LEGISLATIVE COUNCIL.

Tuesday, August 16, 1960.

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

QUESTIONS.

MENTAL HOSPITAL VISITORS AND TREATMENT OF ALCOHOLICS.

The Hon. F. J. CONDON—I ask leave to make a brief statement prior to asking a question.

Leave granted.

The Hon. F. J. CONDON—This is a double question. The Mental Health Act of New South Wales provides for the appointment of official visitors to mental hospitals which, I am informed, works very satisfactorily. The visitors have a very wide range of activity and their reports refer to various matters which come under their notice. Will the Government consider the establishment of a committee to visit institutions similar to that provided for in the New South Wales Act? Secondly, the treatment and rehabilitation of alcoholics is being given much prominence in Australia and a special ward for their treatment is being set up at a leading Sydney hospital. As these people are more to be pitied than blamed has the Government any plans to deal with this important question?

The Hon. Sir LYELL McEWIN—The honourable member will find that the appointment of visiting committees is dealt with in section 21 of the Act. It provides that the committee shall consist of a magistrate and, from memory, a female and a male doctor; at any rate, the honourable member will find the details there. The duties of the committee are set out in Part II of the Act, and a committee is operating at Parkside Mental Hospital. The Act provides only for mental hospitals and not receiving wards. That leaves only the Northfield wards of the mental hospitals, and there the Director-General is a visitor. That also is provided for in the Act, but no other committees have been appointed. That is the only thing that could be considered.

Regarding the second part of the question, I think there has been a report on the treatment of alcoholics, but I will look into it and advise the honourable member.

BASIC WAGE: APPLICATION FOR REDUCTION.

The Hon. F. J. CONDON (on notice)—Will the Government consider withdrawing its legal representative appearing before the Federal Arbitration Court to support South Australian employers in an application to reduce the basic wage and lower the standard of living?

The Hon. C. D. ROWE—No application has been made by the South Australian employers or by the South Australian Government either to reduce the basic wage or to lower the standard of living. There are at present applications in respect of the basic wage before the Commonwealth Arbitration Commission concerning two awards. The South Australian Government is a respondent to both of those awards, was served with notice of all proceedings and is therefore necessarily involved in the applications. The Government therefore has not appeared as a party to intervene—it had no alternative but to appear.

So that honourable members understand the matters involved, the following is a brief statement of those applications in respect of the basic wage before the Commonwealth Conciliation and Arbitration Commission. The first—to be heard on August 23 next—is an application by the Federated Enginedrivers and Firemen's Association to vary the Enginedrivers and Firemen's (General) Award. Their claim, so far as it would affect South Australia, is that the wage under that award for Whyalla and Iron Knob should remain at £13 16s. and that elsewhere in South Australia it should be the flat rate of £13 11s. The effect of this would be to remove the "country differential" rate in this award whereby country areas (apart from Whyalla and Iron Knob) have a wage of 3s. less than city areas. The second and third applications are each in identical form—one by the Metal Industries Association of South Australia and one by members of the South Australian Chamber of Manufactures (who are respondents to the award)—and are to vary the Metal Trades Award in two ways:—

1. By having a provision inserted that upon any variation increasing the basic wage prescribed in this award for Sydney, the amount by which the basic wage prescribed for Adelaide is increased shall be 25 per cent less than the amount of the increase for Sydney, until the proportion which the basic wage for Adelaide bears to the basic wage for Sydney is reduced to 90 per cent. At present that proportion is 95.8 per cent.

2. That upon any variation increasing the basic wage prescribed in the Award for Adelaide, the basic wage for country areas (other than Whyalla and Iron Knob) shall be an amount of £13 8s. or an amount of 12s. less than the basic wage for Adelaide whichever is the greater.

It is important to recognize at the outset that even if the commission were to accede to the applications and vary the award as sought, in neither case would there be any reduction in the present figure of the basic wage for South Australia. The effect of the second variation would be that as Adelaide's basic wage rose the basic wage for the country areas would remain at £13 8s. (its present figure) until Adelaide's figure was 12s. in front. From then the country figure would continue to rise at a figure which would remain 12s. behind the Adelaide city figure. If the application is successful it would appear to be to the advantage of both industry and employees. Industry will benefit because their competitive disadvantage with eastern States' employers will be mitigated. The workers will benefit because it will protect and increase their employment opportunities. There is evidence to suggest that differences between the cost of living in Adelaide and Sydney is greater than is revealed by the present differences in the basic wages for those cities. The Government does not intend to withdraw its representation before the Commission.

The Hon. K. E. J. BARDOLPH (on notice)—Does the Government consider its support for the employers in their application for a reduction in the basic wage will prejudice the industrial harmony which has attracted overseas industries to this State in the past?

The Hon. C. D. ROWE—As mentioned in the reply to the question by the Hon. F. J. Condon, no application has been made by employers for a reduction in the basic wage in Adelaide. There is nothing in the application which should prejudice the industrial harmony that has assisted in attracting overseas industries to this State in the past.

SOIL CONSERVATION ACT AMENDMENT BILL.

Read a third time and passed.

EVIDENCE ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

Recently an approach was made by the Government of India through the Federal Department of External Affairs with a view to seeking reciprocal arrangements with the governments of the Commonwealth and the Australian States for the mutual recognition of notarial acts. The Notaries Act, 1952, of India confers on the Government of that country power by administrative act to declare that notarial acts lawfully done by notaries in any place outside India shall be recognized within India if that Government is satisfied that by the law or practice of that place the notarial acts done by notaries within India are recognized in that place.

My Government considers that in view of the expanding commercial relations between India and Australia it would be desirable to facilitate the judicial and official recognition in this State of the notarial acts of Indian notaries. The desirability of such recognition is also felt by their Honors the Chief Justice and the other judges of the Supreme Court and by the Crown Solicitor. In considering the representations of the Indian Government, however, my Government has felt that instead of limiting such recognition to the notarial acts of Indian notaries the law should have a wider application and facilitate the recognition of notarial acts by notaries in any place proclaimed to be within the Commonwealth of Nations. This course would enable that recognition to be extended not only to India but also to other places within the Commonwealth of Nations after the Government has satisfied itself that suitable reciprocal legislation has been enacted in those places.

This Bill is accordingly designed to achieve that object. The provisions of section 67 of the Evidence Act extend inter alia the provisions of section 66 of that Act to notarial acts performed outside the State. By virtue of the provisions of those sections judicial and official notice may be taken of the signature and seal pertaining to a notarial act performed in any place outside the State by any of the persons mentioned in paragraphs (*a*), (*b*) and (*b*1) of section 66 (1) or by any person having authority to perform notarial acts in that place if he purports to have that authority by virtue of the law of a foreign country under the dominion of Her Majesty; or by any person purporting to have such authority by virtue of the law of a foreign country not under the dominion of Her Majesty, if such authority purports to be verified by any of the persons mentioned in paragraphs (*a*), (*b*) and (*b*1) of section 66 (1) or by the certificate of the superior court of that place.

India is a member of the Commonwealth of Nations but is no longer under the dominion of Her Majesty and the discretion to take judicial and official notice of the signature and

seal of an Indian notary on any document notarially attested by him can have effect by virtue of those provisions only if the authority under which the notary performed the notarial act purports to have been so verified. If India were under the dominion of Her Majesty, however, such notice could be taken of the notary's signature and seal without any such verification.

Clause 3 adds two new subsections to section 67 of the Evidence Act, 1929-1957, which, in effect, extend the discretion to take judicial and official notice of the notary's signature and seal on any document notarially attested under the law of a place declared by proclamation to be a place within the Commonwealth of Nations to which the new subsection (1*a*) applies, whether or not the notary's authority to act as such has been so verified. The clause further provides that a proclamation may be varied or cancelled by a subsequent proclamation as the Governor thinks fit, thus enabling, in appropriate cases, the withdrawal of facilities for the judicial and official recognition of notarial acts performed in places where the reciprocal legislation has been repealed or so altered as to warrant such withdrawal.

The Hon. Sir Frank Perry—Will this action be taken in all States?

The Hon. C. D. ROWE—As far as I know, it will be.

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

MOTOR VEHICLES ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

The object of this Bill is two-fold—The first, which is covered by clause 4, is to remove the provisions of the principal Act that a third party policy may limit liability to £4,000 in respect of any one passenger. Compulsory third party insurance was, as members know, introduced some 25 years ago when a limit of £2,000 was placed on the cover for relatives and passengers, the reason being that claims by relatives and friends might be made by collusion—in other words "rigged." In the course of time the limit for relatives was removed and the limit for passengers was increased to £4,000.

The Government has given some thought to this matter recently—more particularly since the anomalies brought about by the provisions in the new Act relating to uninsured vehicles and claims by spouses have been brought to its attention. It has come to the conclusion that it is not reasonable to limit the rights of a large number of persons because of the possibility of some few cases of fraud. The Government feels that the proper way to deal with collusive claims is to have them properly heard and adjudicated in the courts.

There are no limits in New South Wales and Queensland. In Tasmania there is a general limit of £5,000 per person and £50,000 per accident but no limit for any specified class of persons as such. In Western Australia and Victoria the limit for passengers—still £2,000—is still in force. The Government has decided that New South Wales and Queensland should be followed and accordingly clause 4 of this Bill repeals subsection (2) of section 104 which relates to the limits for passengers. The same clause repeals subsection (2) of both sections 112 and 113 by way of consequential amendments.

The second object of the Bill, covered by clause 5, is to make it clear that the section introduced into the principal Act last year covering claims by spouses is not to have retrospective operation. I am advised that there could be some doubts on this matter and clause 5 of the Bill is designed to remove them. Since the Bill was introduced in another place the Government has decided that two amendments should be made to ensure that there should be no retrospectivity in regard to the operations of either this Bill or the Motor Vehicles Act 1959 concerning the use of motor vehicles prior to the coming into force of either the Bill or the Act. It is my intention later to move the necessary amendments.

The Hon. S. C. BEVAN secured the adjournment of the debate.

COMPULSORY ACQUISITION OF LAND ACT AMENDMENT BILL.

In Committee.

(Continued from August 10. Page 542.)

Clause 3—"Promoters to pay interest in event of delay."

The Hon. C. D. ROWE (Attorney-General)—There are certain matters in connection with this amendment that I should like to have an opportunity of further considering before we go any further, and I therefore ask that the Committee report progress and ask for leave to sit again.

Progress reported; Committee to sit again.

HIRE-PURCHASE AGREEMENTS BILL.

Adjourned debate on second reading.

(Continued from August 10. Page 541.)

The Hon. Sir ARTHUR RYMILL (Central No. 2)—The second reading of this Bill was moved immediately after it had been introduced in this House on December 3, 1959, which turned out to be Prorogation Day. The Bill is a complicated and extensive one and after several members had spoken on that occasion—one I remember at considerable length—the Government very wisely, in my opinion, decided to allow it to lapse and it has now been brought before us again under the revival procedure for lapsed measures. I am sure that the House is grateful to you, Mr. President, for your guidance as to procedure in such cases, which do not often happen, but I do not know that it is so grateful for the ruling that members can speak again. I feel at this stage that, for the peace of mind of members and that of my honourable friend, Mr. Robinson, I should say that I do not propose to speak at any greater length today than I did last time. As I indicated on that occasion, I propose to give general support to this measure. I am afraid I have no particular enthusiasm about it, but it seems, as the Chief Secretary said in his second reading speech on the Bill, that there is no real opposition to it from any section of the community, and indeed there are certain advantages I can see that will accrue from the Bill. I think parts of it are possibly more theoretical than practical and some of it will possibly involve additional expense in the administrative costs of various companies, but all in all it is probably quite a reasonable measure.

Certain things need amending, particularly in relation to two important amendments that were inserted in another place and were not included in the Government's original Bill, and there are also certain things that need amendment to make the Bill more workable in practice. In other words, the theory of certain things seems all right, but I think to have a sensible and reasonable application they should be altered so that the companies and lenders concerned can administer them just as well but with far less trouble and expense. I am not going into those matters now. I realize, as the Hon. Mr. Bardolph said, that this is largely a Committee Bill.

I went into certain detail as to clauses last time to impress upon members the need for further thought on the Bill, as it could have been presumed at that stage that an attempt was to be made to rush it through, but I do realize that in essence it is a Committee Bill. However, there are certain general observations I want to make quite briefly, including reference to those two important amendments inserted in another place, both of which I think should come out. I did mention this before, but it is quite a long time since the House dealt with the Bill. I know that I myself have had to reconsider the whole measure and go into it again as if it were a new Bill, and I have no doubt that other honourable members have had to do the same because of the complication of the Bill and the difficulty of understanding certain portions of it.

The first amendment I shall deal with is the one relating to deposits. The other House put in an amendment to the Government's Bill which stated that there should be a minimum deposit of 10 per cent on all hire-purchase transactions. As the Hon. Mr. Potter rightly said, this Bill is not intended to deal with the economic aspects of hire-purchase. It is purely a Bill regulating hire-purchase and has been brought down for the protection of hirers in particular and also, in some parts, in the interests of lenders. That is what I want to stress in relation to this deposit clause: the deposit provision was never intended to regulate the economics of the situation or in any way to curb hire-purchase, although it could have that effect. I mention that because in England from time to time, under the power to regulate the British economic situation, minimum deposits of quite an extensive nature have been specified in relation to hire-purchase transactions—or rather in respect of what they in England call "time payment" transactions, which I think is a much more satisfactory and more accurate term than "hire-purchase," which we use out here. Those requirements as to deposits have been varied from time to time as an economic factor in the British economy and purely for that reason, and that is why, in relation to this argument as to whether there should be a deposit or not, I stress that this is not an economic Bill and it does not in any way purport to be. If it were an economic Bill I should possibly have to consider the question of deposits in a different frame of mind. If it is not to be an economic measure then I feel that hire-purchase companies can be trusted to conduct their own affairs.

The Hon. F. J. Condon—Why do you say it is not an economic Bill?

The Hon. Sir ARTHUR RYMILL—It is not intended either to encourage further hire-purchase or to discourage hire-purchase lending as such. It is not intended to regulate the flow of hire-purchase moneys. If it were, then possibly we would have to view this question of deposits in a different light. As it is, that seems to me to be purely a matter for the companies concerned. They can be trusted to look after their own business. No doubt they lend without deposit in cases where they know they will get their money. I imagine that all and sundry cannot get hire-purchase without putting up a deposit. I know that certain members of this House are privileged to have monthly accounts with various retail stores which also sell goods on hire-purchase. The monthly account is certainly a no-deposit piece of business, and a firm gives a monthly account because it thinks that when the time comes it will get paid; although I do not suppose every one does. Some people are often known to take even longer than a month to pay. There is no deposit in that case and I see no reason why there should be any deposit on the hire-purchase type of transaction, unless it is directed toward the economy as a whole. On the other hand, if we are to provide for a deposit, I should think that 10 per cent is neither one thing nor the other; and that if we are to provide for any deposit, it should be for different deposits.

I know, having some brief knowledge of hire-purchase business, that you cannot nominate the same deposit for every type of hire-purchase transaction. Where a 10 per cent deposit may be satisfactory on the sale of some type of article, it may well be that 30 per cent is needed on another type. The clause under discussion was neither in the uniform Bill agreed upon between the States nor in the Bill presented to us by the Government, and I think it should be deleted, not only for the reasons I have expressed, but because I consider it is far too complicated. A genuine attempt has been made to close up all escape avenues in respect of people who try to avoid a deposit, but friends of mine closely associated with the hire-purchase business tell me that holes can be shot through such a provision by disreputable people, and if that is so it only means that the reputable trader once again will be at a disadvantage in relation to those less reputable. That is not a very good principle on which to operate.

The other matter I wish to deal with relates to the provision requiring the consent of a spouse to hire-purchase transactions. I realize what the clause is aimed at and that the intention behind it was good. I think that it was mainly to protect women from being forced by high-powered salesmen, particularly at their own doors, to enter into a hire-purchase transaction without proper reflection and without discussing the matter with the husband. If that is to be regulated, there are plenty of other ways than this to do it. To me, this is a matter of principle, and this is a House of principle; and where great principles, such as I consider this to be, are involved the Council should look at the matter very closely. The House of Assembly's amendment provides that no hire-purchase transaction shall be entered into by a married person except with the consent of the spouse. Certain well-meaning amendments have been filed which I shall certainly support if I cannot have the clause deleted altogether.

I regard the amendments as being more or less a compromise, and I am not eager to compromise on what I regard as a matter of principle. However, the amendments are certainly very much better than the provision as it stands, which is far too wide. I have expressed this opinion before and given my reasons, and so did my colleague, the Hon. Mr. Densley, who gave telling reasons why this clause should not exist. The position in principle on this clause is that a certain type of financial transaction, if a married person wants to enter into it, needs the consent of the other party to the marriage. This is limited to all hire-purchase transactions at the moment. The principle behind it is that one spouse should be able to curb the financial transactions of the other. Of course, that principle is not limited to hire-purchase transactions. If it is extended to the logical degree, it would mean that a spouse would have to consent to any financial transaction on behalf of the other partner, which I think in many instances, if not in an overwhelming number of instances, could lead to very undesirable situations.

The Hon. Sir Frank Perry—Is not there something in the Income Tax Act about it?

The Hon. Sir ARTHUR RYMILL—There was something, but it was hastily removed. Something is included in the English Income Tax Act, but I think that involves a different principle. However, the principle in our Bill, and I emphasize the word "principle," is that a spouse shall be required to consent to the financial transactions of the other party to

the marriage, including business transactions, which seems to me to be quite absurd, and indeed bureaucratic if not socialistic in its outlook and application. The other day I put it to a certain group of people that if that principle were extended to its logical extent, then, if the husband refused to allow the wife to buy food without his first having given consent he would starve. That is reducing it to an absurdity, but that is the principle of this clause. I also said jocularly to one or two honourable members the other day that if this clause were passed a consequential amendment would be needed to the marriage service, which would then read, "Love, honour and agree to any reasonable hire-purchase transaction."

I hope that the clause will be deleted, and if honourable members wish to deal with the evil, which some do, I could suggest several other ways to do it, although I consider the members concerned are capable of doing it themselves without infringing this principle. As I have already mentioned, I will deal with the remaining clauses in Committee. I merely wanted to give these few words in outlining my attitude to the Bill. I can indicate now that I will vote for most of the amendments that have been filed. I have given them much consideration in the last few days; indeed I gave these matters much consideration six or eight months ago, and before we get into Committee I will certainly give the Bill as a whole much further consideration. I also propose to submit at least one amendment which I hope will be on honourable members' files tomorrow. I intend to support the second reading, but indicate that there are quite a few amendments that should be included. Except for those I have dealt with, I do not think that any of those on the files are particularly vital or have any particularly far-reaching principle. I consider they are good amendments that should make for the much smoother working of the Bill without detracting from its effect, or from the Government's intentions in respect of its introduction of this legislation.

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

TRAVELLING STOCK WAYBILLS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 10. Page 542.)

The Hon. W. W. ROBINSON (Northern)—After the lucid explanation given by the honourable Mr. Densley it is unnecessary for me to elaborate to any great extent. As pointed out, the amendments we made in 1956 did three things. One was to eliminate the horse from the definition of stock on the assumption, I take it, that the horse had ceased to play any great part in our life. I think that may have been somewhat premature; the thoroughbred, the trotting horse, the child's pony and some others still have a part, and although it would appear that it was unnecessary to eliminate the horse at that time, the matter does not seem to be sufficiently important to warrant our putting it back. The second provision was to increase the distance over which stock could be carried without a waybill from 15 to 20 miles within any hundred miles. That does not seem to be of any great moment, but it is perhaps a convenience for a number of people. Twenty miles is a very short distance, but the Brands Act would appear to be sufficient to safeguard owners in daylight hours. The third provision was to make it an offence to carry stock without a waybill between half an hour after sundown and half an hour before sunrise, *i.e.*, during the hours of darkness. That is right, as it tends to keep the theft of stock within bounds. We further provided that a drover could convey stock without a waybill in daylight hours, but we neglected to provide that the owner could do likewise. All that this Bill does is to eliminate the necessity for the owner to be in possession of a waybill while conveying stock during daylight hours, and that period is I think fully covered by the Brands Act. I have pleasure in supporting the Bill.

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

ADJOURNMENT.

At 3.05 p.m. the Council adjourned until Wednesday, August 17, at 2.15 p.m.