests are then treated as lodgers. Visitors to this State who stay in hotels and visit friends and desire to return the hospitality cannot do so and feel strongly about it. They cannot entertain in a decent manner in their hotels and that is another reason why we should be realistic in discussing these matters. What harm could result from visitors taking their friends to their hotels and entertaining them in a quiet and reasonable manner? The last matter which induced me to re-open this question was the report of the Social Questions Committee of the Church of England which was published in November, 1951.

The Hon. F. T. Perry—Was that an Australian committee?

The Hon. C. R. CUDMORE—The report was published in Sydney but the Church of England throughout Australia is involved. The report contains this statement:—

> The use of alcoholic drink is a time-honoured and deeply-rooted social custom and, as such, must be viewed with understanding and respect . . . Neither prohibition nor a plea that all should become total abstainers is the best way to tackle the problem.

The committee advocated an eight-point policy but I admit it does not advocate a straightout change of hours. It does advocate the abolition of bars and the provision of comfortable open accommodation for drinking in hotels. I will return to its considerations later.

The Hon. R. J. Rudall—Did the committee advocate opening hotels after 6 p.m.?

The Hon. C. R. CUDMORE—No, and I did not intend any deception nor am I trying to pull the wool over anyone's eyes. I have referred at length to the English hours. The present English system of hours was introduced during the first war as an emergency measure. It was decided to close the bars at certain hours to increase industrial efficiency and to reduce drunkenness. Hotels were not permitted to open in the early morning and were only open for two hours in the afternoon. In 1929 a Royal Commission was appointed to investigate the position. It was a very influential commission presided over by Lord Warrender and comprising many people, including four ladies and two clergymen. Among other things the Commission reported:—

> The reader will find, also, historical evidence, if such be needed, for certain basic truths, the neglect of which must prejudice any attempt at licensing reform: for example, that undue relaxation of control produces intolerable social evils; that legislative regulation which goes too far beyond current public opinion is simply not administered.

I do not think the commission intended to imply that the police in England were not doing their job; it was simply a statement that laws which go beyond the general sanction of the public are, in general, not obeyed. The report continued:—

> 43. Restriction of hours. Prior to the emergency legislation introduced during the war, public houses could remain open on week days for periods ranging from 16 to 19½ hours (according to the nature of the district), and for six or seven hours on Sundays. Under the Licensing Act, 1921—which, as has been recorded earlier, adopted the principles of certain emergency provisions applied during the war—the number of hours during which liquor may be sold is fixed, generally speaking, on week days at nine per diem for the metropolis and eight per diem in other districts, and on Sundays, Christmas Day and Good Friday at five per diem both in the metropolis and in other districts in England.
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> 44. Although opinion amongst our witnesses was not unanimous, we feel satisfied that the shorter and broken hours, as fixed by the Act of 1921, have, by restricting the almost indefinite continuity of opportunity for drinking which formerly existed, proved themselves to be an indispensable element in the reduction of insobriety.
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> 45. We have had strong evidence of the beneficial results which have followed from the cutting off of early morning drinking, particularly among industrial workers, the value of the afternoon break—particularly in checking the continuity of afternoon "soaking"—and the changed conditions which have been brought about by the abolition of the former late night hours.

The investigations of the Royal Commission were wide and occupied a year, but the report was unanimous that those hours be continued and they apply today. Honourable members who have experienced them know how well they work and how pleasing are the English hotels or "locals" as they are called. This report is in the Parliamentary Library and I recommend honourable members to read it. It is a statement by people who know what they are talking about and I am prepared to accept their views rather than the views contained

in a number of letters from people who certainly do not know what they are talking about. If any honourable member says, "Oh yes, but that is in England and this is Australia," I will suggest that the statement of the Premier of another State who has just returned from England that there would be a riot if they had 10 o'clock closing is an insult to the people in his State. There were no riots in Queensland or Tasmania where 10 o'clock closing operates. That was a futile statement and an insult to the people. Cannot we behave ourselves the same as other people do? The more restrictions there are the more difficulty and trouble is likely to be encountered. I suggest members read the report of the Royal Commission and I emphasize what I have already quoted—the harm which must be done not only to the health of the community but to the work of the community and to industry by having the ludicrous situation of hotels open at 5 a.m. My proposition is to do away with early morning trading and not to open hotels until 11 a.m. We do not have to go outside our own State to realize the efficacy of broken hours. Members will recall that in 1942 two military divisions returned from the Middle East and there were unfortunate scenes and great difficulty was experienced. The trouble did not come from the men who had really been away fighting, but was caused by a number of reinforcements who had been to Cairo and had not seen a shot fired but who returned believing themselves to be heroes. With other members of the War Service League I approached the Premier and, as a result, he issued a proclamation closing hotels in the morning and afternoon. In other words he adopted the English hours. The proclamation issued on Saturday, March 21, 1942, stated:—

Restriction on sale of liquor between 2 p.m. and 4 p.m. 5 (1) A licensee shall not between 2 o'clock and 4 o'clock in the afternoon or between 5 o'clock and 8 o'clock in the morning . . . (*b*) Sell, supply, or deliver any liquor . . .

That had an immediate desired effect and drunkenness ceased. It was a success and every publican who was involved will admit it. Then and there in our own city it was proved that the sort of hours I am criticizing do create drunkenness and that the hours I am suggesting decrease it. As the English report says, if you stop the early morning hours and the continuous soaking right on through to evening you are really doing something to stop drunkenness in the community. But we do not need even to rely on that; the Government has lately, through its instrumentalities—the Electricity Trust and the Department of Mines—opened wet canteens at Leigh Creek and Radium Hill. A declaration in respect of Radium Hill was issued only a fortnight ago under the provisions of the Uranium Mining Act, 1949-1952, as follows:—

The hours during which the Minister may sell liquor at Radium Hill Mine under section 41 of the Uranium Mining Act, 1949-1952, are hereby fixed as follows:—

Monday to Saturdays (inclusive)—between 5 a.m. and 6 p.m. and between 7 p.m. and 9 p.m.

There are the broken hours with reasonable opportunity for refreshment in the evening. That is what I am advocating and it has been already appreciated by the Government and the people controlling Radium Hill and Leigh Creek, so we do not have to go to England or anywhere else for examples. Therefore, I now propose State-wide application of the English hours. I also give the right to a hotel in a given district to open at the old hours. Whether or not a certain hotel will have that right the court will decide. It may be in the vicinity of a market, or a wharf or in a mining district that the special hours are desired; in a rural community they may not want the hotel open in the evening and the hotelkeeper knows he would not get a customer then if he kept open. Some people thought, and particularly some small hotelkeepers in the country, that if my Bill were passed they would have to open their bars in the evening. As far as I know there is nothing in the Licensing Act to compel them to open a bar at any time. All they have to do as innkeepers is to provide food and drink for travellers. The rest of the Act prescribes what they may not do, when they must close, and so forth. They can be quite sure my proposal does not compel them to open their bars in the evening. On the question of the eight licensing districts, with the possibility of different magistrates presiding, there may be a different appreciation of what should be done under new section 189a. A good deal may be said in favour of some central and higher licensing authority taking the place of the present eight licensing courts, but my objective is to make the amendments simple and to disturb the existing machinery of the Licensing Act and the Licensing Court as little as possible.

The Hon. F. J. Condon—Do you think it is a good thing to give one man too much power?

The Hon. C. R. CUDMORE—I have already said that there is an appeal from any decision

of the licensing magistrate to the Supreme Court, and that is the answer to that question. But I have great belief in the courts and I prefer them to any boards or committees. Shortly, the general principles involved in this thing are—there is much dissatisfaction with the present licensing system and there is a general desire, I feel sure, on the part of many people that there should be some change. Whose responsibility is it to endeavour to give the people something better? Always there are two classes in the community; one, which thinks that the public house is dreadful and an undesirable place, and they want to make it appear as bad as they can so that they may hammer it; the other, which thinks that it is a desirable amenity, as it has been since the dawn of time, and that our objective should be to make it a better and more respectable place where everybody can go and have a drink in comfort without having beer poured down their backs. Those are the conditions I want to foster and which can only be brought about, I think, by some such amendment of our licensing laws as I suggest. I am certain that any member who has seen the other conditions cannot contend that our system is right. It is bad. It says, in effect, that a person must either drink before going to work or during working hours, but not after work. Let us then try something else. That is all I suggest —try something else—and what I am putting forward is the English system which has not only been tried but proved successful over a period of 35 years. When the Church of England Committee brought out its report there were comments in both our newspapers. The *News* printed this under the heading "Drinking decently":—

For years visitors have been telling us that our liquor laws are antiquated and that closing hotels at 6 p.m. has resulted in a "6 o'clock swill."

We have had pointed out to us the fact that in Britain, where hotel hours are staggered, there is no such rush. People there can go soberly home from work secure in the knowledge that if they desire a drink after dinner they may visit the "local" and have one in comfort, with no fear of the law pouncing on them.

Australians know all these things just as well as the visitors. But social reform being such a delicate subject to handle, cautious politicians never attempt to do anything likely to bring about better drinking conditions.

Now, however, the Church of England Social Questions Committee has entered the field with a forthright pamphlet entitled "Drinking Decently." This, briefly, puts social fellowship as the true aim of drinking.

The leaflet does not suggest later hours than 6 p.m., but if we are to have decent drinking conditions then, of course, that very controversial topic must be considered.

The wet canteen at Leigh Creek can be quoted as an example of how a change might help. Last week the Electricity Trust general manager (Mr. Lea) said the canteen opened at night and, as a result, drunkenness had been practically eliminated.

It might well be argued that our present tangled liquor laws are due to prohibitionists on the one hand and vested interests, eager to sell as much liquor in as short a time as possible, on the other.

If the Church is prepared to stand up to these powerful groups then some practical results could eventuate from the sensible principles laid down in "Drinking Decently."

The *Advertiser* had a sub-leader under the heading "Drinking Customs" which was as follows:—

In recommending a policy for "decent drinking," the social questions committee of the Church of England in Australia has raised questions which deserve the most careful study by the community, and by State Parliaments. Proposals by the committee were summarized in the *Advertiser* on Saturday.

As a leaflet dealing with these proposals shows, the committee itself has closely examined conditions in hotels and the liquor trade. It approaches the subject from a broad public viewpoint. It shows a commonsense attitude towards alcohol, recognizing that drinking occupies a long-established and widely accepted place in community life.

As a "deeply-rooted social custom," it says, "the use of alcohol must be viewed with understanding and respect." Though it acknowledges that alcohol may be misused, and seeks to remedy such abuses, it recognizes that efforts to enforce total prohibition are unwise. They lead to other, and possibly worse, evils.

But the committee is clearly convinced that hotel drinking conditions can, and should, be improved. Putting "true social fellowship" as the aim of drinking, it favours the replacement of bars by "comfortable, open accommodation for drinking at hotels. It suggests, in effect, that the objective should be sociable drinking at leisure, rather than as at present, an unedifying scramble for drinks in a jostling crowd, sometimes over a sloppy bar.

Scores of travellers have testified that in England and France, where drinking is enjoyed in more congenial surroundings, where tables and food are provided, and where these social facilities are shared with womenfolk, there is less drunkenness than in Australia.

A solution to the problem of saner drinking here is overdue, and the present statement is a practical step towards creating an enlightened public opinion in the matter.

I think there is an enlightened public opinion and that now is the time to do something to give that opinion a chance and to make some effort for a betterment of the situation. If Parliament desires it can try these English hours for a period, but let us try something; we are all dissatisfied with the present state

of affairs. Parliament could make it definite, as the 1938 Bill did, that after a certain hour only lounges may remain open, but there is no compulsion on anyone to open a bar. I would finish on this note: Prohibition has been tried in many places and found wanting; it is no good; it won't work. Local option has been tried in most countries and discarded in nearly all of them but here. Six o'clock closing is a swill, a disgrace and a stupidity. Therefore, let us try something else and, as I have said, something that has been tried elsewhere and proved to be a successful method for British people to conduct their drinking. Finally, I quote a leading article from the *Church Standard* on the report of the Social Questions Committee, headed "Anglicans and liquor reform," as follows:—

It was only to be expected that the proposals for reform in the liquor trade recently put out by the Social Questions Committee should evoke criticism. Indeed it would probably be impossible to put out any proposals on that subject which would not. The first criticism of these particular proposals have come from those who feel that they do not go far enough. Thus the president of the New South Wales Temperance Alliance—himself an Anglican rector—expresses the views of his alliance that "alcohol is a dangerous habit-forming drug," that "all the committee's suggestions have been tried out time and time again and have failed," and that the problems created by the consumption of alcoholic beverages are likely to continue "so long as it (*i.e.*, alcoholic drink) is readily available to the public." It would seem that he takes a prohibitionist view of the matter. There is, of course, no possibiilty of agreement between those who believe that prohibition would help the cause of temperance and those who believe that it would hinder it; nor between those who take the view that "alcohol" (by which apparently they mean any beverage containing alcohol) is a "Dangerous habit-forming drug," and those who believe with the Bible that it makes glad the heart of man, that it can be commended by St. Paul to Timothy as a suitable addition to his diet; and that it has been divinely ordained to be one of the indispensible elements in the central rite of the Christian religion.

The Hon. A. L. McEWIN secured the adjournment of the debate.

ADELAIDE UNIVERSITY COUNCIL.

The Hon. A. L. McEWIN (Chief Secretary) moved—

That the Council do now proceed to elect by ballot two members of the Council to be members of the Council of the University of Adelaide.

The Hon. F. J. CONDON (Leader of the Opposition)—I protest at the way in which the Opposition has been treated in this matter. There are five Parliamentarians on the Adelaide University Council and notwithstanding that Labor polled a higher number of votes than any other Party at the last election it has only one member out of five, which is unfair. In this Parliament there are 59 members, 37 Liberal members having four representatives on the council and the remaining 22 members only one. Members are called upon to pass legislation granting £303,000 to the University, yet when it comes to the question of electing members to the council we have practically no say. I am not complaining about the members who will be elected because they are men of ability and will ably carry out the job, but the Government should remember that Her Majesty's Opposition has a perfect right to be considered in matters of the utmost importance. Take the position of the only Labor representative of both Houses of Parliament on the University Council. It is possible that because of his public duties he might be absent from the State and, in matters of moment, he would have no opportunity of expressing his opinion. Mr. Cudmore has been a representative on the University Council for 20 years and has performed good work. It has been decided to appoint Mr. Densley in his place and I realize he will be an acquisition to the council and will uphold the dignity of Parliament, but the Opposition was not consulted. It may be said that we need men with experience on the University Council also men who represent country and farming interests, but what farming experience have most of the House of Assembly appointees? My friends, Mr. Densley and Mr. Perry, will be elected.

The PRESIDENT—I think the honourable member is out of order in urging that somebody should be voted for.

The Hon. F. J. CONDON—The appointees have been decided on. If it is to be a question of Party I hope consideration will be given to members of the Opposition on appointments to committees and councils because they are just as desirous as anybody that the will and intention of Parliament shall be carried out. I want it on record that the Opposition in this Chamber enters its strongest protest in not having representation on the University Council.

Motion carried.

A ballot having been taken, the Hons. L. H. Densley and F. T. Perry were declared elected.

POLICE OFFENCES BILL.

The Hon. R. J. RUDALL (Attorney-General), having obtained leave, introduced a Bill for an Act to consolidate and amend certain enactments relating to offences against public order and other offences punishable in courts of summary jurisdiction, and certain enactments relating to the powers of members of the Police Force, to repeal certain provisions of the Police Act, 1936-1951, and for other purposes incidental thereto. Read a first time.

HEALTH ACT AMENDMENT BILL.

The Hon. A. L. McEWIN (Minister of Health), having obtained leave, introduced a Bill for an Act to amend the Health Act, 1935-1952. Read a first time.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 18. Page 360.)

The Hon. F. J. CONDON (Leader of the Opposition)—The Maintenance Act requires close investigation and members of the legal profession should pay close attention to it because it involves many technicalities. There are seven members of the legal profession in Parliament and a number of Philadelphian lawyers who should be able to find any weaknesses in the Bill. The Maintenance Act should be read in conjunction with this Bill. The purpose of the Bill is to extend the provisions of the principal Act to include other territories to which orders may be transmitted. The expression "His Majesty's Dominions" was explained by the Chief Secretary and clause 4 will make it possible, if desired, to proclaim Scotland as a reciprocal State. The Maintenance Act is divided into seven parts including provisions dealing with the Children's Welfare and Public Relief Board, maintenance obligations, State children, institutions and asylums, the licensing and supervision of lying-in homes and foster-mothers and procedure, penalties, and general matters.

The Maintenance Orders (Facilities for Enforcement) Act contains 12 sections. Section 2 relates to interpretation; section 3 to the enforcement in South Australia of maintenance orders made elsewhere; section 4 to the transmission of maintenance orders made in South Australia; section 5 to power to make provisional orders of maintenance against persons resident outside South Australia; section 6 to the power of courts of summary jurisdiction to confirm maintenance orders made out of South Australia; section 7 enables the Governor to make regulations for facilitating communications between courts; section 8 relates to the mode of enforcing orders; section 9 enables all proceedings to be disposed of summarily; section 10 relates to proof of documents signed by officers of courts and section 11 enables depositions taken elsewhere to be received in evidence in proceedings before any court under the Act.

On April 16, 1923, it was ordered that the United Kingdom Maintenance Orders (Facilities for Enforcement) Act, 1920, should apply to South Australia but that nothing should affect the making, registration, confirmation or enforcement in the Irish Free State of any maintenance order as defined in sections 10 and 11 of that Act. I think it will be safe to leave discussion of this Bill to members of the legal fraternity. I offer no opposition and support the second reading.

The Hon. C. D. ROWE secured the adjournment of the debate.

MENTAL DEFECTIVES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 18. Page 361.)

The Hon. F. J. CONDON (Leader of the Opposition)—The object of this Bill is to improve the conditions of mentally ill people and the proposed amendments are based on the recommendations of the Superintendent of Mental Institutions. I am prepared to be guided by his judgment. The second schedule of the principal Act is in the form of a medical certificate but the crux of the Act is in sections 32 and 33 which relate to the order for reception into a receiving house and to proceedings after reception. I pay a tribute to the services rendered by the Director of Medical Services, Dr. Rollison, and members of the medical staff who have devoted themselves to caring for the sick. I also pay a tribute to the Superintendent of Mental Institutions, Dr. Birch, who has done much by his kindness, attention and devotion to duty. As a member of the Public Works Committee I have had occasion to visit various hospitals and mental institutions and can realize the problems confronting those in charge. We should be proud of the men and women in our

Government institutions who make such noble sacrifices to those less fortunate than themselves.

I was pleased to read recently that at a Federal conference the question of attending to the mentally sick will be favourable considered. It is to be regretted that we are forced to send so many elderly people to mental institutions. They are not insane, but are mentally weak, but because we have no other place to send them they are compelled to spend the remaining years of their lives in surroundings which are not beneficial to them. In a report to the Public Works Committee Dr. Birch said that the policy of admitting to mental hospitals a large percentage of elderly, infirm patients who could be treated more appropriately in an infirmary type of hospital or eventide home should be reviewed. We all agree with that and I realize that the Government is endeavouring to do its best. It cannot do everything, but this is an important matter and I ask it to give early consideration to correcting the position. The problem of aged and chronic invalids has arisen in connection with almost every hospital project and has been referred to in several of the committee's reports. Dr. Birch stated that an ever-increasing number of elderly people in the terminal stages of their lives was being admitted to the mental institutions, one reason for this being that modern drugs enabled them to live longer, but their mental states did not stand up to it. He said:—

> Much as it might be deplored, a stigma was cast on any person who entered a mental hospital and individuals who, in their later years suffered loss of memory and had no-one to care for them, should not be certified as mentally defective.

He thought that if the old and infirm were cared for in some suitable establishment, as is the case in other States, the estimates of bed requirements could be reduced by at least one-third. Another problem to which reference has been made previously is the necessity to admit to Parkside, where there is no proper provision for them, congenitally mentally deficient children formerly taken by Minda Home. Dr. Birch said that except in very special circumstances patients under 12 should not be admitted to an adult mental hospital. I think we all agree with that. It is very distressing to visit these places and see the conditions and that is why I am prompted this afternoon to pay a compliment to Drs. Rollison and Birch. I support the second reading.

The Hon. E. ANTHONEY secured the adjournment of the debate.

ADJOURNMENT.

At 4.04 p.m. the Council adjourned until Thursday, August 20, at 2 p.m.