LEGISLATIVE COUNCIL.

Wednesday, August 13, 1958.

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

QUESTION.

MOOROOK IRRIGATION AREA.

The Hon. C. R. STORY—I ask leave to make a statement before asking a question.

Leave granted.

The Hon. C. R. STORY—Some time ago I raised with the Minister of Lands the matter of extending horticultural plantings in the Moorook irrigation area so that another 200 acres of land could be planted and brought into production. A local progress association was formed and in conjunction with departmental officers it has been carrying out an investigation on the supply of more water to the district to enable the project to proceed. Has the Attorney-General any information from the Minister of Lands as to how far the investigation has proceeded and when is a decision likely to be reached?

The Hon. C. D. ROWE—I conferred with the Minister of Lands and the position is that a proposal is under consideration for an increased water supply for Moorook to allow 200 additional acres to be planted. I understand that information as to the availability of suitable land in the area is being collated by the progress association, and immediately it has the information it will be in a position to make a firm proposition.

MURRAY BRIDGE CORPORATION BY-LAW: POULTRY KEEPING.

The Hon. E. ANTHONEY (Central No. 2)—I move:—

That by-law No. 40 of the corporation of the town of Murray Bridge for preventing the keeping of poultry so as to be a nuisance and injurious to health, made on July 22, 1957, and laid on the table of this Council on June 17, 1958, be disallowed.

The committee has no objection to the substance of the by-law but objects to the general dispensation clause, which states:—

The council may in any case in which it thinks it expedient dispense with the observance of any of the provisions of this by-law on such terms and conditions (if any) as it thinks proper. Such dispensation shall be valid only if granted in writing under the hand of the town clerk.

It is a common clause in by-laws and this Council has disallowed one or two by-laws because of it, and to be consistent it should disallow the Murray Bridge by-law. The objection raised by the committee is that the clause seems to nullify the whole by-law, because the council reserves to itself the right to vary the by-law on any pretext whatsoever. The committee takes a different view of the matter and thinks that the law should be certain in this aspect; therefore, it asks the Council to disallow the by-law on that ground.

The Hon. Sir FRANK PERRY (Central No. 2)—In connection with the keeping of poultry in a wide area like Murray Bridge there should be some elasticity in the by-law. What applies in the closely populated part of the area would not apply in the parts some distance from the town. I do not know the facts, but I think a hard and fast rule regarding the keeping of poultry at Murray Bridge would be unjust. I know the position from my own experience in a suburb, where the by-law could be justified because of the density of population, but at Murray Bridge there are some less populated parts. Presumably the Murray Bridge corporation desired the by-law on that ground. It would not have prepared the by-law without having given the matter some thought and having some prior knowledge as to how it would operate.

The Hon. N. L. JUDE secured the adjournment of the debate.

PROSPECT CORPORATION BY-LAW: STREET ALIGNMENT BUILDING LINE.

The Hon. E. ANTHONEY (Central No. 2)—I move—

That By-law No. 31 of the Corporation of the City of Prospect for fixing the building line with reference to street alignment, made on August 19, 1957, and laid on the table of this Council on June 17, 1958, be disallowed.

The same explanation applies in this case as on the previous motion. The by-law is of a dragnet nature and it is to this that the committee objects. It allows the town clerk too much discrimination. On those grounds I ask that the by-law be disallowed.

The Hon. Sir ARTHUR RYMILL (Central No. 2)—My views on this by-law are somewhat the same as those of Sir Frank Perry on the previous motion. We must give the council some discretion. I have been a member of a council for a number of years and do not think it has abused the powers granted to it, and they were fairly extensive powers. The difficulty is that unless a council has some latitude, often it could take 12 months before

effect could be given to something desirable. As Prospect is growing so rapidly it is not a feature about which we would have to worry to an enormous extent. In a large city the building alignment is the street alignment. I should like to see this matter examined in that relationship, because the objection of the committee seems to be on the ground that councils are getting too much power. It seems to me that they need a certain amount of latitude.

The Hon. N. L. JUDE secured the adjournment of the debate.

SALISBURY DISTRICT COUNCIL BY-LAW: POULTRY KEEPING.

The Hon. E. ANTHONEY (Central No. 2)—I move—

That By-law No. 42 of the District Council of Salisbury in respect of poultry made on October 28, 1957, and laid on the table of this Council on June 17, 1958, be disallowed.

The same objection applies to this by-law as to the two previous by-laws, therefore I ask the Council to support the motion.

On the motion of the Hon. N. L. Jude the debate was adjourned.

On the motion that the debate be resumed on August 20,

The Hon. F. J. CONDON (Leader of the Opposition)—In suggesting that the debate should be adjourned until next Wednesday, the honourable member should consider that Wednesday is private members' day. If the debate is adjourned as proposed, it might mean that in future an honourable member may be debarred from introducing a private resolution or private Bill, and thus his rights would be taken away. I think the proper procedure would have been to suggest that the debate be set down for next Tuesday.

Debate adjourned until Wednesday, August 20.

SUPPLY BILL (No. 2).

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

Second reading.

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

That this Bill be now read a second time.

This is purely a Supply Bill to enable the administration of the State to be carried on pending the introduction of the Budget, which cannot be introduced until such time as there is some indication of the amount that can be expected from the Commonwealth grant. The amount of £7,000,000 provided in the Bill is to enable the Government to carry on until the Budget is presented. Under clause 3 there can be no expenditure exceeding that provided on similar lines in last year's Estimates.

The Hon. F. J. CONDON (Leader of the Opposition)—For the reasons mentioned by the Minister, I support the second reading.

The Hon. Sir COLLIER CUDMORE (Central No. 2)—I have compared this Bill with a similar Bill assented to last August. It is exactly the same and is to provide funds to enable the Government to carry on, as has been mentioned by the Minister, and therefore I support the second reading.

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

LAW OF PROPERTY ACT AMENDMENT BILL.

The Hon. C. D. ROWE (Attorney-General), having obtained leave, introduced a Bill for an Act to amend the Law of Property Act, 1936-56. Read a first time.

The Hon. C. D. ROWE—I move—

That this Bill be now read a second time.

The Bill relates to a technical matter, namely the application of the law known as the rule against perpetuities, to funds established for the purpose of providing pensions and other benefits for employees. The rule against perpetuities is an old rule of English law based upon considerations of public policy. Its object is to discourage dispositions of property under which the vesting of the property in ascertained persons is postponed for an unreasonably long time. The rule is usually explained as laying it down that every future estate or interest in property must be such that at the time when the instrument creating it comes into operation it can be predicated that the estate or interest must necessarily vest during the life time of a person in existence at the time of the creation of the estate or interest, or within twenty-one years thereafter. For the purpose of the rule an interest is not regarded as having become vested unless the person entitled to it is ascertained and in existence, and the amount of the interest is ascertained, and all conditions precedent to the person's claim have been fulfilled.

It is apparent that many of the interests created by employees benefit schemes do not comply with the rule against perpetuities. Numerous schemes provide for future employees some of whom perhaps are not born when the scheme commences. It therefore often happens

that neither the identity of the persons entitled to benefits nor the amount of the benefit for particular individuals will be ascertained during the period allowed by the rule against perpetuities. The result of violating the rule against perpetuities is that the interest sought to be created is void and unenforceable.

Section 401 of the Companies Act deals with this difficulty so far as it arises in benefit schemes for employees of companies formed and registered under the South Australian Companies Act. The section, however, does not apply to overseas or interstate companies operating in South Australia nor does it apply to schemes created by individuals or partnerships. Experience has shown that it is desirable to have a general law exempting employees' benefit schemes from the operation of the rule against perpetuities and the Government has, after considering the legal position and requests made to it, decided to bring down a Bill on the subject.

In 1927 an English Act was passed for the same purpose, but it also provided for the registration of employees' benefit schemes and only granted exemption from the rule against perpetuities for registered schemes. There does not appear to be any need for registering schemes in this State nor for limiting this Bill to registered schemes. The Bill applies generally to all employees' benefit schemes falling within the definition in clause 3. It will be seen that the definition of "benefit scheme" is wide and includes not only schemes for pensions and retiring allowances, but to schemes for long service leave and payments based on service and schemes for scholarships and payments on death, sickness or incapacity.

In addition to dealing with the rule against perpetuities, the Bill also exempts benefit schemes from the laws restricting accumulations of income. These laws, often called The Thelusson Act, were passed in England in 1800 and became part of our law on the foundation of South Australia. They are now set out in section 60 of the Law of Property Act. Their effect is to prohibit settlors and testators from creating trusts for the accumulation of income for a period longer than one of the four periods mentioned in the Act, namely—(*a*) the lifetime of the settlor; (*b*) twenty-one years from the death of the settlor; (*c*) the minority of any person living or *en ventre sa mere* at the death of the settlor; or (*d*) the minority of any persons who would if of full age be entitled to the income if accumulated.

If the accumulation of income is directed for any other period, the direction is void. It is possible that some employees benefit schemes may contravene the accumulation laws, but it appears desirable that they should not be void for this reason. The Bill accordingly provides that such schemes shall also be exempt from the laws restricting accumulations of income. As I indicated earlier, the Bill is a technical one. If members desire more detailed information at a later stage I shall be pleased to obtain it.

The Hon. Sir COLLIER CUDMORE secured the adjournment of the debate.

KINGSTON AND NARACOORTE RAILWAY ALTERATION BILL.

The Hon. N. L. JUDE (Minister of Railways), having obtained leave, introduced a Bill for an Act to provide for the alteration of the terminus at Kingston of the railway between Kingston and Naracoorte, and for other purposes. Read a first time.

KINGSCOTE COUNCIL BY-LAW: LIGHTING OF FIRES.

The Hon. N. L. JUDE (Minister of Local Government)—I move—

That By-law No. XXI of the District Council of Kingscote for regulating the lighting of fires, made on August 12, 1957, and laid on the table of this Council on June 17, 1958, be disallowed.

This is a somewhat unusual motion. The district council of Kingscote, having promulgated this by-law, has now found that it is not only unworkable but unsatisfactory to ratepayers. The Parliamentary Draftsman has advised that the best procedure to adopt to have this by-law altered is for a motion of disallowance to be moved. Therefore, as a member for the district I am prepared to move for its disallowance.

The Hon. Sir COLLIER CUDMORE secured the adjournment of the debate.

SHEARERS ACCOMMODATION ACT AMENDMENT BILL.

Second reading.

The Hon. C. D. ROWE (Minister of Industry and Employment)—I move—

That this Bill be now read a second time.

The Bill, which makes a number of amendments to the Act relating to the accommodation to be provided for shearers, has been drafted in terms of an agreement between the Stockowners' Association and the Australian Workers' Union (South Australian Branch)

and has been approved by both parties before introduction to Parliament. The explanations of the clauses of the Bill are as follows:—

Clause 2 provides that the amendments proposed in the Bill shall come into force on a day to be proclaimed at least six months after the passing of the Bill.

Amendments provided for in clause 3 are as follow:—

Subclause (1) provides for the amount of air space for each shearer in his sleeping compartment to be increased from 300 cub. ft. to 480 cub. ft. Whereas previously the height limit for the purpose of calculating air space was 14ft., it is proposed to reduce that to 11ft.

Subclause (2) deals with the lining of sleeping quarters. The 1947 amendment to the Act provided that sleeping accommodation erected after the date of the passing of that amendment should be ceiled and lined where the building was of a frame construction. The necessity for lining is now extended to rooms used for sleeping, dining, recreation or cooking, and certain specified materials must be used for the work.

Subclause (3) sets out in some detail what is meant by "separate" sleeping accommodation for cooks and their assistants. It also lays down minimum requirements for partitions between rooms, and includes a provision for separate sanitary accommodation for female cooks.

Subclause (4) in effect provides that each shearer shall be given a bedstead or bunk of not less than 6ft. 6in. in length and not less than 2ft. 6in. in width.

Subclause (5) deals with mattresses supplied for shearers and provides that they must be approximately 4in. in depth.

Subclause (6) provides that the shearers' sleeping compartments must be equipped with a wardrobe and chair in addition to a table.

Subclause (7) prohibits a room used for sleeping from being used for the preparation or serving of meals, and makes it necessary for a room used for dining to be separated from the kitchen by a partition of a specified type.

Subclause (8) provides that there shall be a supply of hot water to the shearers' bathroom.

Subclause (9) provides that, in the absence of electric light, power lights must be provided for the kitchen and dining room.

Subclause (10) provides that the dining room, or some other room which is available to the shearers, must contain a fireplace of a specified size, or a room heater.

Subclause (11) deals with the provision of refrigeration for use by the shearers for storing perishable foodstuffs. The provisions of this subclause do not apply outside the period from October 15 to May 15.

Subclause (12) defines the liability of the employer to supply water into the kitchen, bathroom or washing room, so that it will not be necessary to carry water into those rooms.

Subclause (13) provides that the employer must supply suitable props for the clothes line, and at least five feet of clothes line for use by each shearer.

Clause 4 stipulates a minimum distance of 50 yards between the shearer's quarters and any shearers' shed, pig-sty, cowshed, stable or wool scour on the property, and a maximum distance of 200 yards between the shearing shed and the shearers' quarters. These provisions are subject to certain exceptions mentioned in subclauses (a) and (b) depending on the date of construction of the shearers' quarters.

Clause 5 repeals subsection (4) of section 6 of the principal Act, which deals with exceptions to the liability of employers because of the difficulty of obtaining materials during time of war. Clause 6 amends subsection (1) of section 9 by deleting the requirement that an inspector must inspect all shearers' quarters at least once in every 12 months. This clause has been inserted by the Government for the reason that such regular inspections are unnecessary in view of the work done by the unions.

The Hon. Sir Collier Cudmore—Is this as a result of any agreement with anybody? Where does it come from?

The Hon. C. D. ROWE—These matters have been discussed for a long period between the A.W.U. and the Stockowners' Association. Both parties have approached me and asked that the Act be amended along the lines indicated. The Stockowners' Association, the A.W.U., the Australian Primary Producers' Union and the South Australian Wheat and Wool Growers Association have informed me that they approve the provisions of this Bill. The Act at present provides that it shall not apply to any shed where less than six shearers are employed. That will still remain as a provision.

The Hon. F. J. Condon—When will the Bill come into force?

The Hon. C. D. ROWE—There is a clause providing that it shall not come into force for at least six months after it has been passed.

The Hon. F. J. Condon—What is the reason for that?

The Hon. C. D. ROWE—The reason is that it imposes certain liabilities upon people, who should have a reasonable period within which to comply with them.

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

SECOND-HAND DEALERS ACT AMENDMENT BILL.

Second reading.

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

That this Bill be new read a second time.

The amendments put forward in this Bill have been recommended by the Commissioner of Police with the intention of eliminating two difficulties which have arisen in the administration of the Act. Clause 3 amends subsection (1) of section 6 and provides that an applicant for a second-hand dealers' licence shall submit a certificate of character in the prescribed form signed by two reputable householders residing in the city, town, township or district wherein the applicant resides or wherein he proposes to carry on business. Under the present section the applicant has to present a certificate signed by householders residing in the city, town or township wherein he proposes to carry on business. Experience has shown that this is sometimes impossible and often difficult to obtain because the applicant is not known in the district wherein he proposes to set up his business. The amendment will allow the certificate to be signed by persons who know the applicant's general reputation in the district wherein he resides, and should overcome the difficulties encountered in the past.

Clause 4 amends subsection (1) of section 21 and provides that a second-hand dealer must mark all goods bought or received with a number corresponding to the entry in the purchases book relating to such goods. This will enable the dealer and the police to readily identify goods and will save all concerned a good deal of time and effort. Many dealers already mark their goods in the suggested manner and the amendment will enable the practice to be enforced throughout the second-hand dealing business.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

MINING ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 12. Page .)

The Hon. F. J. CONDON (Leader of the Opposition)—I imagine that the objections raised when a similar Bill was submitted to Parliament have been removed and I therefore support the proposed amendments because they are necessary. In 1955 legislation was passed dealing with two large projects, one at Radium Hill and the other at Port Pirie. We are happy to know that it has worked satisfactorily and to the advantage of the State. I commend the Minister of Mines and his department for the important part they have played in the last few years in conducting mineral investigations. For some years little money was spent in this way by the department but it has now become an important part of the State's activities. It should receive every encouragement and be allowed to spend a reasonable amount of money for the benefit of the State. During the year ended June 30, 1957, the total value of minerals produced in South Australia was £25,000,000, which was over £3,000,000 more than in the previous year. In each of the last seven years a record has been broken because of the progress made in mining. Our Mines Department has carried out important investigations for both the Commonwealth and private enterprise, and its activities have extended even beyond the boundaries of South Australia.

The first matter dealt with in the Bill relates to royalties. We will find that the amount paid out in royalties to the Government will be increased year by year. The Act provides for authority to grant leases for uranium and thorium to approved companies and persons desirous of working deposits of these minerals, and the Minister will now have a discretion in the granting of the leases. In the past a man could peg out a claim on a block without registering it and the department knew little of the work being done on it, so it is proposed that he must within 30 days register the claim and undertake to work the block properly. Section 23a of the Act deals with the case where the substance obtained from a mining lease is used by the lessee in manufacture. It is important that the Minister and the department should have power in this matter; they have none today. Clauses 4 and 6 deal with the duty to register

claims and the effect of non-registration. I support the second reading.

The Hon. J. L. S. BICE (Southern)—It was with pleasure that I heard the Lieutenant-Governor in opening this session say that an amendment to the Mining Act would be introduced. As I am a Cornishman it naturally follows that I am interested in mining.

The Hon. E. H. Edmonds—Mining is in your blood.

The Hon. J. L. S. BICE—That is so. I support Mr. Condon in his congratulations to the Minister and the departmental officers for the good work they are doing. We have tremendous scope for tests to be made in our suspected mineral bearing areas. The Callington Hills and areas down as far as Cape Jervis warrant investigation for minerals. There should be an investigation in the Myponga Basin in the hope of finding brown coal, and I think the same can be said about the area south of Noarlunga. When a similar Bill was introduced previously I took rather a dim view of one provision and I am pleased that it does not appear in this Bill, which appeals to me as worthy of support. In his explanation of the Bill the Minister referred to sand deposits. I presume that relates particularly to a deposit of sand at Tea Tree Gully. Large quantities of sand have been mined from cliffs adjacent to Christies Beach and at Maslin Beach and they have been of tremendous help to building operations in the metropolitan area. I can assure the Minister that he can rely upon my full support for this Bill.

The Hon. Sir ARTHUR RYMILL secured the adjournment of the debate.

ADJOURNMENT.

At 3.07 p.m. the Council adjourned until Tuesday, August 19, at 2.15 p.m.