

LEGISLATIVE COUNCIL.

Tuesday, October 26, 1954.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2).

Read a third time and passed.

INFLAMMABLE OILS ACT AMENDMENT BILL.

Read a third time and passed.

VERMIN ACT AMENDMENT BILL.

Read a third time and passed.

PUBLIC SERVICE ACT AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time. The Bill has two objects. The first is to remove a doubt which has arisen concerning the employment of persons over the retiring age on certain boards and committees the members of which are appointed by the Government. The second is to provide for the aggregation of broken periods of service for the purpose of calculating long service leave under the Public Service Act. The Bill also makes a drafting amendment to the principal Act. I will deal first with the problem of the retiring age of members of Government boards. Section 57 of the Public Service Act provides that every male person in the employment of the Government shall retire on attaining the age of 65 years, and every female on attaining the age of 60. It has been assumed that this section did not apply to persons holding part-time appointments on boards and other statutory bodies such as, for example, the Harbors Board, the Botanic Gardens Board, or the Public Library Board. Persons have been permitted to remain members of such bodies, and have been appointed as such members, after attaining the retiring age.

Recently, however, the question whether a member of the Public Service Board could hold office after attaining the age of 65 was referred to the Crown Solicitor. The Crown Solicitor advised the Government that the member was in the employment of the Government within the meaning of section 57 and accordingly had to retire. The effect of the Crown Solicitor's opinion is that section 57 applies, with few exceptions, to all persons

appointed to boards by the Governor. By virtue of the opinion, the Government is prevented from appointing or retaining persons over the retiring age as members of statutory bodies. This is an unsatisfactory position.

The Hon. C. R. Cudmore—Does that apply to the Housing Trust?

The Hon. Sir LYELL McEWIN—It applies to any board appointed by the Government. There are a very large number of such bodies on which persons over the age of 65 can render valuable service in part-time offices. Indeed, it frequently happens that the most suitable person available for a position on such a board is over the age of 65; and there is no reason at all why the State should suddenly lose the services of a great many able men who are capably doing work of value, and which is suitable to their age and experience. The section dealing with these retirements was first enacted in 1903 and it may well be doubted whether it was ever intended to have the effect of making it impossible to employ men over 65 on statutory boards.

After a review of the position the Government has decided to ask Parliament to alter the law so as to ratify and authorize the employment of persons over 65 on most statutory boards. There are, however, some positions on boards which either as a matter of practice or law are held by members of the Public Service. For example, positions on the Public Service Board are invariably held by public servants and in view of the close association of this board with the day-to-day work of the Government and the Public Service it is considered desirable that positions on the board should be held by persons in the Public Service and not by retired men.

Another case in point is the Children's Welfare and Public Relief Board. The chairman of this board is required by law to be a public servant and obviously he should be subject to the retiring age. There are other boards to which it may be found desirable to apply the retiring age. For this reason, it is provided in the Bill that the Governor may make proclamations for the purpose of specifying the offices on boards to which the retiring age will apply. Under this power it will be possible for the Government to consider the positions on the various boards as vacancies occur and decide whether the holder of any particular position should be subject to the retiring age provisions. Clause 4 makes the necessary amendments to the principal Act to deal with this matter. The next matter in the Bill is the mode of computing service for the purpose of long

service leave. The Government has been approached recently by the United Trades and Labor Council of South Australia with a request that, where employees of the Government are retrenched and subsequently re-employed, their periods of service should be aggregated and counted as continuous service for the purpose of calculating long service leave. The Government has given careful consideration to this request, and has come to the conclusion that where a person has been dismissed through no fault of his own and is re-employed within a reasonable time it would be just to allow his service to be aggregated. The Government has taken into account the fact that the principle of aggregation of broken periods of service has been recognized elsewhere in Australia, and is now permitted under Commonwealth, Victorian, Tasmanian and New South Wales legislation.

Clause 5 accordingly amends the principal Act to provide that where the service of an employee of the Government is terminated otherwise than by resignation, or dismissal for misconduct or mental or physical incapacity and the employee is re-employed within two years, his service shall be deemed to be continuous; but, of course, the period during which he was not working for the Government will not give any right to long service leave. The amendment will enable the service of persons who have been retrenched before the passing of this Bill to be aggregated, as well as the service of persons who may be retrenched in the future. Clause 6 deals with a problem which has for some time been a source of trouble to Government employees, mainly in connection with income tax on long service leave payments. The present law is that when an employee retires at the compulsory retiring age with long leave due to him a lump sum can be paid to him in lieu of such leave. For the purposes of income tax a payment of this kind is regarded as a retiring allowance and only 5 per cent of it is taxable. If, however, an employee retires before the compulsory retiring age he is not, under the present law, entitled to a lump sum in lieu of leave. He must take his leave on salary before his retirement or resignation takes effect. For income tax purposes such salary is taxable in full like any other salary. Requests have been made to the Government from several quarters that lump sums in lieu of long service leave should be payable to Government employees on resignation or retirement either at or before the compulsory retiring age, and after investigation the Government introduced this clause to give effect to the request.

This proposal will have two advantages for employees. The first is the one I mentioned in regard to taxation, namely, that in all cases of lump sum payments only 5 per cent of the lump sum will be regarded as income. Secondly, the employee will be entitled to enter upon any pension due to him immediately on his resignation or retirement without any postponement during a period for which he is deemed to be on leave.

It may be mentioned that the principle of this clause is embodied in the laws of the Commonwealth and of a majority of the other States. By passing it, Parliament will remove a grievance which has caused dissatisfaction for some time and will bring South Australia into line with the general rule prevailing throughout Australia in this matter.

The only other amendment made by the Bill is a minor one contained in clause 3. This deals with the hearing of appeals against orders of the Public Service Commissioner depriving officers of increments of salary for misconduct or other like reasons. At present every such appeal must be heard by the Public Service Board with the Commissioner sitting as a member thereof. It is proposed by clause 3 to provide that on the hearing of these appeals the Commissioner will not sit on the board and his place will be taken by the member specially appointed to act as chairman of the board when appeals against the Commissioner are being heard. This provision is in accordance with a general policy previously approved by Parliament.

The Hon. F. J. CONDON secured the adjournment of the debate.

METROPOLITAN AND EXPORT ABATTOIRS ACT AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time. Section 10 of the Act provides that the Metropolitan and Export Board is to consist of a chairman and seven other members who are appointed by the Governor. The section provides, in general, that members are to be appointed to represent various interests and the manner of appointment is for some body representative of the particular interest to submit a panel of three names from which the appointment is made. The section provides that one of these members is to represent breeders of lambs for export and the panel of three names is to be put forward by the South Australian Chamber of Rural Industries. It is

also provided that a member suitable to represent breeders of pigs for export is to be appointed from a panel of three names submitted by the South Australian Chamber of Rural Industries.

The Government is advised that this chamber is dormant and is of opinion that the nominations now provided to be made by it should, in order to secure adequate representation of the interests concerned, be entrusted to other bodies actively interested in the matter. Accordingly, the Bill provides that, as regards the panel of three names from which the member representative of breeders of lambs for export is appointed, the panel should be submitted jointly by the committees of management of the Stockowners' Association, the South Australian Branch of the Australian Society of Breeders of British Sheep and the South Australian Wheat and Wool Growers' Association and the South Australian Executive of the Australian Primary Producers' Association. As regards the member representative of breeders of pigs for export, the Bill provides that the panel of three names is to be submitted by the committee of management of the South Australian Branch of the Australian Pig Society.

The Hon. F. J. CONDON secured the adjournment of the debate.

SWINE COMPENSATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 21. Page 1100.)

The Hon. W. W. ROBINSON (Northern)—The Act, which was passed in 1936, was slightly amended in 1940, 1946 and 1951. It has worked to the satisfaction not only of the producers but also of the purchasers because it gives them confidence that if stock are diseased they will be compensated for it. Section 4 of the Act defines "diseases" to mean tuberculosis, swine fever, swine erysipelas, swine paratyphoid, and infectious pneumonia (including swine plague). All these diseases are infectious and occur frequently in this State. The Act provides for the establishment of a fund from the proceeds of stamp duties payable on the sale of swine and from this compensation is payable for swine destroyed or carcasses that are condemned if the swine are suffering or suspected of suffering from disease. Full compensation is paid when the animal proves to be free of disease, and seven-eighths when it is infected.

The balance standing to the credit of this fund at June 30, 1954, was £73,884 3s. 1d., and this is considered sufficient to meet any outbreak of swine fever. It is, therefore, provided in the Bill that the rate of duty will be reduced from 1d. for every 10s. of purchase price to 1½d. in the pound. It will be noted that the stamp duty is three times as much as that imposed under the Cattle Compensation Bill, which indicates that swine are at least 200 per cent more liable to disease than cattle. The maximum duty payable will be reduced from 5s. to 3s. 9d. The new rate of duty will produce an annual return between £10,500 and £11,000 and will thus meet the average payment of about £9,500 a year. Only on two occasions since the Act was passed 18 years ago has the compensation exceeded £10,000. The last report obtainable, that of June 30, 1953, gives the following figures of condemnation for the diseases shown:—

	1953.	Aggregate.
Tuberculosis	177	6,526
Infectious pneumonia ..	1	1
Swine plague	78	1,887
Swine paratyphoid (Necrotic enteritis)	100	2,547
Swine erysipelas	124	2,110
Swine dysentery	28	28
Not diseased	1	458
	509	13,557
Heads condemned	4,530	97,080

The compensation paid for the year was £9,456 17s. 2d. Livestock inspected by officers of the branch for disease control during that year at metropolitan markets amounted to 63,356, at country markets 21,393 and on holdings 6,668. Scheduled diseases detected at these inspections were paratyphoid, 2; infectious pneumonia, 2; and mange, 1. Clause 3 provides for two amendments to section 8 of the Act. Section 8 provides that compensation is not payable in certain circumstances. Paragraph (b) provides that one of these circumstances is where the owner of a pig visibly affected by tuberculosis has failed to give notice of that fact as required by section 19 of the Stock and Poultry Diseases Act. This is quite an improvement because this phase has not been covered before, and the whole basis of the effectiveness of the legislation depends on early notification.

Clause 3 substitutes "disease" for tuberculosis, and thus provides for the withholding of compensation where the owner fails to notify any disease with which a pig is visibly affected. This is very important because to receive the maximum advantage the earliest possible notification should be made so

that the disease can be kept within reasonable limits. It is very difficult to detect tuberculosis in swine; other diseases are much easier to detect, are more highly contagious, and failure to report them could result in a heavy draw on the fund. Since we have had the provision for early notification and payment of compensation to owners of diseased animals there has been a noticeable effect on the health of swine in this State.

Clause 3 also provides that compensation is not to be paid if the owner of any pig has failed to carry out any written instruction given by an inspector for the control or eradication of any disease in the owner's piggery and the chief inspector is satisfied that the death of the pig from the disease resulted from that failure. In such a case it is considered that the owner has forfeited his right to compensation. It was believed by all and sundry that this power was previously in the Act. It was contained in section 19 of the Stock and Poultry Diseases Act, but if a person failed to carry out the instructions of the inspector he could still claim for his stock under the Swine Compensation Act; this amendment rectifies that position. The costs of administration are met out of the fund and the levy is paid by producers for the benefit of the industry. I believe the Act has worked very satisfactorily and with these amendments it will go a long way towards eradicating disease.

The Hon. F. J. CONDON (Leader of the Opposition)—Last week Mr. Melrose referred to a reduction of contributions under the Cattle Compensation Act. Now that it is very difficult to secure bran and pollard it may become necessary to use inferior stock foods. This in turn may cause a deterioration in health of animals and a consequent drain on the compensation fund, but I leave that to those more conversant with the subject than I am. Clause 2 increases the amount of compensation payable from £15 to £30 for each animal and clause 3 enables compensation to be made in respect of any disease and not only tuberculosis as at present provided. As stated by Mr. Robinson, it appears that the fund is in a very healthy state with just under £74,000 to its credit, but I think this is a case where it may be very handy to have something in the "kitty," and we should not be too hasty in reducing contributions, specially when pigs are at a very high premium as they are today. Generally, however, the Bill is a good one and I support the second reading.

The Hon. R. R. WILSON secured the adjournment of the debate.

INDUSTRIAL AND PROVIDENT SOCIETIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 21. Page 1100.)

The Hon. F. J. CONDON (Leader of the Opposition)—The object of this Bill is to enable regulations to be made to increase the filing fees for late returns, at the same time giving the Registrar discretion to reduce the fees if he is satisfied that there is reasonable excuse for the late return. The Auditor-General in his report for 1954 states that it is not practicable to complete the audit of the accounts of all Government Departments and statutory bodies before the publication of his report, mainly because accounts are not available for some time after the end of the financial year. Consequently the Registrar recommends this amendment of the Act which will bring it into line with the practice under the Companies Act, and I think it will be a strong incentive in causing companies to file their statutory returns within the prescribed time. Of course, we know that for many reasons it is not always possible, due to shortage of staff, sickness of employees and other unforeseen circumstances, but these cases can be adequately met by the discretion allowed the Registrar. I have pleasure in supporting the second reading.

The Hon. E. ANTHONY (Central No. 2)—This Bill will assist the Auditor-General in getting out his report, in which most members take a great deal of interest, at an appropriate time—before the presentation of the Budget if possible. The Bill enables regulations to be made to impose increased fees for the late filing of statutory returns. The Auditor-General finds that companies or persons have been very irregular in sending in their returns and this makes it difficult for him to complete his annual report to Parliament. He suggests, therefore, that we should copy the provisions of section 13 of the Companies Act which makes it obligatory upon persons to send in returns at a specified time, failing which a fine of £1 5s. may be imposed if the return is one month late, or a fine of £5 5s. if it is two months or more late, with discretion left to the Registrar to reduce the amounts if a reasonable excuse is offered. I think the Bill is a good one and I have pleasure in supporting the second reading.

The Hon. C. R. CUDMORE (Central No. 2)—I agree with other members that it is desirable that something should be done in the direction suggested in the Bill from everyone's point of view, but I question whether it should be done

under regulation. The Minister stated that this Bill adopts the procedure laid down under the Companies Act, but I find that the fees are set out in a schedule to the Act and it is not a matter of regulation. There are quite a number of schedules under the principal Act in this case, and this provision could be included in a schedule so that people would know the position without having to ascertain whether a regulation had been made in respect of it. That is the only comment I have to offer, but I think it is worthy of consideration. Otherwise I support the Bill.

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

POLICE PENSIONS BILL.

Adjourned debate on second reading.

(Continued from October 19. Page 1028.)

The Hon. K. E. J. BARDOLPH (Central No. 1)—I agree with other members who have spoken on this measure and like them support the Bill. My first comment is that the police force is just as much steeped in tradition as our Parliamentary institutions and I think people generally have lost sight of its origin. "Peace" has been defined by Medley in his *Constitutional History of England* as:—

The primitive alliance for mutual good behaviour, a breach of which outlawed the transgressor until he had taken measures to repair it. It seems to have consisted of three grades, for, firstly, there lay upon the land the *frith* which it was the duty of the local courts of hundred and shire to maintain. Besides this there was the *grith*, or special protection under the guarantee of some powerful individual, but even beyond these we find mention of a *mund* or personal guardianship, such as a lord would exercise over his household and immediate dependents.

This was the beginning of our present police force.

The Hon. F. T. Perry—Private enterprise.

The Hon. K. E. J. BARDOLPH—My honourable friend seems to see everything through the spectacles of private enterprise. I agree with Mr. Cudmore, who said that there seems to have grown up in some sections of our society a total disregard for custodians of the law, and those people, I think, are totally unaware of the history of the police force. The police force is just as essential to the community as Parliament, because Parliament enacts the laws and the function of the police is to guard them. I wish to pay a compliment to our police force. It contains 1,050 members, including the women police. I doubt whether in any other part of the British Empire a more efficient force will be found and with

that efficiency it is necessary that there shall be the element of tact. I think you will agree with me Mr. President that this quality was displayed during the recent visit of Her Majesty the Queen. There are 180 male members of the force on pensions, 111 widows and 28 children. If our force is to be maintained with the efficiency desired, pensions should be increased. When a young person joins the police force, as is the case with others who enter the various professions, he takes it up as a career, and unless we provide some measure of security after retirement we shall not encourage people to join it. This Bill goes a long way to safeguard the position.

I compliment the present Commissioner of Police, Mr. Ivor Green, who has been laid low with illness. I think that all honourable members will agree that South Australia has been particularly fortunate in its Commissioners of Police over the years, and the present Commissioner is a worthy successor. He has carried on the traditions of the force and has not spared himself. That also applies to his executive officers and the rank and file members. I think it will be found that the status of our Commissioner does not rank with that of Commissioners in the other States. Although it may be claimed that ours is only a small force compared with those in some of the other States, the fact remains that our Commissioner does not hold the same status as Commissioners in States with larger forces. That is a question for the Government to consider.

The Hon. F. T. Perry—What do you mean when you say he does not hold the same status?

The Hon. K. E. J. BARDOLPH—Police Commissioners in the other States have a certain status which is not given to our Commissioner as to official and other matters associated with the position. Without the protection of our police force it would be impossible for us to meet here this afternoon as we are meeting.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9—"Report as to annual subsidy."

The Hon. C. R. CUDMORE—When speaking on the second reading I drew attention to the fact that under the Bill it seems that the Public Actuary will make two inquiries. Clause 10 provides that he shall investigate the state of the fund at intervals of not more than five years and shall report the result of each investigation to the Chief Secretary. In other similar

funds it is usually provided what amount the employer will pay in each year. That is not done in this case. It is provided that the Public Actuary shall, as early as possible in each financial year, report to the Chief Secretary what sum of money in his opinion should be voted by Parliament during that year for the purposes of the fund in order that proper provision should be made for the payment of moneys out of the fund. If that is done every year it seems hardly necessary to have a quinquennial investigation as well. Perhaps we could be told why?

The Hon. Sir LYELL McEWIN (Chief Secretary)—It is fairly obvious why an annual investigation is necessary. The Act prescribes that the Government shall make certain contributions to the fund, but that obligation may fluctuate. It is necessary that the Treasurer should be informed annually of the position to enable him to place a sum on the Estimates to meet the Government's contribution. If the honourable member should desire any additional information I am prepared to move that progress be reported.

Clause passed.

Clauses 10 to 17 passed.

Clause 18—"Effect of withdrawal from fund."

The Hon. C. R. CUDMORE—The Clause provides that a person who has elected not to contribute to the fund shall not be entitled to any pension or other benefit under the Act. That follows clause 13, which provides that where a person joins the force after attaining the age of 35 he may, by notice in writing to the Public Actuary within two months after he joins, elect not to contribute to the fund, in which case he shall not be a contributor. The Bill also provides that a person who has withdrawn from the fund shall not be entitled to any benefits under the Act other than a refund of contributions made by him under the Act or the repealed Acts. I should like to know how a person withdraws from the fund. I can find nothing in the Bill about that.

The Hon. Sir LYELL McEWIN—It happens occasionally that a member of the force resigns. He may have been in the force only five years, for which he would not be entitled to any benefit.

Clause passed.

Clauses 19 to 25 passed.

Clause 26—"Benefits on retrenchment."

The Hon. C. R. CUDMORE—In order to help the Government get Bills through some

of us take the trouble to go through them and indicate during the second reading speech some points that we might raise in Committee, and we sometimes hope to get an answer. I raised two points on this Bill, but I have not received an answer so far; I am going to raise another point, and I hope I will get a reply. During the second reading I raised a question on subclause (3) dealing with retrenchments. I pointed out that this is a purely administrative matter and I could not see any reason why it is in this Bill. In any force or organization the proper thing is that a man who has shown himself least anxious to do his job properly should be the first to be dispensed with, not necessarily the man who has been the least time in it. I do not agree with the principle contained in the subclause, although others do, and I do not know why it is in the Bill because it has nothing to do with pensions.

The Hon. Sir LYELL McEWIN—As the honourable member was not satisfied with the information that I supplied I told him I would report progress, but when he did not accept my offer I took it that he was then satisfied. I would be pleased if he would be more tactful and less rude in seeking information. If I had nothing else to do I could probably deal with every line, but the information on many matters is just as easily available to honourable members as to myself. I think the position is fairly obvious; this clause deals with benefits on retrenchment, provides certain privileges relating to police who have been retrenched, and sets out that they receive twice the amount they have paid in. Surely it is not unreasonable for that clause to set out what form the retrenchment is to take. It is unfortunate if the honourable member does not agree with the principle of last in, first out. Whether it is fair or otherwise it is a principle that is practised, and practised perhaps more religiously outside Government employment than in it, because Governments do not usually indulge in retrenchment. If a Government started retrenching everyone would want to live on the Government. When retrenched, police officers get back what they have paid in if it is not their fault that they are put out of employment. The clause then goes on to explain what form retrenchment is to take.

Clause passed.

Clauses 27 and 43 passed.

Clause 44—"Regulations."

The Hon. C. R. CUDMORE—I raised several points during the second reading, among them

one relating to the wording of this clause in which is provided:—

. . . and may by any such regulation provide what is to be done in circumstances arising in connection with matters dealt with in this Act and not expressly provided for by this Act.

This is rather a new point to me and I am not sure what the implications are. In effect it seems to me to say that if something should be in this Act that has been forgotten and left out it can be assumed it is in the Act and regulations made pursuant to it. Why is it put in that form, and what is the necessity for it?

The Hon. Sir LYELL McEWIN—I think this matter could be better answered by the Parliamentary Draftsman. I could make my own observations on it, but if the honourable member wants a fuller explanation I am quite happy to get it. A number of provisions have been made in this Bill for different types of cases. Parliament once put in weeks and weeks trying to provide a Bill that would not have

any regulations, and we all know what sort of a mess we have been in ever since over it. It is quite customary to provide for regulations to enable a statute to be operative and I would think that the words “convenient and necessary”—

The Hon. C. R. Cudmore—They are the usual words.

The Hon. Sir LYELL McEWIN—What words do you object to?

The Hon. C. R. Cudmore—The words “in connection with matters dealt with in this Act and not expressly provided for by this Act.”

The Hon. Sir LYELL McEWIN—It may be necessary under regulations to include something to make these clauses work. If the honourable member desires an explanation I am prepared to report progress.

Progress reported; Committee to sit again.

ADJOURNMENT.

At 3.12 p.m. the Council adjourned until Wednesday, October 27, at 2 p.m.