

LEGISLATIVE COUNCIL.

Tuesday, November 1, 1960.

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

QUESTION.**REPRINT OF STATUTES.**

The Hon. Sir ARTHUR RYMILL—As, I think, it was in 1936 that the Statutes were last reprinted—

The Hon. F. J. CONDON—On a point of order! You called on the Business of the Day, Sir. Has any member a right to ask a question now?

The PRESIDENT—The calling on of Business of the Day was interrupted by the laying on the table of some papers, so if any honourable member has a question he can ask it.

The Hon. F. J. CONDON—You stopped me from doing so the other day. One member is as much entitled as another to consideration.

The Hon. Sir ARTHUR RYMILL—In view of the honourable member's interruption I ask leave to make a brief statement prior to asking a question.

Leave granted.

The Hon. Sir ARTHUR RYMILL—The Statutes of South Australia were reprinted and consolidated in 1936 and this was a great boon to everyone concerned with them, which means many people. The question of a new reprint has been canvassed from time to time, I think, but as it is almost 25 years since it was last done and as we have many annual volumes and amendments to consider in conjunction with the last reprint I ask the Attorney-General whether the Government has recently considered another consolidation, and if not whether it will do so?

The Hon. C. D. ROWE—The Government has not given recent consideration to reprinting the Statutes, partly, I think, because the Parliamentary Draftsman's Department has been particularly short staffed. However, the position is now very satisfactory and therefore it may be possible to have another look at the matter in the near future, and I shall be pleased to do so.

PRICES ACT AMENDMENT BILL.

Read a third time and passed.

BUSH FIRES BILL.

Read a third time and passed.

TOWN PLANNING ACT AMENDMENT BILL.

In Committee.

(Continued from October 26. Page 1526.)

Clause 14 passed.

New clause 14a—"Amendment to principal Act, Ss. 26, 27, 28."

The Hon. K. E. J. BARDOLPH—I move to insert the following new clause:—

14a. The heading before section 26 of the principal Act is amended by inserting the word "Greater" before the word "Metropolitan" therein.

This has been on members' files for some days and I thank the Minister in charge of the Bill for making the time available to discuss it. All it does is to empower the Town Planner to extend the boundaries of the metropolitan area. Under the Act only the metropolitan area, as it now exists, is covered. The amendment will extend the power of the Town Planner. We are proud of the way in which the city of Adelaide has been laid out, and each year the City Council pays homage to the vision of Colonel Light. Now that the Town Planner is engaged on a plan for the city and its environs he should have power to make a more cohesive plan covering the areas I have mentioned, and for the purposes of a Greater Adelaide Plan.

The Hon. C. D. ROWE (Attorney-General)—I have carefully read the amendment and understand that it relates to the portion of the Bill that deals with the preparation of an overall plan for the metropolitan area, but does not touch the other matter in the Bill. I think the suggestion is that the definition of "metropolitan area" should be extended from what we now regard as the metropolitan area to include the environs on each side of it, so that the plan when prepared will cover a greater area. In some respects the proposal may have some merit in it, but since the committee was appointed shortly after 1956 it has been working on the basis that the plan will be prepared in relation to the existing area, and at this stage I think it would be wise not to alter the instructions to the committee on the matter, although if it wishes to include in its report matters which deal with the situation contiguous to the metropolitan area there is no harm in its doing so. I thank the honourable member for bringing the matter forward, but I feel that perhaps we would be complicating the issue if we agreed to it at present, and I therefore ask members to oppose the amendment.

New clause negatived.

The Hon. K. E. J. BARDOLPH—In view of the vote on the previous amendment I do not intend to move new clauses 14b and 14c.

Clauses 15 and 16 passed.

Title passed.

Bill reported without amendment and Committee's report adopted.

LANDLORD AND TENANT (CONTROL OF RENTS) ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 1502.)

The Hon. L. H. DENSLEY (Southern)—Once again I oppose a continuation of this legislation. I consider I can safely say there are more house owners suffering hardship than tenants through its continuation. South Australia is perhaps not alone in having kept this measure in operation for so long that it has become obsolete. We should be wise to take steps to get rid of it. I was interested to ascertain the position operating in New South Wales. Some time ago the Government there appointed a Royal Commission to study the provisions of their Act, and to make recommendations as to what should be done. In South Australia the position may be somewhat the same. We have heard solicitors speak on the Bill from time to time who have said that they have been in constant touch with the landlord and tenant position in the courts. No doubt they keep more in touch with this than honourable members do. If members of the Council were asked to express their views on the ramifications of this legislation no doubt they would be unable to give complete answers. Many house owners have suffered great hardship because their rents have been pegged very low, whereas in the meantime the cost of living has increased greatly.

In New South Wales a judge was appointed as a Royal Commission to inquire into the legislation there, but unfortunately he died, and another was appointed. A number of questions have been asked in the New South Wales Parliament as to when the commission is to sit and the Minister has replied that he hoped it would not be long. After a long delay an honourable member stated that a number of tenants would like to give evidence. After a further delay of a month more questions were asked about the position, and a month or two later the Minister said:—

From the outset I have felt that most legal representatives at this commission would be

appearing on behalf of organized bodies such as landlord and tenant law reform committees and the like, and a few would attend to present the views of tenants. Pensioner tenants merit direct legal representation before the inquiry because their rent and tenancy problems are almost unique and therefore arrangements have been made for the Public Solicitor to appear on their behalf.

Superannuated persons are in much the same position as pensioners. In fact, only this morning I have been giving consideration to the appointment of suitable counsel to appear more or less continuously on behalf of pensioners. The Minister had stated that a month earlier only 30 applications had been received from people to give evidence before the commission out of a population of 3,000,000, which would make it appear that the subject did not rank as being of high importance. Some three weeks later an honourable member again asked the Minister what was going to happen regarding the legislation, because it was nearing its expiry date, which he stated was December 31, 1960. He asked:—

Will the Minister extend the date to enable Parliament to introduce any necessary amending legislation when the report of the committee has been received?

In reply the Minister said he believed that the present legislation should be extended for a sufficient time to enable that to be done. It would appear from those questions and the actions of the Government that there was no great interest either in continuing the legislation or in its abolition. Only a few days later another question was asked and the Minister said that it was rather surprising that in a further three months there had been only 62 people out of a total of 3,000,000 who had applied to give evidence. He also said:—

The legislation that it is proposed to introduce temporarily to extend the provisions of the existing legislation will contain one or two amendments designed to rectify particular anomalies. The Government would have sought these amendments irrespective of the investigations of the Royal Commission, or the extension of the Act. In my opinion no attempt should be made at this stage to anticipate what a committee of inquiry might report upon, and we should not, by filling the gaps in other anomalous situations, possibly make the position even more confusing.

I consider that the same position exists in South Australia and for that reason and because today many more houses are available for purchase and for tenancy one might say that this legislation has long outlived its usefulness. Many people have been forced to let their houses at very low rental, which limits their income, and they have been almost impoverished, whereas normally they could

have been receiving good incomes. It is time that this legislation was abandoned, and therefore I oppose the Bill.

The Hon. C. D. ROWE (Attorney-General)—I believe this is the second year in succession that I have been called upon to reply to statements made in connection with this law. The Government has given the matter very serious consideration because its policy is not to allow restrictive legislation to remain on the Statute Book unless it is felt there is adequate justification for it. A study of the position will show that the Government has carried out that policy over a period of years by gradually relaxing certain controls that this Act has imposed. However, it is not satisfied that the time has come when it can allow the legislation to be removed from the Statute Book altogether. The Hon. Mr. Potter said that he had spoken to people of all shades of political opinion and had not found one who favoured a continuation of these controls. To me that is a most remarkable statement. I suppose that the people who would represent all shades of political opinion and who could express an opinion would be the members of the House of Assembly. There are all shades of political opinion in that place, but not one dissentient voice was raised against the continuance of the legislation. That is a practical and complete answer to the point made by the honourable Mr. Potter. I shall not cover all the points showing how this legislation has been relaxed, but firstly there was the release of business premises; secondly, the release of houses not previously let; thirdly, the release of houses which are subject to a lease for two years or more; and fourthly, the release of all new houses. In this State tremendous progress is being made, and the basis of that progress is that our costs are lower than those in any other State, but when our costs are equal to or higher than those in other States we shall lose industries to those States.

In Victoria a tremendous increase in costs occurred when controls under the landlord and tenant legislation were relaxed. If that was done here the result would be calamitous for the whole community and must be avoided at all costs so that our economy can be maintained. We must have stability in the cost structure here, which is not the case in Victoria, but perhaps because Victoria is a wealthier State and has other natural advantages the economy there is not greatly affected. However, that certainly would not

be the case here. The Government does not treat this legislation lightly and has not introduced this Bill without seriously considering all the factors involved. Last year when speaking on this legislation I indicated that the Government was trying to avoid an increase in the cost structure. It has been able to do that and feels that the continuation of this legislation for the time being is desirable. I ask the House to support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

New clause 2a—“Exemption from Act.”

The Hon. F. J. POTTER—I move to insert the following new clause:—

2a. Section 6 of the principal Act is amended by adding the following new subsection:—

(5) After the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1960, the provisions of this Act relating to the recovery of possession of premises shall not apply with respect to a lease of any premises (whether entered into before or after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1960), entered into pursuant to subsections (2b) or (2c) of this section.

I have several amendments on the file and I believe the Minister will ask the Committee to report progress to enable him to have an opportunity of studying them and I only intend to move formally the first amendment. In doing so I point out that the Minister a few minutes ago said the Government wanted to retain this Act to prevent an increase in costs. I understood he was referring to any increases in the C series index which might occur as a result of a repeal of this Act. However, there is no reason why there could not be a relaxation in the matter of recovery of possession in cases where people have contracted out of the Act. Such relaxations would not affect the C series cost of living index one iota. In nearly all cases my amendments are designed to provide some further relaxation in cases where there has been a contracting out of the Act, or where for some reason or other the Act no longer applies to any particular premises. I would like the Minister to bear that fact in mind when he is discussing this matter with his colleagues. I shall have something further to say at a later stage.

The Hon. C. D. ROWE (Attorney-General)—I ask the Committee to report progress so that I may have time to study the amendments.

Progress reported; Committee to sit again.

HAWKERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 26. Page 1539.)

The Hon. F. J. CONDON (Leader of the Opposition)—When an amending Bill was before the Council in 1948 I referred to an anomaly in the principal Act and asked the Council to agree to a small alteration of section 20. The whole purpose of that Bill was to make it clear that soliciting of and taking orders for sale by retail comprised a sale within the meaning of the Act. This Bill proposes to amend section 20 by striking out the word “usually” and inserting in lieu thereof the word “continuously,” so as to make it read—

... persons who do not continuously reside or carry on business within the area of the council . . .

It further amends the Act by empowering a council to make by-laws fixing the fee to be paid for a licence, not exceeding £2 per day or portion of a day, and may provide for the imposition of fines not exceeding £5, recoverable summarily, for any breach of any by-law. The effect of this new provision shall be deemed to operate as from the passing of the Hawkets Act Amendment Act, 1948.

The Bill gives protection to local traders. An argument has been advanced to me suggesting that a hawker may visit three or four towns in one day, each being within the boundaries of different councils, and consequently it would be a hardship on him if he were charged the licence fee in each area. This is something that I ask the Minister to examine. I support the second reading because it corrects something that was overlooked in 1948.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—“Amendment of principal Act, section 20.”

The Hon. N. L. JUDE (Minister of Local Government)—I shall be very glad to investigate the point raised by the Leader of the Opposition, and therefore ask that progress be reported.

Progress reported; Committee to sit again.

EXCHANGE OF LAND: HUNDRED OF WATERHOUSE.

Consideration of the following resolution received from the House of Assembly:—

That the proposed exchange of land in the hundred of Waterhouse, as shown on the plan and in the statement laid before Parliament on July 21, 1959, be approved.

(Continued from October 27. Page 1561.)

The Hon. C. D. ROWE (Attorney-General)—The purpose of the exchange is to obtain an area of 28 perches of freehold section 299, hundred of Waterhouse, required by the South-Eastern Drainage Board in connection with the enlargement of Drain L near Robe. This section is held by Mr. C. E. P. Lee and Mrs. G. M. Lee, who are to receive in exchange 1 rood 15 perches of nearby Crown lands, numbered section 501, which was formerly portion of a drain reserve, but is now surplus to requirements. The proposal has been investigated by the Land Board, which has valued the 28 perches of section 299 at £3 10s., and section 501 at £8 11s. 11d. Under the arrangement with Mr. and Mrs. Lee, they will erect, at their own expense, fencing on the new boundaries, three chains on section 299 and one chain on section 501, the total cost of the four chains being estimated at £12. In the opinion of the Land Board the proposed exchange would be very satisfactory to the Government. In these circumstances, I ask members to agree to the resolution.

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

ADJOURNMENT.

At 3.02 p.m. the Council adjourned until Wednesday, November 2, at 2.15 p.m.