LEGISLATIVE COUNCIL.

Wednesday, August 23, 1961.

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

BUSH FIRES REGULATION: SULPHUR.

The Hon. C. R. STORY (Midland): I move:

> That Regulation No. 17 of the regulations under the Bush Fires Act, 1960, in respect of burning sulphur for the treatment of fruit in the process of drying made on June 1, 1961, and laid on the table of this Council on June 20, 1961, be disallowed.

I shall furnish honourable members with the reasons for my action. This regulation is made under section 65 of the Bush Fires Act relating to the lighting of fires and the maintaining of fires in the open air on a banned day. The proposed regulation No. 17 is quite unnecessary because the burning of sulphur in the process of fruit drying does not come within the scope of section 65 of the Bush Fires Act. By no stretch of the imagination could this process be deemed to be a fire in the open air. The Joint Committee on Subordinate Legislation called as a witness Sir Edgar Bean, formerly Parliamentary Draftsman, to ascertain his views on the subject, and it was his opinion that an apparatus used to burn sulphur for the treatment of fruit in the process of drying would not be considered a fire in the open air. Perhaps it is necessary for me to explain the position a little more to honourable members in a broad outline to enable them to grasp the full significance of this regulation. Fruit for drying is taken from the trees at an advanced stage of maturity—almost at the soft stage, with a maximum sugar content. It is then cut in halves by running a knife around the suture, the stone is removed and the halves are placed cup upwards on a wooden tray measuring 3ft. by 2ft. The trays of fruit are then placed in the sulphuring apparatus, as detailed in the regulation.

I do not want to go into great detail as to the various types of apparatus accepted in the industry for the process of sulphuring the fruit, but it suffices to say that there are three main types. In one case a room of a permanent nature is constructed of either asbestos sheeting, stone or concrete, and a wooden door or a door lined with asbestos is placed on the front, and during the process it is firmly bolted in position. In the second case, known as a portable apparatus, a framework is covered either with rubberoid, which honourable members will know is not a highly inflammable material but a smouldering material, or with lime whitewashed hessian. Anyone with experience of lime whitewashed material knows that it is not highly inflammable and that the action of the lime makes it a smouldering type of cover, should it become alight. In the third method, the newest method, a plastic tent is used. It is designed to cover a certain number of trays and has reinforced corners. The tent is placed over the trays and its edges' at ground level are insulated with mud to prevent sulphur fumes escaping from it. Several vents are provided in this type of tent with holes about the size that would be made by a small nail to provide the oxygen to keep the pot of sulphur inside burning.

The time taken in the process of sulphuring can vary greatly, according to the climatic conditions, the number of trays, the quantity of fruit involved and several other factors. The period of burning the sulphur in the box would be a minimum of seven hours, but if the weather were cool it could be 14 hours. The sulphur is placed in a shallow dish, or in a four-gallon oil drum cut to about four inches high. The quantity of sulphur varies according to the quantity of fruit involved, but it is never more than 2 lb. A small hessian wick is placed in the tin, and it is covered by the sulphur. The wick is needed to start the fire in the sulphur: it smoulders and then the sulphur melts and ignites. In the process at no time is there a flame that is actually a fire in the open air. It is fully enclosed and the fumes only do the job of preserving the fruit.

It is important when the process of sulphuring is completed to take the fruit from the apparatus and spread tray by tray singly on an area of ground that is covered by some material to lay the dust. In many cases the area will be covered by a couch grass sward, which we all aim to do. It may be covered, however, with cracked apricot kernels or other suitable material. The object is to see that no dust is allowed anywhere in the drying area, because when the fruit comes from the sulphuring apparatus it is soft and full of juice. If dust lands on the fruit and becomes impregnated into the flesh, it is almost impossible to get it out. Generally, the industry is faced with the dust problem, but it has received the co-operation of all growers in this matter. The regulation, as framed, would defeat the object of the growers in trying to lay the dust. It says:

An area of 12ft. around every sulphur apparatus in which a fire is burning the ground must be cleared of all inflammable materials.

If there were an irrigated couch grass sward the burning of the sulphur in the vicinity would through chemical action turn it in a day into an inflammable condition. Therefore, it is necessary to clear the adjacent area with a shovel and create a dust bowl. That would apply also in connection with any other covering on the ground. Great care is taken by the growers to see that the sulphur pot rests on a sheet of galvanized iron, which is turned up so that no flame can catch the trays of fruit. There is no problem in this matter.

Mr. F. L. Kerr, Director of Emergency Fire Services, was examined by the committee and among other things he said that it was mainly a legal question whether the fire itself constituted a fire in the open. He felt that in some circumstances the process could be considered a fire in the open and that a regulation was necessary. I should point out in fairness to all concerned that the regulation was drawn to protect persons whose livelihood necessitates their lighting a sulphur pot on a banned day. It was done on the assumption that the practice of the growers constituted a fire in the open, but it is the considered opinion of the former Parliamentary Draftsman (Sir Edgar Bean), whom all members will agree is a great legal authority and a man with a practical approach to all subjects, that the process cannot be deemed to be a fire in the open. If it were necessary to have a regulation it should have been framed in such a way that it did not hinder people and cause them not only unnecessary worry but some financial loss through having to clear the area around the sulphur apparatus to make a dust menace, to which the industry is completely averse. In all horticultural properties, whether irrigated or not, there is always cultivated land which constitutes a fire break. Even with the remote possibility of a fire getting away on a drying green the fire would be contained within the place of origin. In all horticultural districts the possibility of a fire getting away from an orchard is negligible, whether it be a vineyard or a cultivated area. If an individual were careless enough to allow a fire to start on his property he would be the only loser.

I do not believe that the Bush Fires Act was designed to have the all-embracing effect that we have at present. When the amending legislation was passed in 1960 had I thought that this matter would be before us I would certainly have opposed the measure, but I took it for granted that the process of sulphuring would not come within the scope of the Act, and even now I cannot see why the regulation was promulgated. It is necessary to have legislation to protect property owners against acts by individuals that may cause bush fires, but some of the regulations made under the Act are unnecessary. I earnestly request the support of honourable members in moving for the disallowance of this regulation, because I consider that it does not come within the scope of the Act and that it is redundant.

The Hon. Sir LYELL McEWIN secured the adjournment of the debate.

HEALTH ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 22. Page 480.)

The Hon. L. H. DENSLEY (Southern): The problem of old people is one which has today become very important and which is of great magnitude. There is a higher percentage of aged people than there has been, a phase which I believe is slowly passing because of the number of young people growing up in this country. The maintenance of aged people within the family seems to be passing, an attitude largely due to the social services which are now provided by the Government, and the responsibility of looking after these people is not looked upon now as being as great as it was years ago. We must be prepared to cater for as many of the old people as it is possible to do under the best circumstances. We should be grateful to those who are prepared to make provision for old people, and to look after them in their declining years in a proper and reasonable fashion. Many people are doing that, and homes have been set up for that purpose, and this amendment is aimed at providing a greater protection for old people.

There is a large number of philanthropic and religious institutions, homes for the aged, boarding houses and rest homes that provide good accommodation, but there are instances where people undertake the care of the aged and do not provide adequate supervision. There have been isolated cases where aged people have been congregated in small premises and have not had the facilities which they should have in their declining years. There are, of course, many aged people who can

go into private hospitals, and some of them go into rest homes. A large proportion, however, are pensioners relying on their pensions, who find refuge in some of these boarding houses, and it is essential that these people should be provided with proper nursing and other attention. In isolated cases a large number are crowded into small areas and there does not appear to be any reasonable prospect of their receiving proper attention.

The Bill is designed to ensure that old people will be properly cared for when they cannot look after themselves. Adequate nursing staff is necessary in many cases, but in some of the boarding houses which are today not registered, the fees that are charged are virtually the pension that is paid to the inmates of those homes. Little regard is paid to the type of inmate who is cared for in these particular boarding houses. They may be very old people who can look after themselves, people who cannot adequately look after themselves, or even mental patients on parole. There are places in this city where those people are kept together in rather unhygienic circumstances and with bad overcrowding. It is desirable when patients are cared for for fee or reward and who need some medical supervision, treatment or care, that these places should be registered and made to comply with the regulations. In rest homes which are well adapted for the purpose of looking after aged people, provision is made for proper accommodation so that the patient is provided with a floor space of 70 sq. ft., but in some of the boarding houses caring for these people the space provided is much less, and consequently the overcrowding of those mentally and physically unfit people is undesirable and needs some supervision.

Segregation of those people who are mentally ill or physically debilitated to the extent that they cannot look after themselves is necessary, and those people should be cared for in rest homes that are controlled rather than in boarding houses. Perhaps we should do away with some of the boarding houses which are at present caring for these people, but that would result in less accommodation being available. It costs only £2 a year to register one of these homes. I believe that members may well leave this amendment as it was originally drawn because it is in the best interests of people who, in their declining years, must be looked after but can also retain a small amount of their pension for living purposes. Where people are mentally or physically ill they should be relegated to rest homes and placed under proper supervision and under conditions which make it compulsory for the homes to have adequate nursing staff, facilities, proper rooms, and facilities for rest. Consequently, the Bill can result in much good.

I shall not go into the more sordid aspect of this matter, which could be referred to one or two cases, but it is essential that something should be done towards registering places where aged and infirm people, unable to care for themselves, will be properly looked after. Clause 3 (*a*) adequately provides for, and will not unduly interfere with, people who care for patients who are merely old and not incapacitated. Therefore, I am pleased to support this Bill which provides that any place that takes people requiring medical or trained nursing attention shall be registered. That is virtually the purpose of the Bill.

The Hon. JESSIE COOPER (Central No. 2): I rise to support this amendment to the Health Act which I consider very necessary indeed. With the advance in medical science and the study of geriatrics we now know a great deal more about the care of the aged but we also have a lengthened life span and, consequently, many more old people to look after. Many people do look after their aged parents and separate flats are often incorporated in the modern domestic home to meet such circumstances. Contrary to popular belief, the inclusion of an aged parent is often of great advantage to a young couple. Children love their grandparents and the tension often mentioned as being caused by different age groups living under one roof is, I believe, exaggerated.

However, many old people are without relatives: some also prefer to be independent of their families. As has been mentioned there are indeed, in this State, many fine rest homes and hospitals run by competent people with the highest Christian principles, but there are also, unfortunately, unregistered homes or boarding houses where all manner of abuses exist. Old people, ailing, weak and often helpless are virtually kept prisoner. Their pensions are taken from them in return for so-called care and attention and they endure their lives without hope. I trust that the examination of such premises will now be made possible by the passing of this amending legislation and that such examination will be rigorously carried out. I hope Parliament will support this Bill.

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

SALE OF FURNITURE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 22. Page 482.)

The Hon. C. D. ROWE (Attorney-General): Honourable members raised one or two matters during the second reading debate and I should like to deal with them. The first was raised by the Honourable Mr. Shard when he asked whether the seven days during which the department could be in possession of the furniture in question was sufficient to enable the department to institute proceedings. I have discussed this with officers of my department and they inform me that they think seven days will be sufficent for their requirements and they are quite happy with that figure.

The other matter that Mr. Shard raised related to the appointment of inspectors. He mentioned that it was not of much use having provisions in the Act requiring vendors of furniture to do certain things if there were no inspector to see that they were done. I assure the honourable member that if this Bill is passed I will see that its provisions are properly policed so as to ensure that the intention of the legislation is carried out. I think the honourable member agrees with me that over the last year or two under all the Acts administered by the Department of Labour and Industry there has been an improvement in policing, and that will continue in the future.

The Honourable Mr. Story spoke about the stamping of the various articles of furniture. I think he said that it should be done by some stamp or by some permanent mark or method of marking and he thought that, as the Bill was drawn, the position would be covered if a label were hung by a piece of cord on an article of furniture. I examined the actual wording of the clause and I think it provides that the label must be stamped or affixed in a prominent place on each article. I do not think that the affixing of a label by a cord would meet the requirements of the Bill, because it must be stamped or affixed on the article.

The Hon. A. J. Shard: Securely affixed!

The Hon. C. D. ROWE: That is correct.

The Hon. L. H. Densley: Isn't the Minister talking to the Bill and not to the Act?

The Hon. C. D. ROWE: Yes. The point was that Mr. Story believed the Bill would permit the attaching of a label to an article and that it could be removed very quickly. He had had some experience of that in certain affairs, but my instructions are that that would not be so. There are certain types of modern furniture on which it would not be practicable to have a mark impressed, as they are completely covered by cloth, and that makes it necessary to provide for a label to be attached. The provision for a label is something brought about by the modern methods of construction and design of furniture. If it should be found that the provision is abused, the Act can be re-introduced and amended.

The Hon. Sir Arthur Rymill: What does "securely affixed" mean?

The Hon. C. D. ROWE: I think it means what it says.

The Hon. Sir Arthur Rymill: It should be more precise.

The Hon. C. D. ROWE: I do not think there will be any difficulty in the interpretation. If the honourable member has an amendment, I will be prepared to consider it. The other matter raised by Mr. Shard related to evasions of the provisions of the Hire-Purchase Agreements Act. From information I have obtained, I consider that those companies which are members of the hire-purchase companies conference and engaged in the actual business of hire-purchase are obeying the provisions of the Act almost to the letter, but certain finance companies are not.

The Hon. A. J. Shard: The hire-purchase companies conference cannot have very many members in Adelaide!

The Hon. C. D. ROWE: Certain finance companies associated with certain trading houses are selling goods that are not under hire-purchase agreement by various other methods. It is in connection with those other methods that the no-deposit provisions are being advertised. Strictly, that does not amount to a contravention of the Act, but it is something that is engaging the attention of the Attorneys-General of Australia and something that may have consideration later. I thank honourable members for their consideration of the Bill and commend it to them.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Amendment of principal Act, section 5".

The Hon. Sir ARTHUR RYMILL: I agree with the intention of the Bill, but consider that more consideration should be given to the matter raised by the Hon. Mr. Story. The wording of this clause includes "or have

securely affixed thereto a label . . ." I assume that a label in the popular parlance could well be a piece of cardboard or the kind of thing put on luggage, and if one has a strong enough piece of string attaching it, I assume it would be considered to be "securely affixed". I have travelled around the world with cardboard labels attached with a piece of string to my suitcase and even to trunks. I think this is purely a matter of interpretation of what "securely affixed" means.

I entirely agree with the spirit of the Bill, but think that the verbiage should be reconsidered. The Attorney-General has invited me to move an amendment, which I am not prepared to do because I think it is not my job. The idea behind the Bill is quite obvious. I consider, as the Hon. Mr. Shard has said, that it is possible to find a way around certain Acts of Parliament. This one would be very easy to get around. If one had a metal label securely affixed by a piece of wire—and I do not think anyone could say that a card or label affixed by a substantial piece of wire was not securely affixed—it could be snipped off. I suppose that applies to most other types of labels. If a label had been nailed or screwed on a piece of furniture a prudent person could see where it had been. In reply to the Minister's invitation to me to move an amendment I invite him to report progress and give this clause further consideration with a view to its being made slightly more precise, because as I see it, it is left completely open to legal interpretation.

The Hon. C. D. ROWE (Attorney-General): When an invitation is extended to me I am always happy to accept it, and it is not my policy to turn such an invitation down. In the circumstances, I am prepared to discuss the matter with my officers and ask them to give further consideration to the point raised by the Hon. Sir Arthur Rymill. However, I point out that should a label be affixed in the way he said labels had been attached to suit cases when he travelled around the world, that should meet the requirements of the Bill. I am prepared to ask the Committee to report progress.

Progress reported; Committee to sit again.

HOSPITALS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 22. Page 478.)

The Hon. S. C. BEVAN (Central No. 1): I consider the Bill is more important than a first glance may indicate. At this stage I find myself in opposition to the amendment. I consider it is unfair to ask honourable members to debate any Bill that was placed on the file at about 12.45 p.m. on the day of sitting. As a result, members have very little opportunity to examine its contents prior to speaking on it. I hope that this will not be taken as a reflection upon the Chamber staff. They could not place a Bill on the file unless it was in their possession, and if a Bill is not delivered before 12.45 p.m. on the day set for its consideration, I consider that something should be done so that it could be on members' files earlier.

The Hon. Sir Lyell McEwin: Have you never heard of asking for an adjournment?

The Hon. S. C. BEVAN: I do not want an adjournment because what I have to say can be said now. This is not the first time we have been in such a position. It has happened in every session since I have been here. Towards the end of every session we have had to continue the second reading debate without having copies of Bills available. It should be possible to make arrangements to have copies available sooner than they are now.

This legislation is more important than would be thought at first glance. Because of increased population we need more hospital accommodation. The Queen Elizabeth Hospital is now in full use and numerous additions are being made to the Royal Adelaide Hospital. When the work there is completed no doubt further additions to it and to the Queen Elizabeth Hospital will be necessary. The population in country districts is increasing and the demand for hospital accommodation is becoming greater every day. Because of these increased demands we should look closely at the Bill. In 1959 Parliament amended the Hospitals Act and inserted the following provisions in section 47:

I. After the coming into operation of the Hospitals Act Amendment Act 1959 the Governor may from time to time on the recommendation of the Director-General by regulations which he is hereby empowered to make fix in respect of any public hospital, and . . .

II. Rates of payment whether daily, weekly or for any other period for the maintenance of patients in the hospital, which rates may vary according to all or any of the following circumstances, namely the accommodation and treatment provided for the patient, the nature of his illness or disability, the persons liable to pay for his maintenance in the hospital, and any other circumstances which the Director-General deems it just to take into consideration.

My point is that the fees and charges can be fixed by regulations. The practice was adopted in 1959 because it was felt that Parliament

should have control of hospital fees and charges. It was thought better to have them fixed by regulations than by proclamations. The Bill amends section 48, sub-section (2) of which says:

> Upon the making of any such proclamation the provisions of section 47 shall apply with respect to the hospital and the said section shall be read as if the words "board or committee of management of the hospital" were substituted for the words "Crown" and "Director-General".

It is now intended to add a further sub-section to remove the application of section 47, which contains the following definition:

> "Public hospital" means (*a*) the Adelaide Hospital: (*b*) any place declared to be a public hospital pursuant to the Hospitals Act 1867 or to section 5 of this Act: (*c*) any other hospital which is under the management of the Director-General.

Section 47 applied to any hospital, whether private or subsidized. The Bill takes us back to the position we had before 1959 and permits these other hospitals to fix their own fees and charges. At present most of them have been fixed by regulations, but some have been fixed by the board of management without promulgating regulations. This is to be retrospective legislation, and consequently breaches of the Act are not to be recognized. If it is good enough to control fees and charges for Government hospitals, surely fees and charges at private and subsidized hospitals should be controlled similarly. During the war years, through National Security Regulations, there was control and the hospitals that received the Government subsidy of about 6s. a day could not charge more than a certain amount. That was the position up to 1959, but since then fees and charges have been fixed by regulations. I cannot see why Government hospital charges should be controlled by regulation and other hospitals in the State should have a free hand.

The Hon. Sir Lyell McEwin: You have the facts mixed up. You are getting subsidized hospitals mixed up with Government hospitals. Subsidized hospitals have never been controlled.

The Hon. S. C. BEVAN: I understood that prior to 1959 they were not, but in 1959 their fees were set by regulation.

The Hon. Sir Lyell McEwin: Not subsidized hospitals. The 6s. a day never affected subsidized hospitals.

The Hon. S. C. BEVAN: I must have misinterpreted that because I understood once the proclamation was made it brought the whole of section 47 into operation.

The Hon. Sir Lyell McEwin: That is what we are trying to correct, but I thought you said the subsidized hospitals were controlled under the central hospital system.

The Hon. S. C. BEVAN: They were controlled under National Security Regulations during the war years. Private hospitals were controlled under that legislation for some time because of the Commonwealth subsidy of about 6s. a day. There should be some control, and I use the word "control", because charges or fees should be made by regulation, so that Parliament has an opportunity of considering the intent, and of preventing exorbitant charges.

A typical example is at Whyalla where considerable extensions are to be made to the hospital. Whyalla has grown considerably and will continue to grow in the future. This growth has created a demand for hospital and other services. A board of management controls the Whyalla hospital and much money is needed for extension. This hospital receives a Government grant, but I understand that the extensions will cost £220,000 and some approaches have been made to the authority for a loan. Apparently this authority would be the Whyalla Town Commission. Interest will be charged for this loan, and in order to repay it increased charges will have to be made. Patients who are unfortunate enough to be confined to hospital will have to pay these charges. I realize that arguments can be used that persons are not compelled to go to the hospital because there are Government hospitals to which they could go. If they go to a public hospital they know beforehand what the charges will be, and if they cannot pay the charges fixed by regulation, there is provision in the legislation for a remission of a considerable amount under certain circumstances.

All hospitals whether community, subsidized or private, are playing an important part in our community today. It is a service in which the welfare of the patient always comes first, but one of the problems of hospitals today is that of obtaining staff. The hospital management must pay reasonable salaries to the staff and this is impossible if it does not have sufficient money or cannot get it. In some cases hospitals have been forced to close and this is something which should not be allowed to happen. Today many people join an approved hospital fund and are covered if they are confined to hospital, but there is a tendency for people to say it does not matter

if charges are increased because they are insured by paying into the hospital fund, but we are adding to the burden of the community if that procedure is adopted.

During the debate in 1959 I am sure the Leader in another place had in mind that Parliament would have an opportunity of considering hospital charges before they became fixed by regulation, and that the amendment to that Bill was acceptable. That amendment has not caused any great hardship; it may have resulted in breaches of the Act itself, and because of that, representation has been made to the Government to rectify the position, and that is why this Bill has been introduced. I feel that no hardship has been created since 1959, but consider that Parliament should have the opportunity of investigating hospital charges and fees and of seeing what can be done in this matter. If it is necessary for a hospital to increase its charges surely it is a simple matter for it to apply to the proper authorities to have a regulation made that on and after a certain date the charges for that hospital will be at a certain daily rate. Hospitals generally adopt the principle enunciated by the Government under regulations fixing hospital charges. It is now generally accepted that the daily charge is £3, but obviously that charge does not include everything, and in these hospitals various charges are imposed over and above the general hospital accommodation charge. Any additional charge is borne by the patient. If a patient has the ability to pay the charges that is all right, but I would prefer to enter a Government hospital where everything is available at the fingertips of the staff to deal with all sorts of cases. Government hospitals possess all the necessary equipment and are able to provide expert attention. The other hospitals are doing a wonderful job but Parliament should have an opportunity from time to time to examine the charges fixed for hospital services to the general public. At this stage I oppose clause 3 in its present form, although I believe there will be a further clarification of it.

The Hon. Sir FRANK PERRY secured the adjournment of the debate.

ADJOURNMENT.

At 3.28 p.m. the Council adjourned until Thursday, August 24, at 2.15 p.m.