LEGISLATIVE COUNCIL.

Thursday, October 3, 1957.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2.15 p.m. and read prayers.

SUPPLY ACT (No. 3).

His Excellency the Governor intimated, by message, his assent to the Act.

QUESTIONS.

EMPIRE GAMES.

The Hon. K. E. J. BARDOLPH—Has the Attorney-General a reply to a question I asked on Tuesday last regarding financial assistance by the Government for the promotion of the Empire Games in South Australia?

The Hon. C. D. ROWE—As promised, I made some investigations and find that a public meeting was held, I think in the Adelaide Town Hall, some time ago when representative citizens were present. I believe the Premier undertook that he would be prepared to join with other authorities in whatever financial assistance was reasonable and stated that he thought finance should be provided on the basis of 50 per cent by the Commonwealth, 25 per cent by the State and 25 per cent by the City Council and other authorities. As it has not yet been decided where the Games shall be held the matter cannot be taken any further.

SNOWY RIVER WATERS AGREEMENT.

The Hon. C. R. STORY—I notice a press report intimating that the Premier is going to Canberra to confer with the Prime Minister on the Snowy River Waters Agreement. Can the Attorney-General give the Council any information on the matter?

The Hon. C. D. ROWE—Yesterday afternoon the Premier received a telephone call from the Prime Minister requesting a conference with regard to the difficulties that have arisen over this matter and, after considering the position, the Premier has agreed at the request of the Prime Minister to go to Canberra tomorrow to confer with him. Since I last mentioned this matter we have obtained the opinion of counsel which supports our own view that the agreement that has been signed does prejudice South Australia's right to River Murray water, and it seems therefore rather doubtful what a conference can achieve. Nevertheless, the Government feels that negotiation is the basis on which this ought to be settled and therefore is prepared to pursue every avenue which can be explored along that line.

EVIDENCE ACT AMENDMENT BILL.

The Hon. C. D. ROWE (Attorney-General), having obtained leave, introduced a Bill for an Act to amend the Evidence Act, 1929-1955. Read a first time.

METROPOLITAN TAXICAB ACT AMENDMENT BILL.

Received from House of Assembly and read a first time.

STATUTE LAW REVISION BILL.

Second reading.

The Hon. C. D. ROWE (Attorney General)—I move—

That this Bill be now read a second time.

As its long title indicates this Bill is for the purpose of repealing some obsolete Acts and making consequential and minor amendments to other Acts. As regards the repeal of obsolete Acts from time to time, probably most members would agree that this should be done. One reason for doing it is that the continued existence of obsolete Acts in the Statute Book without express repeal creates a certain amount of confusion and trouble. People who have to look up the law on a particular topic necessarily look at all the Acts which appear to deal with that topic and if there are obsolete but unrepealed Acts apparently dealing with a topic under consideration some time is wasted in perusing them.

To take an example, the old Wheat Products Prices Act of 1938 might at first sight have some bearing on the subject of price control although, in fact, that Act is part of a scheme for stabilizing the price of wheat, and went out of existence when the Australian Wheat Board was created. Or again, people looking into the law of landlord and tenant and finding that there are on the Statute Book Landlord and Tenant Rent Reduction Acts of the years 1932 to 1936 might think at first sight that these Acts were relevant to current problems, whereas, in fact, the Acts and orders made thereunder had no operation after June 30, 1937.

Another reason for repealing obsolete Acts is that when volumes of Acts are reprinted the repealed ones can be omitted with an appreciable saving in the cost of printing and paper. All that need be said about the sixteen Acts which are proposed to be repealed by this Bill is that they are all obsolete except one section in the Bread Act Amendment Act and the reason for repealing this Act is that the particular section is proposed to be inserted

in the Local Government Act where it properly belongs because it deals with the by-law making powers of local governing bodies. The three Acts about the National Bank of Australasia which it is proposed to repeal do not deal with the present National Bank of Australasia but with a defunct organization which went out of existence about 70 years ago.

The amendments proposed are all technical or minor ones, but if they are not made problems of interpretation will sooner or later arise, and these could lead to trouble and expense. The proposed amendments to the Juries Act will not alter the existing practice in any way but they are for the purpose of harmonizing the language of the Juries Act with that of the Supreme Court Act and the Electoral Act. Since the Juries Act was passed the old circuit courts, which were separate courts distinct from the Supreme Court, have been abolished and what are commonly called circuit courts nowadays are in reality circuit sessions of the Supreme Court. It is desirable that the language of the Juries Act should be in accordance with this change in the nature of circuit courts. There are also a number of references in the Juries Act to "sub-districts." These used to exist as separate sections or parts of electoral districts but, as a result of changes in the electoral laws, their place is now taken by subdivisions, and it is desirable that the Juries Act should refer to these electoral areas by their proper names. The other amendments are consequential, or for the purpose of removing words which became superfluous as a result of alterations made in the course of preparation or passing of the Bills on which the Acts were based. The amendments will improve the form of the statutes without altering the intention of Parliament. If any member would like a specific report on any particular amendment, the Government will be pleased to supply more detailed information.

At this stage I express my appreciation to the Parliamentary Draftsman and his officers for the work they have done in relation to this matter. This type of amendment is one that tends to be postponed from time to time, but when members have had an opportunity to look at it I think they will realize it is well worth while. I am indebted to the Parliamentary Draftsman for his investigations into the matter and for the work he has done in preparing this Bill.

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

ACTS INTERPRETATION ACT AMENDMENT BILL.

Second reading.

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

The Commonwealth Government has recently introduced a new mail service known as the certified mail service which will in many cases be used by the public in preference to the registered mail service. The purpose of this Bill is to allow those who are authorized or required, pursuant to any Act, to serve a document by registered mail, to take advantage of this new system and serve it by certified mail. For the information of members I will explain the new system by reading an extract from a letter dated December 10, 1956, from the Secretary to the Prime Minister to the Secretary to the Premier. I quote:—

When an article is sent by certified mail a receipt of posting is issued to the sender. At the delivery office a receipt is obtained from the addressee and will be held for a period of 12 months so that proof of delivery may be obtained should this become necessary. Should the sender wish to obtain an immediate acknowledgment of receipt, this can be secured by completion of the necessary documents at the time of posting and payment of an addition fee of 9d. Certified mail will not be subject to the same security handling and documentation as applies in the case of registered mail and is therefore not suitable for articles of monetary value. It is, however, just as suitable as the registered post when the main considerations are proof of posting and delivery and it will, therefore, be suitable for transmission of certain types of documents, including legal papers of no cash value and postal ballot papers. As the minimum fee for the registered post is 1s. 3d. and that for certified mail 6d., both exclusive of normal postage, the certified mail service offers some economies to the public where it is suitable.

The Government believes that the new service will be of benefit to the public. It therefore proposes in this Bill to give it legal recognition so that citizens may use it in any case where the law would normally require or permit a registered letter to be used.

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

APPROPRIATION BILL (No. 2).

Adjourned debate on second reading.

(Continued from October 2. Page 880.)

The Hon. F. J. CONDON (Leader of the Opposition)—When dealing with the Budget it is usual to deal with a number of items in the second reading speech, and not to deal with individual lines. I intend to follow that

practice today. The expenditure proposals amount to £71,615,000, as compared with revenue estimates of £71,095,000, thus leaving a prospective deficit of £520,000. Ten years ago the Premier budgeted for a deficit of £1,000,000. The two grants made are the tax reimbursement grant and the special grant recommended by the Grants Commission, which is £1,783,000 more than the grant for last year. The special grant is £100,000 less than that for the previous year. In the aggregate, therefore, these two grants total £23,200,000, or 33 per cent of the anticipated receipts from all sources, which is the same proportion as last year.

Before dealing with the items in this Bill I once again refer to the Parliamentary Superannuation Fund, about which members have heard me speak on many occasions. This fund was established in 1948 to provide for payment of superannuation benefits to members or widows of members who had served in the State Parliament and who qualified for pensions. The present scheme is not a very liberal one, and when it is considered that £82,644 stands to the credit of the fund, I think it is obvious that it is time the Act was amended.

Last year members contributed £4,194 to the scheme. When a fund reaches the amount I have mentioned I think it is time members received more consideration. The Government pays an equal amount, plus a further amount as certified by the Public Actuary. The maximum that any member can receive today for himself and his wife is less than the old age pension. Members contribute a fair amount to this scheme; we are not getting it for nothing, and I should say we are prepared to increase our contributions providing we receive a corresponding increase in benefits. Last year there were 59 contributors to the fund, and nine ex-members and seven widows were in receipt of pensions. I ask the Government to consider an amendment which will confer greater benefits. It is necessary for a member to serve 12 years before he can participate, and if he is here 30 years he can receive only the same as a man who has been here for, say, 18 years.

The Hon. E. Anthoney—He gets no long service leave either.

The Hon. F. J. CONDON—Members have to pay towards this scheme, and are not asking for anything to which they are not entitled. This scheme is not as favourable as others that have been passed by this Council and are now on our Statute Books.

The Hon. E. Anthoney—It is the most illiberal scheme in the Commonwealth.

The Hon. F. J. CONDON—I agree, and I hope the Government will consider the matter. When a scheme can build up in nine years to £82,450 it is time that something was done. I repeat again that we do not want something for nothing, and we are prepared to pay our share. At the moment we are about the worst off of any State in the Commonwealth. I have gone into the figures and have made requests to the Government. In Victoria a member receives a pension equivalent to the basic wage.

The Hon. C. D. Rowe—Does the honourable member think there should be a graduated scale and that the man with 30 years' service should receive more than the man with 18 years' service?

The Hon. F. J. CONDON—No, but I think a man should not have to serve 12 years before he becomes entitled to a pension. If he enters Parliament following a by-election, for instance, he should become eligible to participate if he is elected on two successive occasions. The minimum of 12 years' service is too high.

We are told that this State is still progressing more rapidly than Australia as a whole, but I do not agree with that. If it is so, why is our industrial legislation below the standard of other States? If this State is so progressive and prosperous, why is there so much argument when we try to introduce legislation that will give benefits to the majority?

Things have altered considerably since last month when this Budget was introduced into Parliament, and the seasonal outlook for the State is far from satisfactory. During the last 12 months high officials have advocated sowing a lower acreage of wheat. We have heard the chairman of the Australian Wheat Board and farmers' representatives urging people to adopt a go-slow policy, but there is no need to do that now because Providence has stepped in and is doing it. With the lack of rainfall this will probably be the worst season for many years, and we are faced with stock losses, which is a very serious thing. We have heard some members of Parliament advocating a reduction in rail freights and other charges after 12 good seasons, and that is a very poor state of affairs. We should all have learned a lesson from what has happened at various times in the past, and provision should have been made to meet the position that we appear to be facing now.

In many cases hay cannot be procured today and when it can it is at exorbitant prices.

It was indicated that about 1,500,000 acres of wheat and 1,400,000 acres of barley were sown and that with a favourable growing season and good September rains the harvest would be about 30,000,000 bushels. However, if conditions continue as they have during the last few weeks we will be very fortunate if we reap half of that estimate. This must play a very important part in the economy of South Australia and that is why I question the amount of the estimated deficit. Of course the Treasurer cannot foresee the future, but I am sorry to think that things may not be as rosy as some people imagine. Prior to the war Australia shipped 52,000,000 bushels of wheat and flour to the United Kingdom, but during the last five years the average shipments have been only 23,000,000 bushels, and in 1954, only three years ago, it was as low as 13,000,000 bushels.

A Bill was introduced into the Federal Parliament for a new research into the scientific and economic problems of the wheat industry. This is the third industry whose representatives have agreed to a plan to finance research into industrial problems, the other two being the wool and tobacco industries. I do not know much about tobacco, but I know a little about wool and wheat. The estimated wheat production in France for 1957 is 385,000,000 bushels and for the year 1955-56 the estimated production for India was 321,000,000 bushels, so we see what competition faces Australia. Subsidies by the Governments of exporting countries are detrimental to Australia and we will realize that before we are much older. Today we are facing a shortage of feed for stock and I recall when this Council was compelled to pass the Hay Acquisition Act. We all know the losses that are caused by drought, and although I should be sorry to see it again we must face the possibility this year. We can only hope and pray that we will be blessed with rain very shortly so as to save the position.

This year State taxation will yield £9,750,000 which is little over £500,000 more than was received last year. The principle increases are estimated to come from:—

Stamp duties, £55,000.
Succession duties, £128,000.
Motor vehicles registration and licence fees, £212,000.
Publicans' licences, £38,000.

The last mentioned is a hardship on many men in small businesses, but the Treasurer evidently thought that money had to be got somewhere and so the sum of £38,000 from this source will help to balance the Budget. From public works and services and other receipts the estimated revenue is £36,866,000, which is £3,126,000 more than was received last year.

I want to say a little here in regard to Harbors Board revenue and pay a compliment to those in charge of our harbours for the substantial profit they have shown. I think, however, that they are a little ambitious in their 50-year plan and perhaps have gone a little beyond themselves and that some of this money could be spent in other directions. Harbors Board revenue for this year is estimated at £2,275,000, an increase of £154,000 over the previous year. Total Loan expenditure by the board at June 30 was £13,232,000. I well remember when a Royal Commission was appointed of which the Hon. Sir John Bice, the father of our present member, was chairman. That commission recommended the acquisition of the wharves by the Government. The matter had been under discussion for many years with the result that little had been done by the private companies to improve the wharves and they were in a very bad state when the Government accepted the responsibility. Today we should be proud of the way in which our harbour factilities have been improved, and this year's year's surplus was £250,000 a very creditable performance. This surplus was due mainly to increased wharfage charges. Of course increased charges have been imposed in all departments and I do not say that it has been unnecessary, for it has to be done to meet the situation. I well remember putting up a fight against the introduction of the Osborne coal gantries. At that time the method used by Howard Smith Ltd., the Adelaide Steamship Company and other firms, was to unload the coal by grabs. I realize that times change and that it is necessary to adopt improved methods and appliances, but we were told then that the gantries would be a paying proposition and reduce costs. We find, however, that the loss on the gantries last year was £49,000. What have we accomplished in that respect? Recently it was ordered that the Millicent to Beachport and the Glencoe to Wandilo railway lines be closed, so what about closing down some of the ports under Harbors Board direction that are not paying their way? Of the 35 revenue producing ports, only 11 returned surpluses. The total surplus was £485,000 mainly contributed by Port Pirie, £220,000, an increase of £85,000, and Port Adelaide, £159,000, an increase of £63,000.

Three of the five deep sea ports, Port Adelaide, Port Pirie and Port Lincoln, showed surpluses. Wallaroo returned a deficit of £7,000, and Thevenard £4,000. I am hopeful that the plaster works at Thevenard will enable that port to show a handsome surplus in years to come.

The Hon. Sir Arthur Rymill—What about bulk handling at Wallaroo?

The Hon. F. J. CONDON—I do not know if that will result in a surplus. We gave the Bulk Handling Co-operative a charter to spend a certain amount of money which was guaranteed to the extent of £500,000 by the Government, but how much wheat will go through the port this year, and what will be the position if we have one or two bad years? These are things that we must face up to. I supported the Bulk Handling Bill, and I am not complaining, as I said that bulk handling is all right in other parts of South Australia for the reasons I gave. Of the 30 other revenue producing ports eight recorded surpluses totalling £35,000. This was largely contributed by Ardrossan which produced a surplus of £19,000. A loss was incurred by 22 ports totalling £90,000, and of these Edithburgh showed a loss of £14,000 and Kingscote £20,000. I don't know how Ardrossan will be affected when the Wallaroo bulk handling facilities are in operation, but despite the charter given by Parliament to the co-operative, many complaints are being made because people were told they would get a silo with a capacity of 30,000 bushels, but they are not getting it. I have received letters complaining about the treatment received, and I have replied that that is a matter that the co-operative will have to deal with. However, nothing can be done in bad seasons. A heavy loss will be made by someone under the conditions facing us now.

The net cost of maintaining jetties and improvements at localities not engaged in shipping operations and from which the board received little or no return was £83,000. Should not we consider closing some of our outports and making other transport arrangements? However, I would be opposed to closing ports on the West Coast that have little chance of obtaining transport compared with some in Adelaide.

The Hon. C. R. Story—Wouldn't that be rather centralizing things?

The Hon. F. J. CONDON—Perhaps other railways in this State could be closed, because the public does not realize just what the railway system has done for them over the years. This matter could be considered in view of the colossal losses made year after year. Although I agree that the railways have improved their position, I do not know whether it is necessary to incur heavy expenditure in purchasing diesel engines.

The Hon. E. Anthoney—They have shown an increase in revenue this year.

The Hon. F. J. CONDON—That may be so. Railway revenue is estimated at £18,700,000, an increase of £1,103,000. Treasury funds employed in the State railways total £50,424,000. The monthly average of the staff employed in operating and maintenance decreased by 108 last year. I do not think every department could show such a result in the circumstances.

The Hon. E. Anthoney—The railways are becoming more and more mechanized every year.

The Hon. F. J. CONDON—They are, but do people appreciate this? Often less than a dozen people travel on some trains on the Port line because they have other forms of transport which, although dearer, are used because the people will not walk a few extra yards even for a cheaper ride.

The Hon. J. L. S. Bice—Would electric trains be used by the public?

The Hon. F. J. CONDON—I do not know that they would, because people will not walk a street further if they can catch a bus.

The Hon. J. L. S. Bice—They are used by the public in Victoria.

The Hon. F. J. CONDON—That is because that State has the population, so the position there is entirely different. I do not think it would be possible to have a better bus service than that on Port Road.

The Hon. E. Anthoney—It is quicker than the train, isn't it?

The Hon. F. J. CONDON—It is not, because there are 38 or 39 stops between Port Adelaide and Adelaide. However, more time is wasted at each railway station now with diesel engines than when steam engines were used. There must be a time table and I suppose it must be the same for a diesel as a steam train. However, that may be overcome. Refreshment services showed a deficit of £17,000. The deficit for the Adelaide dining room and cafeteria was £29,000, and departmental shops showed a profit of £19,000.

The Hon. E. Anthoney—They are the dearest in Adelaide.

The Hon. F. J. CONDON—I do not know about that, but the Railways Department would probably like to have a few more of them.

The loss on country refreshment rooms was £5,000. The public do not appreciate the services that have been rendered to them by the railways in this respect. I understand that private people have now taken over some of the refreshment rooms. We must be very careful with our expenditure because we will not always have the good seasons we have had during the past 12 years. The Government has missed the bus. When things were fairly good Parliament did not take the opportunity to increase costs but waited until people were not in a position to meet those increases before increasing charges on nearly every public utility.

Revenue from waterworks and sewers is estimated at £4,328,000, an increase of £799,000 due to increased prices for rebate and excess water. South Australia has done a lot to provide people with water services. I have referred on previous occasions to the direct losses on our country water supplies and will do so again. If we wish to have decentralization and keep people in the country we must give them the same amenities as the metropolitan area. Parliament, therefore, has to make up any losses that are incurred in country areas. Treasury funds employed in these undertakings at June last totalled £45,250,000. Each undertaking showed a deficit last year, that on the Adelaide district being £485,000. I remember a few years ago when the metropolitan water scheme showed a profit of 11 per cent.

The Hon. E. Anthoney—Not very long ago either.

The Hon. F. J. CONDON—That is so. There are only three water districts, namely, Adelaide, Barossa, and Morgan-Whyalla that earn sufficient to meet working expenses and make some contribution towards interest charges. Adelaide contributed 1.2 per cent on funds employed, Barossa 2 per cent, and Morgan-Whyalla .8 per cent. The earnings from the Tod River water district were less than one-quarter of the year's costs. I have said before and I repeat again that the Tod River scheme has a big influence on production on the West Coast. I do not complain that these water schemes are not paying, but I point out again that some provision has to be made to meet the annual expenditure. The increase in revenue in this department is due to increased assessments and water rates. Arrears of rates amount to £40,092, which shows that people are not in a position to even pay their water rates.

A grant of £12,850 is to be made to the Royal Zoological Society towards operating and improving the Zoological Gardens. I urge the Government to give a little more favourable consideration to this society, which plays a very important part in this State, both in education and in other ways. It has had a great deal of added expense because of the necessity for improvements, and further improvements will be required. The board has tried to meet the position by increasing charges. The zoo is an education not only to the younger generation but to all. Mr. Melrose is the very worthy chairman of that valuable institution. I hope the Government will see fit to increase the society's grant.

In the Treasurer's statement reference is made to the part that school committees play in installing amenities for school children. The sum of £2,000,000 has been raised in this way. Why not give similar consideration to private schools? Private schools are rendering a wonderful service to the community and saving the Government a huge sum of money annually. If it is fair to subsidize the school committees of State schools on a pound for pound basis it is equally fair to provide the same subsidy for private school committees, and I think the Government might well consider that suggestion favourably.

I now come to fruit fly eradication. During 1956-57 the sum of £211,526 was spent in this connection and altogether it has cost the State £1,306,197. Expenses for stripping, disposal of fruit and spraying to June 30, 1957 was £992,663, and compensation to owners for fruit destroyed was £312,110. To June 30 last year, 24,004 claims were received, 759 were disallowed and the compensation paid was £262,745. For the year ended June last 1,509 claims were received and 16 disallowed, the compensation being £49,365.

The Hon. E. Anthoney—That is a lot of money.

The Hon. F. J. CONDON—It is, and I am somewhat doubtful whether we are going about it in the right way. I understand that in Mildura the radius proclaimed for stripping is much smaller. I think the same practice might be adopted in South Australia, if only as a trial, for I believe it would result in a considerable saving.

In 1956-57 there was a further downward trend in the number of stock treated for export by the Produce Department. Lambs were down 20 per cent, and sheep 84 per cent. At Port Lincoln 30,000 lambs were treated as compared

with 95,000 the previous year, a reduction of 68 per cent. At the Metropolitan Abattoirs 386,000 lambs were treated for export, a reduction of 18 per cent on the previous year. Only 12,000 sheep were treated for export at both works as against 73,000 the previous year. The Light Square works showed a profit of £9,300 and Port Lincoln a loss of £63,000.

I wish to say now a few words concerning the University Council. I have brought this question before members on other occasions and in doing so this afternoon I do not want it to be thought that it is my wish that the present representatives of this Council be deposed. My view is that the Government should amend the Bill so as to increase the number of Parliamentary representatives from five to six, thereby permitting the appointment of a Labor Party representative from this Council. We are asked to vote £815,000 as a grant to the University and therefore all shades of political thought in this Chamber should be represented on the University Council. The House of Assembly has three representatives—two Liberal and one Labor—and this Council has Sir Frank Perry and Mr. Densley. I want to see them retain their positions, but the Opposition is part and parcel of this Council and I think it has been overlooked and therefore the Government might well amend the Act in the way I have suggested.

I do not want members to gain the impression that I am against this Government expenditure that we are discussing today. The money has to be found somehow and if we cannot find it from our resources we must get it from the Commonwealth Government. In my remarks this afternoon I have not referred to many subjects such as mining, housing and roads and I leave them to other members. I have endeavoured to offer constructive criticism, if it can be termed criticism. I have brought these matters forward as the Opposition sees them in the hope that the Government will give at least favourable consideration to some of them. I support the second reading.

The E. ANTHONEY secured the adjournment of the debate.

MARRIAGE ACT AMENDMENT BILL.

In Committee.

(Continued from September 24. Page 758.)

Clauses 2 and 3 passed.

Clause 4—"Age of marriage."

The Hon. C. D. ROWE (Attorney-General)—As I indicated in my reply on the second reading I proposed once the Bill got into Committee to report progress so that consideration could be given to the various aspects raised during the debate. That has been done and I have prepared an amendment which is on the files.

The Hon. Sir ARTHUR RYMILL—I realize that one cannot achieve everything one may desire and, as the principles that I criticized are dealt with to a large extent in the Minister's amendment, I do not propose to proceed further with mine.

The Hon. L. H. DENSLEY—When speaking on the second reading, Mr. Cudmore indicated that he would move an amendment to this clause. Therefore, on behalf of Mr. Cudmore, and at his request, I move:—

In new subsection (1) (*b*) to strike out "sixteen" with a view to inserting "fifteen."

When speaking on the second reading, Mr. Cudmore said:—

I still feel that the age of 16 is wrong for girls in a climate like that in South Australia. Many girls are so matured at 15 that it would be entirely wrong for us to say that they could not marry legally. In Committee I propose to move, as I did last year, for the age to be altered from 16 to 15 years.

The Hon. C. D. ROWE (Attorney-General)—As Mr. Densley has indicated, Mr. Cudmore said that he proposed to move along these lines. In fact, he made that suggestion when a similar Bill was before this Council in 1955. I feel that the effect of my amendment will largely annul the reasons he advanced for reducing the age, because it will make certain that consent can be given in certain circumstances. The age of 16 is common to the laws of many parts of the British Commonwealth and elsewhere, so I ask members not to accept the amendment.

The Hon. A. J. MELROSE—I am not in favour of altering the present legal position. I have listened to the views expressed by the Attorney-General, but members should not lose sight of the varying ages of maturity of children in various parts of the world. Perhaps Eskimos mature more slowly than Cingalese, so I do not think any age would fit the whole world. I am therefore prepared to support the amendment.

Amendment negatived.

The Hon. S. C. BEVAN—I move—

To delete "the Minister" in new section 42a (2) with a view to inserting "a special magistrate in chambers."

During my speech on the second reading I said that I thought the Minister, who will be the Chief Secretary, has enough duties without having to have investigations made into these

matters. Also, I feel it would be more appropriate for a magistrate in chambers to deal with them. The parties concerned could be called before him, they could sit down and discuss the matter adequately, and the magistrate would be in a better position to give a decision following a conference. I visualize that the Chief Secretary would not make the necessary investigations, but would have the Children's Welfare Department, the Women Police and the Police Department make them and report to him, from which report he would give a decision. In his reply on the second reading, the Attorney-General outlined proceedings in the different States, and mentioned the alteration in the English law. He referred to Tasmania, but the magistrate makes the decisions there, although perhaps does so in conjunction with the Registrar-General or the Attorney-General.

It has been said that a magistrate in chambers would not have any privacy, but I do not think that is so. Recently, I read complaints in the press because a magistrate had ordered in open court that evidence and names were to be suppressed. If a magistrate has that power in open court, surely he would have it in chambers. In the interests of the parties concerned and of the community it would be better to have an investigation made by a magistrate in chambers than by the Chief Secretary.

The Hon. C. D. ROWE—I dealt with this matter fairly fully in my reply on the second reading. Briefly, the Government opposes the amendment for several reasons. Firstly, this responsibility has been that of a Minister since 1876, and I have never heard any complaints that it was not used correctly or in a way that would satisfactorily serve the interests of the parties concerned. Secondly, matters normally referred to courts involve decisions on facts or law. In this matter the facts are always known, and it is a matter of administration. Such matters are more appropriately dealt with by the administration than by courts. Thirdly, I am still satisfied with the avenues open to a Minister, plus the fact that if he desires he can see the parties together or individually and get their individual views. He has all the avenues open to him that would be open to a magistrate. Lastly, I feel the matter is better left where it is, because if it is placed in the hands of a magistrate, it could not be in the hands of one magistrate with special knowledge, but would have to be in the hands of several magistrates for different districts. I ask members to reject the amendment.

The Hon. Sir ARTHUR RYMILL—During my speech on the second reading I expressed the view that it might be better if this power were transferred to a magistrate rather than a Minister. That, of course, was in relation to the clause when it left the Minister a completely unfettered discretion. The position now, however, is that the Attorney-General has given an indication that he proposes to move an amendment that removes this unfettered discretion and provides that the Chief Secretary shall make an order when the parents' consent unless there are special circumstances. That, to my mind, alters the approach to the Bill, and although I am not in entire agreement with the Attorney-General on this matter, in as much as I think it would be a proper thing to go to the court —indeed, both the Tasmanian and the Western Australian Acts appoint magistrates in certain circumstances to deal with these matters—on the other hand the amendment tying the Minister to a very large degree to the parents' consent has such an effect that it is probably unnecessary to invoke the aid of a court. In those circumstances I propose to support the amendment to be moved by the Attorney-General, which will mean that the ministerial prerogative will be limited. Under section 26 the Minister already has discretion to consent when the parents do not consent. If Mr. Bevan's amendment is carried, it will be necessary in my view to amend that section, otherwise the Minister would have power to consent in one facet of the case, and a court could supervene in another, which I think would be unworkable.

The Hon. F. J. CONDON—In the second reading debate I said that I thought a special magistrate should be the one to decide these matters. The Attorney-General was very fortunate in having his previous amendment passed, and as he used Tasmania and Western Australia in his argument, why not do that in this case. I support Mr. Bevan's amendment.

The Hon. L. H. DENSLEY—A number of members said that there had not been any complaint in the past at the exercise of discretion by the Chief Secretary. However, quite a number of complaints in this respect have been made to me, and I have a letter here which claims that the Chief Secretary would not hear evidence in a particular case. For that reason, I think it would be better if a magistrate in chambers exercised this discretion, as suggested by Mr. Bevan. I will quote an extract from a letter which

appeared in the press and which I think many members have read. This letter puts the position plainly, and is as follows:—

The so-called investigation by the women police is just a farce. They are of the opinion that it is better for the child if the marriage takes place. In any case such a decision should not rest on the opinion of one police officer, especially an unmarried woman. Here are her words to me when I asked her if I could do nothing about it:—"Nothing whatever. I make my report to the Chief Secretary and he gives his decision entirely on that." Later I asked to see the Chief Secretary to discuss the matter with him, but he refused—replying briefly that the marriage was desirable.

That is the position to which people are objecting throughout the country—that the Chief Secretary has not been approachable in the matter. He relies on the decision of the women police, and I do not think any member of this Chamber would be satisfied if he thought that an inquiry by the women police and a recommendation by them was the deciding factor in these cases. I spoke at length on the second reading of the responsibilities of parents in this matter, and I must support the amendment moved by Mr. Bevan in order to give the parents an opportunity to state their case.

The Hon. K. E. J. BARDOLPH—I support the amendment. The argument used by the Attorney-General in regard to his opposition to the amendment was that matters of law and fact would be determined by the magistrate if this amendment were carried. However, I think the more these things are determined by those capable of determining them, especially our magistrates in the Children's Court, the more satisfaction will be afforded to all concerned. I quite agree with Mr. Densley. I do not cast any aspersions upon our responsible departmental officials, but I doubt whether it is their prerogative to make a decision and to advise any Minister as to what the responsibility of the Minister should be in these matters. I think the amendment submitted by Mr. Bevan will place the position outside the pale of that atmosphere, and consequently it will be determined on proper issues.

The Hon. Sir ARTHUR RYMILL—I listened with great interest and respect to the views put forward by Mr. Densley, and naturally one must agree with them to a very large extent. On the other hand, I again point out that in the amendment the Attorney-General has outlined the Minister is obliged to take a certain course of action unless he finds that there are special circumstances which warrant his doing something else. I suggest that in the light of the words "special circumstances" the Minister could not just make a superficial inquiry and take some outside report on the matter. I do not think he could legally do that, and I think he would be obliged to give a proper hearing before any court would support his action. Although courts are not mentioned, we still have our courts of law to fall back on even where Ministers are concerned. In my view, the amendment outlined by the Attorney-General would oblige the Minister to give a proper judicial hearing to the matter before he could find that there were special circumstances warranting him to do other than he is directed to do by the Act. For that reason I am prepared to accept that position, otherwise I would certainly vote in favour of a special magistrate rather than a Minister.

The Hon. A. J. SHARD—I support the amendment moved by Mr. Bevan because of the very facts Sir Arthur Rymill mentioned. I have discussed the Government's proposed amendment with various people particularly the words "unless there are special circumstances which justify his refusal to do so." Sir Arthur Rymill mentioned a court of inquiry, but the Government says that a Minister must make the decision. That is the whole basis of my objection, and on that matter I agree entirely with Mr. Densley. The Minister will act entirely on the report of some police officer or someone else. No Minister will constitute a court of inquiry where all the parties would be present at the one time, and he would base his decision as to whether there were special circumstances or otherwise on the report of some public servant, and public servants have a very nasty habit of becoming dictatorial, as we have seen from the correspondence read by Mr. Densley. If we do not believe that we have not had much experience with public servants of high authority. It is essential to have a court of inquiry and a magistrate to hear these cases and to take the matter out of the hands of the Minister who in ninety-nine cases out of a hundred accepts the reports of his officers. I hope Mr. Bevan's amendment will be carried.

The Hon. C. D. ROWE—I cannot agree with Mr. Shard that public servants are dictatorial, because I have always found them to be co-operative and helpful in every way. The other point I make is that the arguments advanced seem to be advanced on the basis that a magistrate never makes a mistake and that a Minister always makes a mistake.

The Hon. K. E. J. BARDOLPH—Oh no!

The Hon. C. D. ROWE—To err is human, and we cannot get over the human element. In my view there is just as much chance of a magistrate reaching a wrong decision in this matter as a Minister, and this is evidenced by the fact that not every judgment of a magistrate goes without appeal and not every appeal is disallowed. Unfortunately, where we are dealing with human matters there is always that element which we cannot completely solve, and I believe that in this matter the chances of error are no greater with a Minister than with a magistrate. Indeed, I believe that because of the nature of the circumstances we are likely to have a better administration with a Minister than with a magistrate. I therefore ask the Committee to disallow the amendment.

The Hon L. H. DENSLEY—I think we all agree that a Minister would give the matter close attention, but the point at issue is whether the parents of the children will have the opportunity to put their case. If the inquiry were held before a magistrate there would be no question about that, but in view of the statements made to me over the last few months that it is not so easy to approach the Chief Secretary there is a very definite doubt about it. I therefore think that the Attorney-General in his reply on that matter has missed the point of the discussion.

The Hon. A. J. MELROSE—I have listened to the arguments advanced by the various speakers on this matter. During my second reading speech I gave strong support to the matter involved in Mr. Bevan's amendment, and however much I was impressed by what the Attorney-General has put forward I cannot fail to support Mr. Bevan in his point. I am still convinced that theoretically a magistrate is a better type of person to deal with these cases; he must be as impartial as it is humanly possible to be, and he is trained in the weighing of evidence and can detect capricious refusals on the part of parents. A Minister of the Crown is really an accident of the politics of the day. We naturally have to think of them as being very capable, fair and outstanding men, but their terms of office vary and in the future there could be more chances of bias of one sort or another in the hands of a Minister than in the hands of a magistrate.

I have listened to the arguments for and against the amendment and I realize that there would be difficulties in administration. We have been thinking in terms of our present Chief Secretary and of the particular magistrate now occupying the Juvenile Court Bench, but we have to remember that we might be dealing with cases from Oodnadatta to Mount Gambier and from Eucla to Cockburn, and many of these people would not have the opportunity of appearing before the particular magistrate we have in mind. The Minister of the Crown would naturally have to delegate his power and obtain his information from departmental officers, because he obviously could not tour around the country investigating these cases. A strong point in favour of the Attorney-General's contention is that the Minister can delegate his power to a greater extent than the court or a magistrate could delegate authority. Nevertheless, I firmly believe that theoretically a magistrate is a better man to deal with these difficult cases, and I will support the amendment moved by Mr. Bevan.

The Committee divided on the Hon. S. C. Bevan's amendment:—

Ayes (5).—The Hons. K. E. J. Bardolph, S. C. Bevan (teller), F. J. Condon, L. H. Densley, and A. J. Shard.

Noes (10).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, N. L. Jude, Sir Frank Perry, W. W. Robinson, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Pairs.—Ayes—The Hons. A. J. Melrose and C. R. Cudmore. Noes—The Hons. E. H. Edmonds and Sir Lyell McEwin.

Majority of 5 for the Noes.

Amendment thus negatived.

The Hon. C. D. ROWE—I move to insert the following new subsection (2A):—

(2A) The Minister shall not make an order under subsection (2) of this section if either of the parties to the proposed marriage is—

(*a*) a boy under the age of fourteen years; or

(*b*) a girl under the age of twelve years.

All that does is to make certain that no consent shall be given to marriages of parties under those ages.

New subsection inserted.

The Hon. C. D. ROWE—I move to insert the following new subsection (2B):—

(2B) The Minister shall in every case ascertain whether all parents whose consent is required under section 26 of this Act have so consented and if so then he shall make an order under subsection (2) of this section unless there are special circumstances which would justify his refusing to do so.

I think the effect of this has been amply explained and I ask the Committee to accept it.

The Hon. S. C. BEVAN—I oppose the new subsection and move to amend it by striking out "unless there are special circumstances which would justify his refusing to do so." I am amazed by the change of face on the part of some members in view of their submissions during the second reading debate about the rights of parents being taken away from them. Where the parents of both parties and the parties themselves are in full agreement that should be sufficient and there should not be any other inquiry, and the Minister should issue the order. Who is to judge whether or not there are special circumstances? We get back to the previous debate on this point. Reports will be obtained from various departments such as the Police, Women Police, Welfare Department or some other, and the Minister will act upon them. Let us assume—and this is pure assumption as I wish to cast no reflections upon any officers of the departments—that the daughter of a couple is in the condition that she should become married and that the full consent of the six persons concerned has been obtained, but because this girl is sincerely disliked by, say, the Women's Police Department, an adverse report is sent in and is acted upon by the Minister. That is quite a possibility. That would constitute special circumstances in which the Minister would refuse his consent despite the desire of all parties to have the marriage consummated.

The Hon. E. Anthoney—That is a purely hypothetical case and we could probably put forward something on the other side.

The Hon. S. C. BEVAN—Does the honourable member suggest that such a thing could not happen when it has already been demonstrated this afternoon that it could? I believe that parents, out of love for their children, know what is best for them and if they are all in agreement why should there be any further inquiries, or a veto on their desires?

The Hon. L. H. DENSLEY—This is a continuation of the fundamental objection we have had to this Bill throughout, as it takes away from the parents the responsibility which is theirs by right and which they should exercise. The point is one which we should all take closely to our hearts. All but a few members here have expressed their opposition to any alteration of the Bill, but the Attorney-General's amendment is a fundamental alteration and the deletion of the words as proposed by Mr. Bevan would bring it back to its right perspective. It has been said that frequently marriages are brought about through the pregnancy of the girl, but I remind members that the Minister has wide powers. Section 55 (1) (*a*) of the Criminal Law Consolidation Act states:—

> Any person who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female of or above the age of 13 years, and under the age of 17 years, shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding seven years.

Unless Mr. Bevan's amendment is accepted we may force people to incriminate themselves. Parents must have the responsibility of deciding whether their children should marry. If a couple want to get married we should not expose the male to the possibility of being imprisoned for seven years. I support Mr. Bevan's amendment.

The Hon. K. E. J. BARDOLPH—This is a vital matter affecting the lives of people and I ask the Attorney-General to report progress.

The Hon. C. D. ROWE—I said I would be happy to give honourable members every opportunity to consider this measure and I think I have done so. I think Mr. Bardolph's request is somewhat unreasonable because it is perfectly obvious what my amendment means, but I am prepared to accede to his request if he believes there is something about it he cannot understand.

The Hon. C. R. STORY—The words Mr. Bevan proposes to strike out are most essential. Parents have been shown great consideration during our discussions, but the parties most involved are those who will contract the marriage. Surely we must consider them. They should have some say as to whether or not they will marry. It is easy for a parent to say, "You will marry." If we retain these words either of the minors will be able to say that they don't want to marry and a proper investigation can be carried out. Consider a hypothetical case. If one party is under age and the other is 35 years of age, only one set of people will be required to consent—the parents of the minor. What would happen in such a case? This requires grave consideration and I would not be a party to the Chief Secretary's having full and absolute power just because parents say the parties should marry. I am totally in accord with the Attorney-General's amendment.

The Hon. Sir ARTHUR RYMILL—We must be realistic and appreciate that we cannot always be entirely right and that the views of other members must be respected. The Attorney-General's amendment means that the Government has accepted at least three-quarters of what I asked it to accept. I do not want to be like the Labor Party in respect of another Bill and say, "If I don't get 100 per cent of what I ask for I am going to take my bat home and won't play any more." This amendment goes a long way towards achieving my desire and it also meets with the wishes of some other members and I support it. We have been asked what the Minister administering this legislation is likely to do. There are two cogent points. Firstly, the Minister has a wide discretion under existing legislation and that discretion has operated for a long time without any members desiring to amend it. I realize that that is not the complete criterion, but let us consider what the Minister can do and is likely to do. We must consider not the present Minister, but any Minister who may in future administer this matter. The Minister's discretion is very much tied by the wording of the amendment and he must accept what the parents determine unless special circumstances justify his refusing to do so. From my experience in the courts I know that the court would give these words a restricted meaning: it would have to be something really special, not just a putative speciality. Secondly, even if I were wrong in that argument, the Minister is morally bound by the direction of Parliament and he could not conscientiously refuse to consent unless he really believed special circumstances existed. We are not likely to have a responsible Minister who is not conscientious. If we did he would not remain a Minister for long, therefore the complaints about this matter are theoretical rather than real.

Because the Attorney-General's amendment goes far more than half way toward meeting my expressed wishes and because I believe that in the face of it my amendment would not have been carried, I accept his amendment because it gives me much rather than nothing, which might have been my position had I not agreed to accept it. I therefore support the Attorney-General's amendment.

The Committee divided on the Hon. S. C. Bevan's amendment to new subsection (2b)—

Ayes (5).—The Hons. K. E. J. Bardolph, S. C. Bevan (teller), F. J. Condon, L. H. Densley, and A. J. Shard.

Noes (10).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, N. L. Jude, Sir Frank Perry, W. W. Robinson, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Pairs.—Ayes—The Hons. A. J. Melrose and C. R. Cudmore. Noes—The Hons. E. H. Edmonds and Sir Lyell McEwin.

Majority of 5 for the Noes.

Amendment thus negatived.

The Hon. C. D. Rowe's new subsection inserted; clause as amended passed.

Title passed.

Clause 4 reconsidered.

The Hon. F. J. CONDON—I move—

In new subsection (1) (*b*) to strike out "sixteen" with a view to inserting "fifteen." This is similar to an amendment moved when a previous Bill was before this Council, and to the amendment moved this afternoon by Mr. Densley on behalf of Mr. Cudmore. As the Bill has been amended, I want members to vote on whether the age will be fifteen or sixteen.

The Committee divided on the amendment:—

Ayes (5).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller), L. H. Densley, and A. J. Shard.

Noes (7).—The Hons. J. L. S. Bice, J. L. Cowan, N. L. Jude, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Pairs.—Ayes—The Hons. A. J. Melrose C. R. Cudmore. Noes—The Hons. E. H. Edmonds, and Sir Lyell McEwin.

A majority of 2 for the Noes.

Amendment thus negatived.

Bill reported with amendments and Committees' report adopted.

FRUIT FLY (COMPENSATION) BILL.

Received from the House of Assembly and read a first time.

ADJOURNMENT.

At 4.37 p.m. the Council adjourned until Tuesday, October 8, at 2.15 p.m.