

LEGISLATIVE COUNCIL.

Thursday, August 24, 1961.

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

QUESTION.**CREAM SALES.**

The Hon. G. O'H. GILES: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. G. O'H. GILES: I intend to draw the attention of the Chief Secretary, representing the Minister of Agriculture, to the cream sale position in South Australia and then ask a question. Cream sales in South Australia have fallen over the last 12 months by 7½ per cent. The consumption rate in this State is 1.69 pounds per head per annum. That figure compares with 4.45 in Victoria and 1.89 in Queensland. Possibly the reason for this fall in consumption in this State is that in the eastern States I gather that legislation has been introduced allowing for the sale of lower standard creams. For instance, in New South Wales full cream is sold at, I think, as we sell in South Australia, namely, 35 per cent; reduced cream at 25 per cent; and dessert cream at 18 per cent. Bearing in mind that this could account for the falling off of cream consumption in South Australia, will the Government look into this position with a view to amending the legislation to enable the sale of cream not to drop any further, and with the object of increasing the consumption?

The Hon. Sir LYELL McEWIN: I will refer the question to the Minister concerned.

**WHYALLA TOWN COMMISSION ACT
AMENDMENT BILL.**

The Hon. N. L. JUDE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Whyalla Town Commission Act, 1944-1949. Read a first time.

The Hon. N. L. JUDE: I move:

That this Bill be now read a second time.

It amends the present Whyalla Town Commission Act in three respects, first by altering the status of Whyalla from "town" to "city", secondly by providing the chairman of the commission with the right of appeal against removal from office on resolution by other members of the commission, and thirdly by

empowering the giving of proxies for commissioners appointed by the Broken Hill Proprietary Company.

The first of the amendments is effected by clauses 1 and 3. Subclause (2) of clause 1 will alter the title of the Act as amended to "The City of Whyalla Commission Act", and clause 3 will substitute the words "City of Whyalla" for "Town of Whyalla" wherever that expression appears in the principal Act. It will also alter the designation of the commission from "Whyalla Town Commission" wherever that expression occurs in the principal Act to "City of Whyalla Commission". Two necessary consequential amendments to sections 20 and 26 where the word "town" appears by itself are also made. I should explain that an amendment of the principal Act is required to effect the change in the status of Whyalla and the name of the commission because procedure by way of petition under the Local Government Act is not available.

Clause 4 deals with the subject of appeals by the chairman. Section 13 of the principal Act provides that the chairman of the commission may be removed either if the Governor is satisfied that he is not a fit and proper person to hold office or where other members of the commission unanimously resolve that he be removed from office on the ground that he is not a fit and proper person. The chairman is appointed by the Governor and is the principal executive officer of the commission. It is felt that the power conferred under the second portion of section 13 of the principal Act upon the other six members of the commission to resolve that the chairman be removed from office should contain some provisions which would entitle the chairman in such a case to appeal to the President of the Industrial Court in the same way as a suspended or dismissed council clerk may appeal under the Local Government Act. Of course, as principal executive officer of the commission the chairman is the mayor and town clerk of Whyalla. Clause 4 accordingly adds a proviso to paragraph (b) of section 13 of the Act giving such a right of appeal.

The third amendment is effected by clause 5. Under the principal Act any elected commissioner can, by notice in writing, authorize any other elected commissioner to vote for him at specific meetings. No similar provision is contained in regard to commissioners appointed by the Broken Hill Pty. Company, although the company can appoint deputies. It is felt that, to ensure continuity

at meetings of the commission, it would be desirable to give to commissioners appointed by the company the same right of nominating a proxy as that which other commissioners have, and clause 5 accordingly inserts a new subsection (1a) in section 16 to this effect.

These amendments have been requested by the Whyalla Town Commission and the Government feels that they are warranted. I commend the Bill for the consideration of members.

The Hon. A. J. SHARD secured the adjournment of the debate.

HEALTH ACT AMENDMENT BILL.

(Continued from August 23. Page 510.)

On the motion for the third reading:

The Hon. K. E. J. BARDOLPH (Central No. 1): I do not wish to delay the passage of the Bill but when speaking to this measure on the second reading I said that the Minister of Health indicated that the Bill was introduced because of one case of some alleged irregularity or irregularities. When Sir Collier Cudmore was the Leader of the Liberal Party in this House he often used the axiom that "hard luck cases make bad laws". This Bill goes much too far. I said that valid and specific reasons for the Bill were not given and I indicated that the verbiage of the Minister's second reading was so evasive and bamboozling that it was difficult to know exactly what was meant. I again read the Bill and the second reading speech and I found that the measure, in effect, provided a wide dragnet clause. I therefore asked the Minister to make the docket available so that it could be perused by members to determine the reasons for the Bill.

I indicated, too, that I had no desire to support any rest homes that did not provide adequate attention for these unfortunate people with mental illnesses and other complaints when, in the sunset of their lives, it is necessary for them to reside in rest homes. I submit that before the third reading is contemplated by this Council further information should be given to members about the reasons for the Bill and its implications.

The Hon. Sir LYELL McEWIN (Minister of Health): The honourable member cannot have it both ways. Either he supports the Bill or he does not support it.

The Hon. K. E. J. Bardolph: Not necessarily!

The Hon. Sir LYELL McEWIN: If the honourable member gets up and says that there is not sufficient information he should be a little more explicit as to the information he requires.

The Hon. K. E. J. Bardolph: Why didn't you produce the docket?

The Hon. Sir LYELL McEWIN: The honourable member says that he has not the information and that the Bill deals only with one case. Probably other members will know as many cases concerning this measure as I do, but while the honourable member is trying to give lip service to old people and coming here to suggest certain things he is not being sincere.

The Hon. K. E. J. BARDOLPH: Mr. President, on a point of order I take offence at the Minister's referring to me as giving lip service to old people. I ask that the Minister withdraw that remark.

The PRESIDENT: The Hon. the Chief Secretary.

The Hon. Sir LYELL McEWIN: Getting back to where I was—

The Hon. K. E. J. BARDOLPH: I seek your direction, Mr. President, and ask the Minister to withdraw that remark that I am attempting to give lip service to the aged people.

The PRESIDENT: The Minister can do as he likes in that respect. I call upon the Chief Secretary who is in charge of the House.

The Hon. K. E. J. BARDOLPH: Mr. President, if that is your ruling I take it that it shall be general for any member of this Council to make innuendoes and imputations and the member concerned can receive no protection from the Chair.

The PRESIDENT: The honourable member can assume what he likes.

The Hon. Sir LYELL McEWIN: I am used to innuendoes and I am sorry if, after all the experience of the honourable member, he has to take exception to things I have tolerated for years. We are dealing with a Bill that relates to some sort of control on places that take people in, not merely to give board and lodging, but where some care and attention is required. Every attempt at control in the past has failed and we have to differentiate between what is a boardinghouse and what is a home that gives some care to the aged. That is the whole purpose of the Bill. The honourable member mentioned places that are run satisfactorily and do not need this legislation. I quite agree with him

and if everybody did the right thing regulations would not be needed. If everybody observed the rules of the road we would not need all the restrictions that we have on traffic. If everyone acted as a Christian we would not need legislation at all. I do not want to get myself into the predicament that my honourable friend found himself in yesterday when he tried to argue something that he did not believe in because I do believe this is a good measure and I make no apologies for bringing it forward. It has been brought down in the interests of those people who, unfortunately, have gone past the stage where they can do anything to help themselves. That is the sole purpose of the Bill. It is humanitarian in every way members may look at it, and I have no hesitation in commending it to the Council. I was not surprised that it went to the third reading as quickly as it did. I do not think the Council need be at all concerned about any risk in supporting the Bill.

The Hon. K. E. J. Bardolph: Why didn't the Minister tell the Council whether only one establishment was involved?

Bill read a third time and passed.

SALE OF FURNITURE ACT AMENDMENT BILL.

In Committee.

(Continued from August 23. Page 512.)

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

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

In paragraph (a) to strike out "securely" and insert "permanently".

I have given consideration to the matter raised yesterday on the question of whether a tag attached to an article of furniture would meet the requirement of this Bill and I think I can answer those criticisms by the amendment I have moved.

The Hon. Sir FRANK PERRY: I agree with the Bill as it stands and would like to know what "permanently" means. Once furniture is sold the owner is at liberty to do what he likes with it, and it would be wrong if the brand had to remain permanently on the furniture. I understood the intention of the Bill was to protect the original purchaser and not to allow any subterfuge at that point. If it is sold afterwards at auction the buyer takes the risk, and I think "permanently" is probably the wrong word to use. The label should be fixed "correctly" or "properly", and I have no objection to a

label indicating to the original purchaser what he is buying. After the article has been bought the purchaser can do what he likes with it. Some furniture is branded by the manufacturer, and antique furniture is marked with a transferred star to show that it is over 100 years old. That star can be removed or allowed to remain, but to have a mark put on originally which has to remain seems to me to be wrong. I prefer the Bill as originally drafted.

The Hon. C. R. STORY: I commend the Attorney-General for moving this amendment, which meets the wishes of those who have spoken on this matter. The point raised by the Hon. Sir Frank Perry is slightly irrelevant, because he says that the purchaser should be protected. Once the article has been bought anything can be done with it because a brand does not have to appear on secondhand furniture. On one occasion I purchased a frying pan made by a well-known manufacturer with a label hanging on it tied with a piece of blue ribbon. I placed it on the stove—it was supposed to have a ground base—but it melted. I returned it and after much inquiry it was found that it was bought from a second store and not the original maker. Someone had either forged a label and placed it on a second-rate article, or else had snipped the label off because the previous purchaser had not worried about it, and attached it to the pan. Had the brand been embossed into the article there would have been no possibility of a forgery. Labelling is open to a good deal of abuse, and as we are changing the law to embrace interstate manufacturers, I think it should be tidied up. If the label is sewn or stapled securely on to the fabric so that it cannot be altered without the alteration being obvious, the purchaser may be able to remove it carefully if it is not to be shown. I support the amendment and commend the Attorney-General for meeting the wishes of the House in this matter.

Amendment carried.

The Hon. C. D. ROWE: I move:

In new subsection (2) of section 5 to strike out "securely" and insert "permanently".

Amendment carried; clause as amended passed.

Clauses 5 to 9 passed.

Clause 10—"Operation".

The Hon. Sir FRANK PERRY: This clause covers the importation of furniture into this State, and I understand that a certain amount of furniture comes from other States. I ask

the Attorney-General whether, when introducing this Bill, he had any knowledge of furniture coming into this State which had been manufactured in places outside Australia such as Hong Kong. I know some furniture comes from England. I presume this Bill is aimed at the branding of furniture of an inferior type, whether that furniture comes from interstate or overseas.

The Hon. C. D. ROWE: The object of the Bill is to enable people who find that they have purchased inferior furniture to know who is responsible for its manufacture. I cannot say that the Bill is designed to catch people who import furniture from overseas as against those who import it from other States. I do not know whether there have been instances of inferior furniture being bought from overseas. The object of the Bill is to enable people to see where the furniture is made, so the remedy is in their own hands if they get an inferior article.

Clause passed.

Title passed.

Bill reported with amendments. Committee's report adopted.

HOSPITALS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 23. Page 514.)

The Hon. Sir FRANK PERRY (Central No. 2): The object of the Bill is to correct an unintentional effect of an amendment made in the House of Assembly in 1959, and to my mind is in order. There are several types of hospitals, such as public hospitals under the control of and financed by the Government, subsidized and private hospitals, and other hospitals in between that range. Generally, the Bill relates to subsidized hospitals and the fees that can be charged. In Government hospitals the Government itself fixes the fees. In subsidized private hospitals many people give their time and services voluntarily and I pay a tribute to these people. Anyone who gives his time, thought and money, particularly his time, for the alleviation of suffering does a very good service, which should be recognized.

These subsidized hospitals are scattered around the country and in some measure are controlled by the Government in that it provides grants to them, and I understand that these grants vary according to the conditions in the area the hospital serves. As the people who give voluntary service to these hospitals have some interest in them, they should also

have some say in the fees charged. I cannot quite understand the honourable Mr. Bevan suggesting that the local people would seek to raise the fees to the detriment of the patients; they would be more inclined to reduce the fees. Therefore, the Government in seeking to revert to the practice operating before the amendment to the Act in 1959 is doing the right thing and I support the second reading.

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

CHILDREN'S PROTECTION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 22. Page 479.)

The Hon. F. J. POTTER (Central No. 2): This Bill effects a very small but important amendment to section 19 of the Act. It need not occupy members' attention for any length of time because it is pretty obvious that this is something the original Draftsman would have provided for had he thought about it sufficiently. If there is provision under section 19 for a court or jury on its own judgment to be satisfied that a child is under a certain age, obviously there is no logical reason why that particular method should not be adopted to judge that a child is of that age or over that particular age. By passing this legislation, all three possibilities will be covered, instead of merely one.

This provision is not used very often. In fact, I was not aware that section 19 existed and yesterday I asked a few practitioners whether they knew of it and they said they had never heard of it before. That shows how infrequently one has to have recourse to this section. In sexual offences, under the Criminal Law Consolidation Act, the actual age of the child, whether under or over or of a certain age, is an essential ingredient in the charge, and has to be proved by the Crown in some way beyond reasonable doubt, as the Crown has to prove all the other ingredients in such a charge. The way most often used is for the prosecutor to call the mother of the child to say that the child was born on a certain date and is now of such and such an age, or it can be backed up by producing a certified copy of the birth registration. I do not know the case in point, but it is obvious that an exceptional case has arisen. As the Attorney-General said, it probably occurred in connection with a migrant child or where a birth

certificate was not available and the mother was not there to say when the child was born. In consequence, the Crown was probably stumped in trying to prove that essential ingredient in the charge. The Act provided only for a jury to satisfy itself that the child was under and not more than a particular age. This Bill will cover all eventualities. Its passing will not mean that the provision will be used more in the future than in the past and I think it can have the support of all members without further ado.

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

FRIENDLY SOCIETIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 22. Page 480.)

The Hon. K. E. J. BARDOLPH (Central No. 1): I support the second reading and indicate that in Committee I shall move an amendment. The amendment has not yet been circulated to members, but has been typed. In conformity with correct procedure I do not propose to discuss it at the moment because members do not know what I have in mind. This contrasts with the practice in this place of having second reading debates continued without copies of the Bills being available to members. The amendment will be circulated amongst members as soon as I receive copies from the Acting Clerk. Members will have gleaned from the second reading explanation that the Bill has been introduced to alter some of the hospital and sick benefits payable to members of friendly societies, and to permit the societies to invest monies outside the ambit of the Act, such as semi-Government institutions. They will be able to invest accumulated funds for returns to assist in the payment of benefits to members. I understand that the council of the friendly societies discussed the matter with the Parliamentary Draftsman and the Public Actuary, who throughout the Act is named as the person controlling friendly societies' matters such as alterations to the constitution and the expenditure of money.

My proposed amendment has now been circulated amongst members. It deals with clause 6. The Bill allows the societies to invest funds outside the ambit of the Act and states that permission shall be obtained from the Public Actuary, who may impose certain conditions. This matter has been discussed by the Labor Party and because of

instructions from it I am submitting the amendment. I have the greatest regard for the administrative capacity of the Public Actuary and I appreciate the high esteem in which he is held by friendly societies. I do not want the moving of the amendment to be taken as a reflection on this gentleman's ability and integrity. We feel that the powers conferred by the Bill on this head of a department are too far-reaching, so I propose to delete "Public Actuary" wherever occurring in clause 6 and insert "Chief Secretary". It is a forward move to permit friendly societies to do as the Bill proposes.

The Hon. Sir Arthur Rymill: Do you agree with your Party's instructions?

The Hon. K. E. J. BARDOLPH: I am always candid and tell members where I get my instructions. I do not come here attempting to advocate the cause of an outside organization that has no interest in the maintenance of our Parliamentary institution. Amendments submitted by the Labor Party are not always received kindly by some interests because they enter the field of investment. Under my proposed amendment instead of the powers of control being delegated to the head of a department, no matter how laudable his administration may be, the control comes back to Parliament.

The Hon. Sir Arthur Rymill: Is the Public Actuary mentioned in the Act?

The Hon. K. E. J. BARDOLPH: If the honourable member would read the Act he would see that the Public Actuary is mentioned often and that it says what the friendly societies can and cannot do with their funds.

The Hon. Sir Frank Perry: Is the Public Actuary a finance man?

The Hon. K. E. J. BARDOLPH: He has a responsible position and I commend him for his executive ability and integrity. However, I may be charged, in submitting this amendment, that because of the way the section is amended, it will be necessary to amend every section in the Friendly Societies Act where "Public Actuary" appears. Replying to that I assure members that I have read the Act carefully and I do not wish to interfere with the activities of the Public Actuary in his administration of friendly societies' funds and benefits within the organizations, and I propose to leave the Public Actuary in the position he now holds under the Act. Friendly societies may have an accumulation of money that they wish to invest in outside organizations, such as the

Electricity Trust, and the Bill will empower the societies to invest their funds in specific spheres of investment, but my amendment will also bring consideration of the question back to Parliament by obtaining the sanction of the Chief Secretary.

If clause 6 remains as it is and a society wishes to invest £30,000 in the Electricity Trust the Public Actuary may refuse permission and direct that the money be invested in some other avenue. His decision is then final and there can be no appeal against it. His decision could not be subject to review in Parliament. However, if the Minister controls the investments he must yield to public opinion and the wishes of Parliament.

The Hon. Sir Frank Perry: The Public Actuary can only say yes or no.

The Hon. K. E. J. BARDOLPH: Under the Government's amendment in the Bill he can impose conditions, and that is my point. It gives him complete power to determine whether the money shall be invested and where it shall be invested.

The Hon. Sir Lyell McEwin: You want a blank cheque?

The Hon. K. E. J. BARDOLPH: I commend my amendment to the Chief Secretary

because I know that he will be the administrator. I am sure that the Minister does not wish to shirk his responsibilities and I wish to give him all the power that he proposes to hand to a public official under the clause as drafted. I know that the Chief Secretary is cluttered up with work and does not want more work, but my amendment gives him the necessary authority and lays down the proper procedure because he controls the administration of the Act and should not shelve that responsibility and place it in the hands of a public official. Governments have, too often, handed over executive authority to Government officials and I charge this Government with having done that to some extent, though I do not suggest that the Chief Secretary wishes to shirk his responsibility. I commend my amendment and hope that after the Council adjourns today members will compare it with the Government's clause and come back prepared to support my proposal.

The Hon. L. H. DENSLEY secured the adjournment of the debate.

ADJOURNMENT.

At 3.11 p.m. the Council adjourned until Wednesday, August 30, at 2.15 p.m.