LEGISLATIVE COUNCIL.

Tuesday, October 4, 1955.

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

ASSENT TO ACTS.

His Excellency the Lieutenant-Governor, by message, intimated his assent to the Public Purposes Loan and Supreme Court Act Amendment Acts.

INTERSTATE DESTITUTE PERSONS RELIEF ACT AMENDMENT BILL.

Read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL (RACING DAYS AND TAXES).

Second reading.

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

That this Bill be now read a second time.

The Bill deals first with the number of racing days available in the metropolitan area and in the South-East. As regards the metropolitan area, the proposal is to allow one additional day in each year and to provide that it is to be allotted to the South Australian Jockey Club. Under the present law, owing to the limitation on the number of days on which any club may race in any year, it happens that there are two Saturdays this year on which no races can be held in the metropolitan area, and in every year there is at least one Saturday without races. With the increasing population of the State, the public demand for amusement on Saturday afternoons is rapidly growing, and the Government has been requested to take steps to provide for an additional racing day. The Government considers the request to be a reasonable one and has decided to ask Parliament to pass the necessary Bill. It is proposed that the additional day shall be available for the Morphettville race-course. In allotting the day to this course, the Government has been influenced by the fact that the S.A.J.C. is the principal racing club and bears the greater part of the expense involved in controlling racing throughout the State, and that in accordance with the practice in the other States it has a claim to be allowed one day more than the other clubs.

With regard to the South-East, there are at present six clubs in this area, each of which can race on not more than eight days a year. It has been pointed out to the Government that some of the clubs do not use the eight days available to them, while others could do with more. Mount Gambier and Naracoorte are the only clubs which at present race on all the days available to them. There is in the law a provision allowing days allotted to one club to be switched to another at the discretion of the Minister, but there is no general power to grant totalisator licences in the first instance to any club in the South-East for more than eight days. That means that there has to be a totalizator licence available from another source, otherwise that would intrude on the rights of that club. In response to requests by the South-Eastern District Racing Association the Government has agreed to propose an alteration of the law so that the 48 days now available in the South-East may be allocated among the clubs in such way as they may arrange, without any restriction on the number of days to be allotted to any individual club. It is, however, the intention of the Government that additional days will not be allotted for any mid-week race meetings other than those which have been customarily held in the past. The present alteration of the law is being proposed on the distinct understanding that there will be no increase in mid-week racing and this condition has been accepted by the South-Eastern District Racing Association.

Clause 4 makes an amendment relating to the time for payment of betting taxes. Bookmakers are required to pay the turnover tax for each week not later than noon on Saturday of the following week. The winning bets tax has to be paid not later than noon on Friday in each week. The difference between these times of payment is due to the fact that one section of the Act was drafted before, and the other after the introduction of the five day working week. In practice the Betting Control Board collects the taxes before 3 p.m. on Thursdays, and the bookmakers lodge their weekly returns at the time of paying the tax. The board has asked that the Act should now be amended so as to give statutory force to the existing practice which, according to the information received by the Government, is generally acceptable. Clause 4 makes the amendments required for this purpose.

This Bill should commend itself to members, not only for the additional day allotted to the parent club of racing, but for the proposed change regarding the South-East, which is a distinct racing area in South Australia. The Association there is representative of each club. I have met them all in conference and every club is satisfied that the extension should be made in the way proposed, and I have been

given an assurance that the allocation of these dates will not in any way prejudice the rights of the smaller clubs because an understanding exists that the dates will be fixed only for Saturdays, except in the case of carnivals which are held by the Mount Gambier and Naracoorte clubs and which each involve one day other than a Saturday. I have those assurances in writing because I know that this was requested by the chamber previously, and I think it could be interpreted as our unanimous desire not to inflict any restrictions on people choosing their own sport on Saturdays, but that it was undesirable that we should foster more mid-week sport.

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

CONSTITUTION ACT AMENDMENT BILL (ELECTORAL BOUNDARIES).

Adjourned debate on second reading.

(Continued from September 29. Page 932.)

The Hon. Sir WALLACE SANDFORD (Central No. 2)— When the Leader of the Opposition spoke to the Bill last week he argued that it had received very speedy consideration in the House of Assembly and that this constituted a reason for its being dealt with more promptly by this Chamber. In my view, however, if that House accords a subject insufficient attention it is all the more the duty of this House of review to accord it more time. Mr. Condon said that when a similar Bill was introduced last year he opposed it because it was unjust, unfair and unwarranted and dealt with one House only. He contended that the Opposition had endeavoured to alter the electoral system for many years and it was time that we had a reversal of form and that the people of South Australia were given a just electoral system. The report of the Electoral Commission was ordered to be printed on August 16, and the Bill provides for alterations of boundaries of electorates exactly as recommended by the commision. It did not assign names to the districts which it recommended, and the names in the Bill are those selected by the Government. The commission carried out its task strictly in accordance with the terms of its Act, sections 18 and 19 of which prescribed how the electoral quotas were to be ascertained and required the commission to keep the size of electorates within 20 per cent above or below the quotas, as is the case in Federal law. The report shows that the commission has kept well within the margin of tolerance, the greatest margin of divergence being only about 12 per cent. The second schedule of the Bill sets out the five Legislative Council districts and the third schedule the 39 House of Assembly districts, and the new districts will be used only in elections held after the next expiration of the House of Assembly after Februray 28, 1956. I support the second reading.

The Hon. L. H. DENSLEY (Southern)—The Electoral Commission was asked to determine new boundaries so as to provide some of the things that we felt were desirable in view of our increasing population and the growing importance of various parts of the State, but I must express disappointment with the manner in which its work has been done. Nobody who has spoken on the Bill has enthused much about it, and most members do not seem anxious to speak about it at all. The main duties laid down in the Act for the Commission were fairly simple. In the metropolitan area there were to be 13 approximately equal House of Assembly districts and 26 in the country. The matters to be considered were laid down in section 7 as follows:—

(1) In redividing the State into Assembly districts the Commission, so far as is compatible with the provisions of section 5 of the Act, shall endeavour to create districts in each of which respectively the electors have common interests.

Great interest was created in the South-East over the redistribution in that part of the State. At the moment it is divided into two particularly common interests—one is timber milling and the other grazing. The divisions recommended have split the milling and grazing interests right in half, and one can hardly say that common interests have been maintained. It was also laid down that the districts should be of a convenient shape and that there should be reasonable means of access between the main centres of population therein. The two new districts, Millicent and Victoria, were cut in as awkward a fashion as one could imagine, providing two lengthy districts, with a long roundabout route for their working.

I am particularly disappointed in that regard, and I understand that other divisions do not please honourable members generally.

It is a matter of great regret that the Act has brought about such an unfortunate result, and I think it is so difficult and pleases so few of those who asked for a redistribution that we would not be transgressing very greatly if we decided not to accept the recommendations. In a game of football there is an umpire to control it and his decisions are accepted.

In this case we have had what might be called umpires to decide the matter, but they have not decided it on the basis intended by Parliament. Consequently, it is my intention at this stage to oppose the Bill.

The Hon. C. R. STORY secured the adjournment of the debate.

MARRIAGE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 29. Page 929.)

The Hon. F. J. CONDON (Leader of the Opposition)—This is one of the most important Bills that has been before us for a long time and one which should be carefully scrutinized, as some people seem to think it is an interference with the liberty of the individual. I intend to support the Bill, but if any member can show me why it should be opposed I shall be prepared to consider it further in Committee. We must be influenced by the fact that the measure is supported by so many societies which are rendering valuable service to the community. They must carry great weight as over the years they have considered the various reasons why this legislation should be passed. Tasmania is the only other Australian State which has dealt with similar legislation. At present there is no specific legislation in South Australia fixing the minimum age for marriage, the matter being regulated by common law. The position is that girls of 12 and boys of 14 are capable of contracting a valid marriage.

Parental control plays a very important part in the lives of our young people, but unfortunately that control has often not been sufficient, due not to the fault of the boy or girl but to other circumstances. Because of contemplated prosecutions and because a reputation is at stake, often there is a forced marriage. How long do such marriages last and with what results? Often charitable organizations or the State have to maintain the children. These young people are more to be pitied than blamed. If the law allows the present state of affairs to continue, we are not doing them justice. As public men, we know the position because of the complaints coming before us from time to time. People who devote their time to these cases are entitled to have their submissions treated with respect by the Government.

The Bill provides that the minimum age for marriage shall be 18 for boys and 16 for girls. These are the ages operating in Tasmania. There is much merit in the measure. When dealing with moral laws, we are dealing with something sacred and of the utmost importance. A Marriage Bill was introduced into the House of Lords in 1929 by Lord Buckmaster. Prior to that, it was possible for a marriage to be solemnized between a girl of 12 and a boy of 14. Although the English law was altered 26 years ago, no attempt was made in Australia, except in Tasmania, to bring that change about here. In Norway the age limits for marriage are 20 for boys and 18 for girls, in Sweden 21 years and 18 years, although a special magistrate has power to grant a special dispensation. In Turkey the age is 15 in each case and in China 16. This law will not do anybody any harm, but on the contrary will render a good service.

In 1942 the following provision was passed by the Tasmanian Parliament:—

(1) No marriage shall be celebrated if either of the intending parties thereto is under the age of—

i. 18 years in the case of a male; or

ii. 16 years in the case of a female

except in pursuance of an order made under this section.

(2) If after such inquiry as he thinks necessary the Registrar-General or a police magistrate is satisfied that for some special reason it is desirable he may make an order dispensing with the requirements of subsection (1) hereof.

Despite the ages laid down, the magistrate has power to give a dispensation. It has not been suggested that that should be done here, and I am not suggesting it; my object is to show that the States have been lacking in this regard. Parliament is called upon to protect the individual, and whilst some people may think this Bill is a hardship, it is our duty to support it. As it is an advantage to the State and places something on the Statute Book that should have been there many years ago, it has my wholehearted support.

The Hon. W. W. ROBINSON (Northern)—When asked if I would be prepared to introduce a deputation to the Chief Secretary on this matter of raising the marriage age, I was very surprised to learn that there was a law in South Australia and the rest of the Commonwealth, with the exception of Tasmania, that a marriage could be solemnized if a boy was over 14 or a girl over 12. I am sure it came as a surprise to the majority of members of this Chamber. Generally our thoughts and energies are centred rather on the materialistic side and we often judge success in life by the pay envelope or the amount of worldly possessions accumulated, but as the great English bard has said, "Getting and spending we oft lay waste our powers." While I consider that you cannot make people moral or spiritual,

honest or thrifty by legislation, as that great statesman William Ewart Gladstone said, "The aim of all legislation should be to make it easy to do right and hard to do wrong."

All marriage laws in Australia were originally based on the common law of England and are subject to State and not Commonwealth law. The minimum age for marriage in Australia is 14 for a male and 12 for a female. Marriages under these ages are not void, but can be voidable. It is necessary, if the partners to the marriage were under 14 and 12 respectively, to make affirmation of the marriage upon reaching the age required. If the parties concerned do not disown the ceremony, or continue living together after reaching the ages of 14 and 12, the marriage is then legalized and cannot later be voided. The consent of the parent or guardian must be given and this consent in writing must be produced if either or both of the parties is under 21. The absence of this consent, as has been adjudged in a court action on the question, did not invalidate the marriage. If, in the case of those under 14 and 12 at marriage, the marriage is not voided when they reach those ages, then the marriage is valid in law and completely binding in fact. These early minimum ages were based probably on the fact that youth matured earlier in those times and were often earning their living at 9 years of age. Nowadays most boys and girls are still at school when they reach the ages of 14 and 16.

Until 1929 the English law remained unaltered, but in that year marriage under the age of 16 could be void. Marriage is legal at the ages set out in the following countries:—

	Males.	Females.
France	18	15
Germany	21	16
Norway	20	18
Japan	21	15
Turkey	15	15
Spain	16	14

In the United States of America ages are the concern of individual States and vary accordingly. The Commonwealth of Australia has power to legislate for the whole of Australia, but it has not used that power up to date. The following table shows the number of marriages solemnized in the years mentioned under the ages set out:—

	M. & F. 14.	M. & F. 15.	M. & F. 16.	M. 17.	M. 18.
1954	5	21	94	16	48
1951	5	12	76	21	44
1950	5	7	63	7	38
Aggregate for 10 years ..	27	133	657	144	426

A vast number of marriages entered into at such immature ages are marriages of convenience. They are often unsatisfactory and bring the sanctity of marriage into disrepute. The raising of the ages will enhance the sanctity of marriage in this State and will eliminate many marriages that rarely succeed because they are made at such early ages. I support the Bill.

The Hon. C. R. CUDMORE secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 28. Page 898.)

The Hon. C. R. CUDMORE (Central No. 2)—This Bill was introduced pursuant to leave last Wednesday and our rules of procedure—arrived at, I emphasize, after hundreds of years of experiment and deliberation in the Mother of Parliaments—provide that when a Bill is introduced in that way it should be read a first time and then printed so that members will have an opportunity of reading it before they listen to the second reading and have it before them at that time. On many occasions Bills have been introduced here and read a first time, and for some reason of urgency the Council has been asked to agree to the suspension of Standing Orders to enable the second reading to be taken forthwith. In most cases these are financial Bills which have come from the House of Assembly and it has therefore been possible for members to have before them copies of the Bill as printed for that place. Last Wednesday, however, quite out of the blue, without any notice or any suggestion of urgency, the Council was asked to suspend Standing Orders in order that the second reading be proceeded with. I draw attention to the power of even the Council to suspend Standing Orders in cases like this. Standing Order No. 464 says:—

In case of urgent necessity any Standing or Sessional Order, except those which it is specially provided shall not be suspended, may be suspended on motion without notice.

The Hon. K. E. J. BARDOLPH—On a point of order, Sir, is the honourable member discussing the Bill or Standing Orders?

The PRESIDENT—The honourable member is in order.

The Hon. C. R. CUDMORE—I am discussing the procedure adopted on this Bill. Permission was granted to the Minister and the second reading was given. It is a very old story;

for 15 years, I suppose, I have been complaining about having second readings when we have not the Bills before us. I appreciate the fact that the Attorney-General did not intend any discourtesy in this instance, but simply had the idea—which seems to receive some support from my friend in the cage behind me—that we should get on with the Bill. However, I suggest that it is most undesirable that this sort of thing should happen. It is dangerous to undermine the standing, privilege and position of Parliament, and in my opinion this way of skipping through legislation and ignoring proper procedure is a very dangerous thing. If we underestimate the proper power and prestige of Parliament, and how to conduct its affairs, we cannot expect people outside to respect us as a legislative body. Governments derive their power only from Parliament, and it is in the interests of all of us, particularly this Council, that we should do nothing but proceed in our deliberations in the proper forms laid down. I am very jealous of the standing of State Parliaments, and particularly this Council, in the eyes of the community, and I think we ought to be very careful about doing anything which suggests that we are merely rubber stamps for what the Government does.

The Bill contains only three points, and last year we had a Bill before us which contained two of them exactly as they are presented now. I spoke at some length on that Bill and quoted authorities on those two points and I have nothing further to add thereon. The Bill went to the Assembly, and there argument arose as to the third point, which is now—in a modified form as against the suggestion made in the House of Assembly last year—incorporated in this Bill. It is a point which has troubled the legal world and the police and criminal courts considerably, namely, where a child who is not able to take the oath gives evidence against a man for indecent assault or interference and the man denies the charge on oath. He could be convicted, as has been the case in this State, on the uncorroborated evidence of the child, and I feel that this legislation is necessary. It is a very difficult thing and it has been considered in various parts of the world. Small girls of six or seven years of age who may have suffered some interference make statements; they cannot take an oath under the law and therefore their evidence is in a different category from the evidence of a person who takes the oath and understands his responsibilities. The Attorney-General referred to the case which brought up this question and gave some particulars, so there is no need for me to repeat them, but I think it is a desirable move to alter the law in the way suggested, and therefore I support this provision and the Bill as a whole.

Bill read a second time and taken through Committee without amendment; Committee's report adopted.

FRUIT FLY ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 29. Page 930.)

The Hon. F. J. CONDON (Leader of the Opposition)—Year after year the Council is called upon to deal with Bills extending the life of this legislation, but I do not know whether members realize what the fruit fly has cost the State in a matter of a few years. Whether the precautions taken in the first place were the proper ones is open to a certain amount of doubt. We are faced today with another pest and I do not know that sufficient steps have been taken to combat it. It is just possible that this will cost the State more than the three-quarters of a million pounds that has been spent in the endeavour to eradicate the fruit fly.

The Hon. E. Anthoney—To what is the honourable member referring?

The Hon. F. J. CONDON—The grasshoppers. A warning was issued nearly 12 months ago and although many people have taken the necessary steps some have neglected to heed the warnings, just as they failed to take steps to combat rabbits. Therefore I am not looking forward with any pleasure to the fact that we may have to deal with legislation to combat the grasshopper plague. This Bill provides for compensation arising from the campaign for the eradication of the fruit fly commenced in the Edwardstown area in 1954—again retrospective legislation. The introduction of this pest has proved rather expensive to the State. The Department of Agriculture has taken precautions to prevent its spread, but it must have the co-operation of the public. It can be introduced by so many avenues—by sea, road, rail and air—and therefore it is a terrific job for the department to police every avenue of possible infestation. If the public are not prepared to assist, it means a very expensive job to the State.

The campaign to eradicate the fruit fly in the metropolitan area has resulted in the confiscation of large quantities of fruit, with resultant payments for compensation to those

concerned. The cost to the State up to 1954 has been £854,409, and this has been a big drag on the State's finances. From 1947 to 1952 the number of claims received was 14,913, of which 535 were disallowed. In 1953 there were 2,712 claims, 54 being disallowed. Since the first infestation claims have numbered 17,625, and the number disallowed was 589. The Government should consider introducing other methods to combat this pest. The position appears to be, if not worse, about the same as when the pest first appeared in 1946. I question whether South Australia can afford year after year to pay compensation and costs of eradication to the same extent. Now we are asked to pass another Bill so that compensation can be paid and next year we shall possibly be asked to pass another.

The Hon. A. J. Melrose—Have you got any idea what it would cost the State if the fruit fly got out of control?

The Hon. F. J. CONDON—I am not objecting to the money being spent, but we must arrive at some other method of dealing with the pest, instead of our being asked year after year to pay increasing amounts. In other States where action has been taken the pest has been minimized or wiped out. Many people have questioned whether the Government has received service for the money expended. I believe the position has improved somewhat, and perhaps today we are getting a service which was not obtained in the early stages, possibly for many reasons. I hope the Government will see if something further can be done to obviate the necessity to spend increasing sums year after year. I support the second reading.

The Hon. E. ANTHONEY (Central No. 2)—I am sure that we as taxpayers are all concerned with the growing cost of this attempt to eliminate the fruit fly. I suppose we have to assume that before 1947 we had no visitation from this pest as it was not until that year that the Government embarked upon a scheme for its eradication. However, I hold the view that we have always had the fruit fly with us, but it did not become apparent until the last few years. As Mr. Condon said, this is a matter of considerable concern to taxpayers. It involves a growing expenditure, which has increased from a few hundred pounds in 1947 to a total of £854,409 up to 1954. The number of claims in also increasing, possibly because the public are becoming more aware of the fact that they can be compensated for the loss of their fruit. I suppose that is right, but it is a bill which the general public has to meet.

Unless they co-operate we will never stamp out the pest. Sometimes when fruit is brought in either by air, road, steamship or railway it is inspected, but often it is not. It is most difficult to police, and that position will continue. After the Bill had been operative for a year or two a committee was set up to investigate claims for compensation. For the 1953 season claims numbered 2,712, of which 54 were disallowed. The question arises what other steps can the department take to overcome this trouble. It is generally known that there is no inspection of private backyard crops, which are often the host of the pest. I have mentioned before that there is a scheme in Western Australia, but whether it is a success or not I am not prepared to say. There, Government officers inspect fruit grown on private allotments in the metropolitan area and elsewhere and advise which trees and shrubs, which may be a host for this pest, should be removed. Although the pest has not been entirely eliminated there the trouble has been greatly minimized, and I think we should do something like that here. The department should confer with officers in other States to ascertain what they are doing to handle the pest, because it is evident that we cannot continue spending such large sums. We know what is happening in other countries where the pest has remained unchecked. In some instances fruit-growing has been completely wiped out. We do not want that to happen here. Every possible investigation should be made to see that we deal with this pest in the most practical way. I have no objection to the Bill. This legislation will have to continue until such time as a better method of eradication is found.

The Hon. L. H. DENSLEY (Southern)—I am pleased to support this measure. From time to time we have heard a great deal about the undesirability of continuing this legislation, but we must look at the alternatives if we are to take a reasonable view of the situation. It would be difficult to relieve taxpayers of this item of expenditure, because it is the taxpayers themselves who are benefiting from the payments made from time to time in the form of compensation for damage done. It is not the commercial fruitgrower who is receiving compensation, but this legislation is a protection to him and I believe he is quite happy to be included amongst the taxpayers who are called upon to meet this expenditure for the particular benefit of metropolitan consumers. It is desirable that the State should

meet these payments in the interests of every fruit producer and consumer.

The Hon. F. J. Condon—Who is objecting?

The Hon. L. H. DENSLEY—If the honourable member does not know, I advise him to read some of the speeches made on the subject from time to time. We appreciate the fact that the Government has worked very consistently on this matter. We believe that it has gone a long way towards eradicating the pest, and I sincerely hope that it is nearer to eradication than the rabbit pest. It is difficult to appreciate what the loss to South Australia would be if fruit fly became rampant as it has become in other States.

The Hon. C. R. CUDMORE secured the adjournment of the debate.

ADJOURNMENT.

At 3.16 p.m. the Council adjourned until Wednesday, October 5, at 2 p.m.