LEGISLATIVE COUNCIL.

Tuesday, September 20, 1960.

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

ASSENT TO ACTS.

His Excellency the Lieutenant-Governor, by message, intimated his assent to the following Acts:—

Amusements Duty (Further Suspension)
Motor Vehicles Act Amendment
Justices Act Amendment
Cellulose Australia Limited (Government Shares)
Country Housing Act Amendment
Public Finance Act Amendment
Public Purposes Loan
Statutes Amendment (Public Salaries) (No. 2).

QUESTIONS.

TAXATION BY STATES.

The Hon. F. J. CONDON—The Prime Minister is reported to have said that the only State interested in reverting to State income taxation is Victoria. Will the Chief Secretary state what is the Government's policy in this matter?

The Hon. Sir LYELL McEWIN—I prefer to refer that question to the Treasurer. A number of references have been made concerning income tax on occasions and I think South Australia was the first State to question uniform taxation without support from other States. Many changes have taken place since then and I ask the honourable member to put his question on notice.

TABLE MARGARINE.

The Hon. S. C. BEVAN—Has the Attorney-General a reply to the question I asked on September 6 about the inspection of ingredients used in the manufacture of margarine?

The Hon. C. D. ROWE—I have received the following report:—

(1) The ingredients of all table margarine made in South Australia are subject to inspection which is carried out by routine visits by South Australian inspectors to each factory throughout the year.
(2) It is understood there is no interstate-made table margarine available for purchase in South Australian shops.
(3) Under the regulations of the Margarine Act, 1935-1956, provision is made for inspection of ingredients to be used in the manufacture of table margarine made interstate for sale in South Australia. In the absence of sales of interstate table margarine in South Australia operative application of the above provision has not been found necessary.

RAILWAY CROSSINGS.

The Hon. Sir ARTHUR RYMILL—Has the Minister representing the Minister of Roads a reply to my recent question relative to railway crossings?

The Hon. Sir LYELL McEWIN—I have received a report from the Deputy Railways Commissioner which states that the suggestion that rail tracks at level crossings be supported on reinforced concrete is not new. It has not been adopted because experience has shown that because of the different elastic characteristics of ballast and concrete, the sudden change from one to the other during the passage of a train has serious objectionable consequences.

FAR NORTH ROADS.

The Hon. E. H. EDMONDS—Has the Attorney-General a reply to the question I asked on September 1 about roads in the northern pastoral areas?

The Hon. C. D. Rowe—The report which I have received states that the funds available this financial year for road work in the Oodnadatta area are approximately £20,000 and this will be sufficient to keep the normal road gang, with its equipment, in full employment. However, last financial year, due to limited funds for road-making, the Oodnadatta road gang, in common with others, had to be reduced and at the present time there are only two men instead of the normal five.

The District Engineer reports that he has, up-to-date, only been able to engage one new man and he will commence work this week. The District Engineer also reports that the condition of the roads in the Oodnadatta area is fair, but they are very dusty due to the long dry period. The Everard Park-Granite Downs-Oodnadatta road is the one that requires first attention and the road grader will commence work on this road as soon as the District Engineer is able to engage a new offsider for the grader-driver. The trouble at present is not the lack of funds, but the inability of the department to find men to make up the full complement of the gang.

NOOGOORA BURR.

The Hon. A. J. MELROSE—In reply to a question in the House of Assembly about a month ago the Minister of Agriculture gave an assurance that the question of the control

of Noogoora Burr was having his closest attention. Will the Chief Secretary, representing the Minister of Agriculture, inform the Council exactly what practical steps are being taken to control the introduction of this weed?

The Hon. Sir LYELL McEWIN—I will refer the honourable member's question to the Minister concerned.

GREATER PORT ADELAIDE PROJECT.

The Hon. K. E. J. BARDOLPH (on notice)—

1. What area of land was compulsorily acquired by the Government in connection with the Greater Port Adelaide Project?
2. What area was acquired otherwise?
3. What price per acre was paid for land:—
   (*a*) compulsorily acquired; and
   (*b*) purchased under private treaty?
4. What was the sale price of four industrial sites recently sold by the Government?
5. What agents' commission (if any) was paid in connection with these sales?

The Hon. C. D. ROWE—The replies are:—

1. 102 acres.
2. 1,885 acres.
3. (*a*) £462 per acre.
   (*b*) £221 per acre.
4. £159,273. This price represents the original purchase price of the land plus accrued charges plus costs involved in reclaiming the land and otherwise developing the area.
5. None.

AUDITOR-GENERAL'S REPORT.

The PRESIDENT laid on the table the Auditor-General's report for the financial year ended June 30, 1960.

MILE END OVERWAY BRIDGE ACT AMENDMENT BILL.

Read a third time and passed.

PREVENTION OF CRUELTY TO ANIMALS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 7. Page 968.)

The Hon. F. J. CONDON (Leader of the Opposition)—Honourable members are well aware of the stand I have always taken in this Council regarding penalties, but I have not had reason to complain so much recently. Over a period of years Parliament has accepted Government proposals for increased penalties. This Bill deals with increased penalties for two offences and this is an occasion when I can support such increases. The Royal Society for the Prevention of Cruelty to Animals notified the Government that fines had not been increased in some instances during the last 40 years and recommended that increases should now be provided. My objections to increases for other offences go by the board on this occasion.

In some instances fines for serious offences are very light compared with those for minor offences. The object of the Bill is to double penalties for those guilty of ill-treating animals, and for those who use a place for the baiting of animals the fine is to be increased from £5 a day to £10 a day. It is not proposed to increase the maximum term of imprisonment. A new clause is inserted to cover the protection of captive birds and for this the fine is £50 or six months' imprisonment. In 1934 a new section was inserted in the Act providing that any person who promoted, conducted, received money for or took part in any event in which captive birds were liberated from captivity for the purpose of being shot at, or was the owner, occupier or person in charge of any premises and permitted such premises to be used for any purpose specified in the subsection, would be guilty of an offence. In the past cases have been heard in the courts concerning birds that had been treated in this way. The penalties proposed in the Bill are warranted and therefore I support the second reading.

The Hon. JESSIE COOPER (Central No. 2)—I rise to support this most reasonable and humane Bill. As has been previously explained by the Chief Secretary and the honourable Mr. Condon, this Bill has two purposes. The first is to increase the penalties provided to conform more closely with the value of money today. However, I personally doubt whether the proposed increases are sufficiently large. Whether the ill-treatment of animals is of a deliberate and flagrant nature, or whether it is due to thoughtlessness or sheer indifference, the fact remains that it is always present in our community. One aspect of that cruelty is worthy of our special consideration—I refer to the chaining-up and incarceration of the larger breeds of dogs, virtually for all their lives. These dogs are kept to protect property and goods, particularly on large transports, which have at times been subject to thefts. It has now become the practice of many transport companies and drivers to keep large dogs to travel on their loads and protect them while unattended. Many dogs are kept on

loads over night. It has become common practice to keep these dogs, when not on duty, chained up at depots or at houses in restricted yards. The people who use these dogs in this capacity rarely trouble to give them correct exercise.

It is a well-known fact that all the larger breeds of dogs are friendly, easily disciplined and have good brains, which they will use for the benefiit of man if they are given good treatment, including adequate exercise. Restricting them continually cannot fail to make them ferocious. I speak of all large breeds—Labradors, German Shepherd Dogs and Bulldogs. I bred for a time the most lovable and gentle of large breeds, bulldogs, but even they become ferocious if incarcerated in a restricted place. We have had some cases here, and also in Australia generally, where women and children have been attacked by larger breeds of various kinds, with the result that the dogs have got a bad reputation and have been destroyed, whereas it is the owners who should be severely punished for deliberate cruelty. I know that a Government cannot be expected to supervise the treatment of dogs, but the Royal Society for the Prevention of Cruelty to Animals is in existence to do that work, and it must be helped by having legislation such as this.

Secondly, the new section refers to the protection of captive birds and it is a very wise provision. There are always two aspects to consider when we think of the imprisonment of animals. One aspect refers to the establishment of zoological gardens which, in these enlightened times, are used scientifically for the breeding and care of all animals, large or small. They are a source of enjoyment and education for all ages in the community. Again, I cannot see any harm in the keeping of large aviaries by private individuals, but there is much thoughtless cruelty in keeping birds in small cages for all their lives, whether it is a budgerigar in the kitchen, or dear old cocky who is nearly 50 years of age and who has been on the back verandah in a cage since grandma was a girl.

There is also very real cruelty in the imprisonment of wild animals in small circus cages and I hope that the Government will see fit to use the Act in this connection at an early date. I commend the Government for its action in introducing this Bill and I give it my earnest support.

The Hon. G. O'H. GILES secured the adjournment of the debate.

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 7. Page 969.)

The Hon. F. J. POTTER (Central No. 2)—I support the second reading. In introducing the Bill the Minister said that the Act had not been amended often over the years and, to use his words, that it had stood the test of time. This Act deals with matters that have been established in law over a long period. It deals with procedures, which extend back many years in some instances and, therefore, it cannot be expected that the Act needs to be amended often. I think the last amendment was made in 1956. It dealt with the re-distribution of intestate estates and brought the position more into line with present day values of money. It was a valuable and vital amendment at that time. All the amendments in the Bill effect useful changes in procedure and they will save time and expense to the public, the Public Trustee, and solicitors and others engaged in this type of work.

Apart from two curious amendments necessary to correct errors that have been apparently overlooked for years, the most important amendments are those dealing with sections 56 and 65 and the common fund reserve account. Section 56 deals with the filing of statements and accounts. This is an obligatory act in the administration of an estate, and it must be done within six months of the time of the granting of the administration. In my experience this period of six months is very cramping. Often it is difficult to complete the administration of an estate within that fairly short period because many things have to be done, such as filing and clearing of duty, accounts, and ascertaining the whereabouts of beneficiaries. Generally speaking, this period of six months has been proved to be far too short. I think that in about 90 per cent of the cases it would be impossible to do a complete administration within that period and, consequently, as a matter of practice, over recent years the Public Trustee has more or less granted extensions of time. I know that he has kindly prompted solicitors and other people engaged in the administration of estates by sending them circular letters with a draft statement and account to be filled in. This is done six months after the administration has been granted, and it is a valuable service. It is possible that the requirements in this matter can be overlooked by busy legal practitioners and the reminder is always welcomed.

The Public Trustee follows it up with a series of reminders and, in effect, this grants an extension of time. The amendment will legalize the practice and will mean that in future the Public Trustee will have discretion to extend the period.

Although the filing of statements and accounts fulfils a useful purpose, particularly for lay administrators, it has occurred to me that sometimes it is not necessary that the provision should have to be complied with by people granted administration with the will annexed. There is room for errors and misunderstanding in connection with intestate estates; therefore, the forwarding of the statement showing how the distribution has been made and to whom it has been made is useful, but I think that where an administrator is substituted for a deceased executor, or where the appointment of an executor has been overlooked, it serves no great purpose. In the Public Trustee's office the filing of statements and accounts is regarded purely as a routine matter. They come in, are put on the files and are hardly given any but a cursory examination. They are there to be referred to if queries should arise. The Public Trustee has no personal knowledge of the estates other than what he reads on the statement and account.

Clause 9 effects some useful amendments to section 65, which deals with the distribution of interests in estates outside of South Australia but where probate has been resealed in South Australia. This section must have presented much difficulty to the Public Trustee in the past, and it is desirable to have it clarified. It seems a little unrealistic in many respects. If under section 56 the administrator of an estate is required to file a statement and account showing an estate's assets and how they have been distributed, it seems unnecessary that he should have to pay the share of a beneficiary living in another State to the Public Trustee so that it can be passed on. I know from my own experience, and from talking to other practitioners engaged in this work, that this is a section which can be forgotten. On at least two occasions I have unwittingly paid to a beneficiary in Victoria a share to which he was clearly entitled, and have then received a letter from the Public Trustee directing my attention to the provisions of this section and advising me that the share should have been paid to him and not direct to the beneficiary. This seems an unnecessary and cumbersome procedure and should be considered by the Government when any future amendment is brought down. This section fulfils a useful purpose in relation to people overseas but seems to be unnecessary for purely interstate residents, particularly where a statement and account is required to be filed under section 56.

The common fund reserve account will be kept at the Treasury in future. It was suggested that the existence of this account placed the Public Trustee in a privileged position compared with executor companies. I do not know what executor companies do about the investment of funds in estates under their control. I understand the companies keep each particular estate, as it were, in a watertight compartment, and invest the assets for the benefit of the estate and do not get the moneys mixed up in a common fund. That is perhaps obligatory under the trust laws, but the Public Trustee has a large number of very small estates, some of only £100, £200, or £300 to administer, and it would be almost impossible for him to separate each estate and invest that particular amount. It is difficult to invest readily and quickly a small sum of money and much simpler to invest a larger sum. The book work involved would be considerable and the Public Trustee's Department might incur a greater loss than it does now.

The Hon. Sir Frank Perry—There is a big credit in the fund, isn't there?

The Hon. F. J. POTTER—The credit of £77,000, which is the excess income over what has been paid out, has been built up over a long time. I do not know when the common fund was established, but it would have existed before the 1936 Act and probably was started when the Public Trustee's office was first established. This amount is not excessive when viewed as an accumulation over a long time.

The Hon. Sir Frank Perry—I think that the time should have been stated.

The Hon. F. J. POTTER—It was not mentioned by the Minister and I would appreciate that information as a matter of interest, so that it could be seen in its proper perspective. The only practical way the Public Trustee can work is to have this common fund available for investment. It has in recent years operated to the advantage of the estates, because they have received interest on their assets from the time the assets came in and they have received more than they might have received if the Public Trustee had been confined to dealing with the assets of each estate separately. Only today I had a statement from a trustee company in Melbourne with which I have been dealing showing

they have a common fund and that they were declaring for this particular estate a dividend from that fund. The fund had been set up either by themselves or under a legislative provision in Victoria of which I am not aware. This is one instance where a trustee company has thought it advisable and desirable, in the interests of the beneficiaries of an estate, to set up a common fund. Over the years this fund has been of advantage and benefit to the beneficiaries of estates administered by the Public Trustee. That is the final test of its effectiveness, that is, whether or not the beneficiaries have received a fair and proper rate of interest while they have been waiting to receive the capital. The amendments in the Bill will save time and trouble as they are designed to streamline procedure. I am also pleased to learn that the probate procedure under the rules of the Supreme Court is under examination, and some streamlining of that procedure will be done in the near future. The Registrar of Probates is working on the matter and it is likely that these improvements will have been made within the next few months. All in all I commend the amendments contained in the Bill and I support the second reading.

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

ADJOURNMENT.

At 2.56 p.m. the Council adjourned until Tuesday, October 4, at 2.15 p.m.