LEGISLATIVE COUNCIL.

Thursday, October 19, 1961.

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

ASSENT TO BILLS.

His Excellency the Governor, by message, intimated his assent to the following Bills:

Appropriation,
Children's Protection Act Amendment,
Land Tax Act Amendment,
Local Government (City of Enfield Loan) Act Amendment,
Sale of Furniture Act Amendment,
Whyalla Town Commission Act Amendment.

REGISTRATION OF BUSINESS NAMES ACT AMENDMENT BILL.

The Hon. C. D. ROWE (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Registration of Business Names Act, 1928-1955. Read a first time.

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

That this Bill be now read a second time.

This is a short Bill the object of which is to prohibit the use of business names for the purpose of inducing members of the public to lend money to or deposit money with firms, individuals and corporations. Certain undesirable and unscrupulous practices of some firms and individuals have in recent months been causing the Government of this State and of the Commonwealth and the other States a great deal of concern. One of these practices is the use of high-sounding business names suggesting substantial assets or association with large business interests and of highly coloured and exaggerated advertisements to induce members of the public to lend money to firms and individuals at attractively high rates of interest but without any security or guarantee of repayment.

There have been many cases in other parts of Australia and some cases, unfortunately, in this State of invitations to the public to lodge money on deposit at high rates of interest by persons and firms masquerading under business names. Large sums of money have been collected from the public in this fashion and the borrowers have in many of those cases either misappropriated the money or gone bankrupt. The provisions of the Companies Act regarding invitations to the public by companies to subscribe for shares and debentures, to some extent, control the activities of corporations in this field by requiring the issue of a prospectus in relation to such invitations while private and proprietary companies are precluded from making such invitations by their constitutions. However, it is felt that no company should be allowed to use a business name, as distinct from its corporate name, for the purpose of obtaining loans and deposits from the public.

The Attorneys-General of the Commonwealth and the States have recognized that a strong case exists for uniformity in the field of business names legislation and Commonwealth and State officers are at present endeavouring to reach a basis of agreement in relation to such legislation. Although there is a considerable amount of work to be done before the respective Ministers will be in a position to seek the approval of their Governments to the introduction of the uniform legislation, there is general agreement among all the Governments that there is urgent need for such legislation as is proposed by this Bill to be brought into force throughout Australia without delay.

Clause 3 inserts a new section 4a in the principal Act which prohibits the use of or reference to a business name in any invitation to the public to deposit money with or lend money to a firm, individual or corporation carrying on business in the State under that business name. The prohibition, however, applies only to cases where the firm, individual or corporation is registered or required to be registered under the Act in relation to the business name. As the Act does not require the registration—

(*a*) of a firm carrying on business under a business name that consists solely of the true names of all the partners of the firm; or

(*b*) of an individual carrying on business under a business name that consists solely of his true name; or

(*c*) of a corporation carrying on business under a business name that consists solely of its corporate name,

the new provision will not preclude the use of such business names by such firms, individuals and corporations in any invitation to the public to lend money to or deposit money with them. In other words, the Bill will not preclude persons from advertising in their own names for loans for their private needs. On the other hand, the Bill is designed to prohibit activities of a fraudulent and unscrupulous character and it has been agreed by the representatives of the Governments of all the States and the Commonwealth that the penalty for the offence created by the Bill

should be severe and deterrent. A maximum penalty of £500 has accordingly been prescribed.

If the Bill becomes law, I am sure it will prove of great benefit to a large section of the public who are only too easily victimized by the fraudulent and unscrupulous practices the Bill is designed to prevent.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

THE PARKIN TRUST INCORPORATED ACT AMENDMENT BILL (PRIVATE).

Returned from the House of Assembly without amendment.

THE PARKIN CONGREGATIONAL MISSION OF SOUTH AUSTRALIA BILL (PRIVATE).

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2).

Read a third time and passed.

AUCTIONEERS ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

The object of this Bill, which contains only one substantive clause, is to prohibit sales of land by auction on Sundays. Clause 3 accordingly inserts into the principal Act a provision making it an offence for anyone, whether a natural person or a company, to offer, deal in, sell or put up to sale any land or estate in land by way of auction on any Sunday. The Bill is limited to auction sales of land, the sale of goods or chattels other than exempted goods, whether by auction or otherwise, being already prohibited in shopping districts by the Early Closing Act. The Bill will not prohibit ordinary land sales on Sundays. The Government decided to introduce this legislation following representations that the holding of auctions of land on Sundays was undesirable, a view with which the Government agrees.

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

ROAD TRAFFIC BILL.

In Committee.

(Continued from October 18. Page 1338).

Clause 28—"Review of Traffic Board's decisions"—which the Hon. N. L. Jude had moved to amend in subclause (2) by omitting "Minister" wherever appearing and inserting "Board", by omitting "the Board's" and inserting "its", by adding "(*c*) shall reconsider its previous decision", and by deleting "(*c*)" and inserting "(*d*) shall report to the Minister who".

The Hon. Sir ARTHUR RYMILL: I wish to support the clause as it stands in the Bill. During the previous session this particular provision was introduced for the first time and the Bill, as introduced in this Council, contained a clause that the appeal from the board should be to the board itself. I moved an amendment altering that, which I thought the Council would accept, namely, that the appeal from the board's decision should be to the board, which should hear the appeal and then report to the Minister who should make the actual decision. If my knowledge is correct, when this Bill was presented in another place the verbiage in the clause was exactly the same as it was in the Road Traffic Board Bill as amended by this Chamber. The other place in its wisdom altered it further and really tidied the thing up properly. It did something I did not quite dare to do here because I have been here long enough to know that certain things are acceptable if one does not take them further than what is palatable for the time being.

The other place has taken it further and to the extent that I would have wished to take it, and to the extent that the Hon. Mr. Shard referred to the matter in the second reading debate. It has now made it a really tidy clause whereby it gives, in effect, a direct appeal to the Minister from the board's decision. That, in my opinion, is as it should be because why should the board have to hear an appeal when finally the Minister has to decide it. Surely if it is to be a proper appeal the Minister should hear the appeal and hear the board. This contemplates that the board will be heard. It does not exclude the board from giving its full reasons before the Minister and arguing . . .

The CHAIRMAN: Order! I think I made a mistake in not drawing the attention of members to the fact that there is an amendment on the files by the Minister. I think it would be easier if we discussed the point Sir Arthur Rymill has raised when it comes up under the proposed amendment of the Minister.

The Hon. Sir ARTHUR RYMILL: On a point of order, could I be told when the amendment was put on the files because I did not see it yesterday when I was considering what I

was going to say and, indeed, I rose to speak on this clause on which the Minister reported progress.

The CHAIRMAN: The honourable member can talk on the amendment. It was lodged this morning.

The Hon. Sir ARTHUR RYMILL: On a point of order, Mr. Chairman, I was attempting to speak on this clause when the Minister reported progress and I think I had your ear at that stage.

The CHAIRMAN: But the honourable member started off by saying that he was supporting the clause whereas there are amendments on the file to be considered before the clause can be put.

The Hon. Sir ARTHUR RYMILL: The amendments have been put on the file since I obtained your ear.

The CHAIRMAN: They were put on this morning and my ear was not available then.

The Hon. N. L. JUDE (Minister of Roads): I certainly do not wish in any way to hamper the honourable member's somewhat naive support of this particular matter. First of all this Council, last October 25, in reviewing the Road Traffic Board Bill, did not like the idea of the board reviewing a case and then making a final decision. The Council said that quite clearly. Sir Arthur Rymill then moved an amendment. The position was that if the board refused to give approval a local government body or an authority could within 28 days appeal to the board setting out its reasons, whereupon the board would review it. The board may not have given any reasons in the first place but may have made its decision and written to the council stating that it wanted it to do certain things. The position under the Road Traffic Board Act is that the dissatisfied party could go back to the board with its papers and experts and the board should review its decision. If it were still dissatisfied this Council decided that there should not be an appeal from Caesar to Caesar but that the authority should appeal to the Minister. That was heartily supported by the Leader of the Opposition, the late Mr. Condon, and reference appears to this in *Hansard* of 1960 at page 1495. The matter then went to another place where the Premier pointed out to an honourable member the gist of the amendment and also that there would be an appeal to the Minister.

The Hon. K. E. J. Bardolph: Perhaps it wasn't on the file!

The Hon. N. L. JUDE: If the honourable member takes his turn later I shall be obliged. Sir Arthur Rymill has suggested that if a council does not like the order of the board it has to bring all its officers and evidence as well as the board to the Minister to decide the matter. I am happy to recognize the need to review an appeal, but it may mean that my office will be turned into a court of appeal on every minor traffic amendment. The Bill this year as introduced by Sir Edgar Bean has been praised by the Hon. Sir Arthur Rymill for its drafting.

The Hon. Sir Arthur Rymill: I am not seeking to amend it; it has been amended. I am seeking to uphold the amendment.

The Hon. N. L. JUDE: I am discussing my amendment. The amendment as printed puts the Bill in exactly the same position as it was when this House passed it last year and as it was printed in the first place this year. I hope honourable members will support the clause as it stood originally, that is, by putting my amendment back into the Bill.

The Hon. Sir ARTHUR RYMILL: I was fortunate enough to be able to say already most of the things I wanted to say, because Mr. Chairman, I thought I had your eye yesterday even though I did not have your ear, and felt I had a prior right to speak on this matter, as I am supporting the Bill as it was introduced into this House by the Government.

The CHAIRMAN: The honourable member is opposing the amendment?

The Hon. Sir ARTHUR RYMILL: I think I can quite clearly say I am, and quite vigorously. I understand that the Bill was put up in another place in the same form as we amended it here last year. I make it clear that the only reason I did not go to the extent of this Bill in my amendment last year was because I like to catch the crumbs that fall from the table of the Ministerial bench, and I knew that if I went further the Government would not agree to my amendment. The Minister's attitude today clearly bears that out, although that was the amendment I wanted to introduce last year. What went on in the other place where the Minister's Government has a majority I am not clear about.

The Hon. A. J. Shard: The majority there voted in support of this Bill.

The Hon. N. L. Jude: The voting was 15 to 14.

The Hon. Sir ARTHUR RYMILL: I am indebted to the Leader of the Opposition.

The Hon. A. J. Shard: It is in *Hansard*, where I read it.

The Hon. S. C. Bevan: The Premier accepted it.

The Hon. Sir ARTHUR RYMILL: Whether it was accepted or not I do not know. We should debate matters in this place independently, and I am not one of those people who think that one should go too closely into what goes on in another place, unless there is a real reason for doing so, and I did not consider there was in relation to this clause. I suspected that the Minister might not like it in its present form for some reason or other which he has not made clear. He said he did not want to be, in effect, a board of appeal. I do not know what he is if he is not a board of appeal under his own amendment, but with less limited powers and with less scope to ascertain the actual justice of the situation.

The Hon. A. J. Shard: And with more strength built up against him.

The Hon. Sir ARTHUR RYMILL: That is the point. A court of appeal in the normal sense is completely independent of the tribunal which in the first instance heard the case. The amendment means that the board will review its own decision and then report to the Minister, who of course still has the right under the amendment to alter the decision of the board. With all respect to the Minister, and I know he is an independent-minded man who would not give undue weight to what the board said, the board is in the box seat for stating its case to the Minister. The Bill as it comes here from another place gives both sides an opportunity of stating their case to the Minister. I believe it would be better to have a completely fresh appeal to the Minister.

The Hon. S. C. BEVAN: I am opposing the amendment and supporting the clause as contained in the Bill. I am running true to form because when the matter of the board came before this House last year I was one of those who raised the matter of its powers. The Hon. Sir Arthur Rymill spoke on the same matter and was privileged to move the amendment, although I had intimated that I would move an amendment in Committee to this particular clause deleting "board" and inserting "Minister". I do not agree with the Minister, who said that it may be a decision of the board given by the board in the first place. Under this clause the board has no authority to institute anything of its own volition. The board has no jurisdiction to do anything, because the matter must first be referred to it by an authority.

The Minister said that the board makes a decision and advises the authority, which may then agree or disagree with it. That is not mentioned in the clause. The matter has to be referred to the board in the first place by an authority and the board makes a decision and the authority then has the right to apply to the board for the reasons for the decision. After having received notification in writing from the board if the authority is not satisfied that the decision would be in the best interests of the public, it should have the right to appeal to some authority to determine the position. The amendment provides that a council has the right of appeal, but it is to the authority that made the decision. Before the board makes any decision it should be fully equipped with all the necessary information. If that is not done, it is not carrying out its job. It is a matter of appealing from Caesar to Caesar. One would have the job in front of him to influence the board to alter its decision. Only a report goes to the Minister. The matter is not referred to him for investigation and decision. In any democracy where provision is made for appeals, one does not appeal to the authority that gave the decision.

The Hon. N. L. Jude: You can here.

The Hon. S. C. BEVAN: I submit that you cannot. Under the amendment one must appeal to the board that made the original decision. A person who is convicted in the Criminal Court does not appeal to the judge who made the decision, but to another judge. I do not think there would be many appeals under the Act, as the Minister has indicated.

The Hon. N. L. JUDE: Before the debate proceeds any further I think I should correct the extraordinary fallacy on which the Hon. Mr. Bevan has based his argument. He says that the board cannot initiate of its own volition. I draw attention to clause 15. After hearing the case, the board itself makes a recommendation. Some factors may have escaped its notice and therefore the council concerned goes back to the board and says, "You have not your facts quite correct. We can offer some more evidence," and the board reverses its decision. If the council is still not satified it may appeal to the Minister. I cannot see anything wrong with that. The power of appeal is there and it is not from Caesar to Caesar. There may be an appeal to the Minister. A council merely goes back to the board and asks it to review the position.

The Hon. A. J. SHARD: I oppose the amendment. I know of no other instance where a

decision having been made one appeals back to the board or authority that made the decision. All that we are asking is that the board having given a decision, there should not be an appeal to it to reverse its decision, but there should be the right of appeal to the Minister. If the amendment is carried this position arises—the board gives a decision after hearing the matter and reaffirms its decision. This would then make it all the more embarrassing for the Minister to reverse the board's decision. If an authority does not approve the decision in the first instance and appeals to the Minister it is not so difficult for the Minister to reverse the board's decision, but if the board has considered the matter twice and reaffirmed its decision the position becomes more difficult for the Minister. If the Minister does not like this matter of appeal I suggest that he report progress so that it may be further considered. We should not establish the principle of appealing from Caesar to Caesar. If any member can tell me where in other directions there is an appeal as set out in the amendment I will listen. I think the provision in the Bill is sound and proper. In the first instance it came from local government and in this Chamber there are members who think that local government can do no wrong. If they have such faith why not agree to what local government wants?

The Hon. Sir FRANK PERRY: I support the Minister's amendment. If there is an appeal tribunal there must be something on which to appeal. Under this clause there will be no question of law, only judgments dealing with traffic devices. I think the board and the local government authority would be better able to consider the matter and only when there was a difference of opinion that could not be settled should the Minister come into the picture. He should not be loaded with details and be expected to deal with them.

The Hon. F. J. POTTER: It is not easy to decide this matter, but no great principle is involved one way or the other. The marginal note to the clause says "Review of Traffic Board's decisions", but the clause does not deal with a review of all the board's decisions, only those related to the erection of traffic devices. The Minister may feel that there is a need for a wider power of appeal against board decisions, but this clause deals only with a limited number of appeals. The Minister should seriously consider the position if the board is to have two bites at the cherry. If an appeal went to the Minister after the board had had two bites he would be at a disadvantage, and he would have to be very careful before deciding to upset the board's decision. That is a danger I see.

The Hon. N. L. Jude: Does not a judge always do that?

The Hon. F. J. POTTER: He does not have cases where the court below has heard the matter twice. If a judge had to face such a position he could well say, "They have had a second look at the matter, and that makes my job easier". Perhaps the Minister has not considered the limited right of appeal against board decisions.

The Hon. N. L. JUDE: As it appears that there is some difference of opinion about this clause I would be pleased to move that consideration of it be postponed.

The Hon. Sir ARTHUR RYMILL: If I understood Sir Frank Perry correctly, he thought the subjects of appeal under this clause would be trivial, although he did not use that word. The burden of his song was that traffic devices were only things like traffic lights, but clause 25 (3) defines "traffic devices" as more than that. Yesterday I referred to expenditures of £30,000 to £40,000 in the city. Two of them were on West Terrace. These works were subject to control by the board, which agreed with city council traffic engineers, with minor exceptions. The differences were composed between the two. Those two works involved at least £30,000 each. I refer also to the Old Gum Tree site at Glen Osmond, which probably cost even more money. Those are traffic devices within the meaning of that definition. I am sorry the Hon. Sir Frank Perry has left the Chamber temporarily because I think he will agree that these things are not trivial. There was a controversy about the median strip in King William Street. That was submitted to the Road Traffic Board and one member, before it was submitted to the board, said in the press that he was against it, and I consider that was a most improper thing to do. The board approved the strip and it has been a success. It may become obsolete later and something else may be required. That is an important part of the board's work. I would hate to see strips and lines all over that thoroughfare because it is a beautiful street and traffic is running freely through the city. The question of the median strip was a substantial matter and if the board had ruled against it why should the City Council have had to go back to the board? Why should it not go direct to the Minister without having to go to the

board which would reiterate its previous decision and place the Minister in an embarrassing position. I do not agree that the Minister would not make an excellent mediator in this matter.

The CHAIRMAN: The motion before the Committee is that we omit "Minister".

The Hon. N. L. JUDE: I move that consideration of this motion be now postponed.

The CHAIRMAN: The honourable member cannot have two motions before the Chair at the same time.

The Hon. N. L. JUDE: I ask leave to withdraw the first motion.

Leave granted; amendment withdrawn.

The Hon. N. L. JUDE: I move that consideration of clause 28 be postponed.

Motion carried.

The CHAIRMAN: That puts clause 28 at the bottom of the paper unless it is brought back.

Clauses 29 to 33 passed.

Clause 34—"Weighbridges and weighing instruments".

The Hon. C. R. STORY: Last year when the former traffic Bill was discussed I asked the Minister if he would examine the whole weighing position. He promised me that he would do so and that in due course, when the consolidating Bill was before Parliament, he might be in a position to give me more information on it. The matter I raised dealt with loaded vehicles travelling to a weighbridge for stock purposes and for fruit and other purposes. I am still keen to see something done about that.

The Hon. N. L. JUDE: I have not the particular information before me and I move that consideration of this clause be postponed.

Motion carried.

Clauses 35 and 36 passed.

Clause 37—"Power to examine vehicles involved in offences".

The Hon. JESSIE COOPER: Any member of the Police Force can invent a cause to suspect that a vehicle has been involved in a collision or has been driven recklessly or dangerously or has been stolen, and can then enter land or premises without a warrant to search for that vehicle. This cuts right across what we have always believed is right—that the public should be protected against indiscriminate search by the police without a warrant. This new and wide-spread power thus given to the police in clause 37 means that the public is no longer so protected. I can see no justification for such excessive police powers and, taking clause 37 in conjunction with clause 38, I find further cause for alarm, because clause 38 also gives to the police excessive powers of inquisition. It says, "a person". That means a member of the public who has committed no sin whatsoever can be held indefinitely for questioning. A policeman or an inspector can grab anybody and ask innumerable questions which must be answered. If they are not answered a fine of £50 may be imposed. All this is caused because a policeman thinks he might get information. Not even the law courts can do this. They do not have such wide powers of interrogation.

I believe clauses 37 and 38 are a gross contravention of the rights of the common man—dearly won over the centuries from the time of Magna Carta. They are extreme examples of the modern tendency when drafting legislation on behalf of Governments and bureaucracies to introduce extremely wide powers for the police, powers which only a few years ago were known and tolerated only in totalitarian countries. The number of evildoers caught by this means will be such an extremely small proportion of those who contravene the Act as to make a provision of this kind completely unwarranted and I will therefore vote against both clauses.

The Hon. N. L. JUDE: In view of the importance of the remarks of the honourable member, I move that consideration of clauses 37 and 38 be postponed.

Motion carried.

Clause 39—"Application of this Part".

The Hon. K. E. J. BARDOLPH: In view of the capitulation of the Minister on various clauses on which progress is to be reported, I move that the Bill be withdrawn and re-drafted.

The CHAIRMAN: We are dealing with clause 39 now.

The Hon. K. E. J. BARDOLPH: To be in order, I move that clause 39 be withdrawn and re-drafted and I shall do that with every other clause in view of the attitude of the Minister. I have been in this Chamber for a number of years and have never seen such a measure brought down by a responsible Minister who presumably does not know the full purport of the contents of the Bill, and who from time to time moves that progress be reported whenever an objection is taken.

The Hon. Sir Arthur Rymill: You have missed the point.

The Hon. K. E. J. BARDOLPH: The Minister has to convince this Chamber of the necessity for the clauses as submitted in the

measure. This afternoon we have witnessed three or four occasions when the Minister has had various clauses postponed.

The Hon. Sir ARTHUR RYMILL: I could not agree less with the Hon. Mr. Bardolph, because the Minister is obviously and clearly adopting a most sensible course of procedure with a long consolidating Bill of this nature, namely, to put through the clauses on which there is no controversy, and reserve the controversial ones so that honourable members can confine themselves to them and know exactly what they are going to deal with. Contrary to the Hon. Mr. Bardolph's opinion, I think it is the most sensible and logical way of dealing with a long Bill of this nature.

The CHAIRMAN: I am not quite sure what the motion is. I think the Hon. Mr. Bardolph moved that the Committee report progress.

The Hon. K. E. J. BARDOLPH: If you take it that way, I will move that. Probably it is the quickest way out of the dilemma we find ouselves in.

The Hon. C. D. ROWE (Attorney-General): There is only one thing I wish to say before a vote is taken. From time to time Ministers in this House are asked by honourable members to give consideration to requests to have another look at a point raised by an honourable member. Invariably it has been the policy of Ministers to try to assist honourable members in that regard, and it is a policy which has worked well and is very desirable. On this particular occasion my colleague has acceded to the request by honourable members to have a second look at matters, and more particularly to delay them, until the former Parliamentary Draftsman, Sir Edgar Bean, who drafted the Bill and for whom we have the greatest respect, is available to consult him on these matters. I feel that is a procedure which is to be encouraged and the move which has been made by the Hon. Mr. Bardolph cuts right across that practice and I hope the Committee will not accept his motion.

The CHAIRMAN: The question before the Chair is that progress be reported.

Motion negatived; clause passed.

Clause 40 passed.

Clause 41—"Direction for regulation of traffic".

The Hon. C. R. STORY: It is necessary for police to have fairly sweeping powers when dealing with emergencies, but the second portion of this clause goes too far. There does not seem to be much choice in the matter for people driving vehicles or walking on the road, and the penalty is heavy. I will also have something to say about the next clause.

The Hon. N. L. JUDE: Having received the support of the Council in the matter of reconsidering clauses, in view of the close association of the two clauses referred to by Mr. Story, I move that consideration of clauses 41 and 42 be postponed.

Motion carried.

Clauses 43 to 45 passed.

Clause 46—"Reckless and dangerous driving".

The Hon. JESSIE COOPER: This clause carries an excessive penalty and there is no time limit mentioned. A person may commit a minor offence and be fined £30, and 10 years later he may commit another minor offence and, according to this clause, the magistrate must send him to prison. Subclause (2) provides for four different sets of circumstances on which a magistrate shall have power to assess the seriousness of the offence. No matter how fair or impartial a magistrate may be, he may differ very considerably from his colleagues. One may consider it a minor offence whereas another would consider it a black deed. The provisions seem to be inconsistent, when the penalty is so set and rigid.

The Hon. N. L. JUDE: I draw the honourable member's attention to clause 45, which deals with careless driving, whereas clause 46 deals with reckless and dangerous driving. When a person is charged with reckless or dangerous driving it is usually associated with a serious offence, and that is the reason for providing such firm penalties. In the circumstances, I move that consideration of this clause be further postponed.

Motion carried.

Clause 47—"Driving under influence".

The Hon. JESSIE COOPER: I draw the Commitee's attention to the verbiage in subclause (2)—"mental or physical faculty of that person is lost or appreciably impaired." This is a very dangerous provision and will make it easy for the police to get a conviction. They could prepare a list of tests that may not have any connection with the driving of the vehicle. They may ask a person his telephone number, to work out a few simple mental sums or to touch his toes without falling over. A person who has been involved in a collision usually suffers from shock. He may have shaking limbs, stutter and forget simple things. Most people when bullied suffer some impairment of the speech and of their mental reaction, whether involved in an accident or not. Many suffer

from nervousness and slight mental confusion. I consider that these tests of drunkenness are too wide and impracticable. I believe that we have all the power necessary in subclause (1), which is excellent. I therefore move:

That subclause (2) be deleted.

The Hon. N. L. JUDE: The phraseology relating to "impaired" was in the old Act. We have attempted to retain the best that was in it. It is only a question of definition. I believe that the police are working extraordinarily well under the drunken driving provision. I can see no objection to the retention of the subclause and I ask the Committee to vote against the amendment.

The Hon. C. R. STORY: Have I the assurance of the Minister that the verbiage is the same as in the old Act?

The Hon. N. L. JUDE: I cannot give that assurance at the moment as I have not it before me.

The Hon. Sir ARTHUR RYMILL: It appears on page 329 of the 1954 volume and the words used are "the use of any mental or physical faculty of that person was lost or appreciably impaired."

Amendment negatived; clause passed.

Clause 48—"General speed limit".

The Hon. N. L. JUDE: I understand that Sir Edgar Bean has a possible amendment and I therefore move that consideration of this clause be postponed.

Motion carried.

Clause 49—"Speed limits".

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

That paragraph (*e*) of subclause (1) be deleted.

This provision relating to a speed limit of 10 miles an hour when a motorist is turning from one road into another was inserted by the House of Assembly. I consider that this is a retrograde move. Our sole objective is to improve the speed of traffic, having of course regard to safety factors. We have spent some tens of thousands of pounds in providing by-passes in and around the city; and what is more this provision no longer appears in the statute of any other State. It has been suggested that this provision could not in any case be policed. If that is so, that is another reason for deleting it. The dangerous driving provision already covers driving around corners with care.

The Hon. A. J. SHARD: I oppose the amendment. I believe that this provision was originally placed in the legislation at the request of a school association. I agree with Sir Arthur Rymill that there are some corners which one could turn with perfect safety at 20 miles an hour, whereas there are others where it would not be safe to turn at 10 miles. Some members of another place visit schools perhaps more than members here do, and the provision was included at their request. I do not think there would be any hardship if we agreed to the provision. There would certainly be more safety.

The Hon. N. L. JUDE: I point out to the Hon. Mr. Shard that the provision was not sought by a school association. Its request dealt with a limit of 15 miles an hour around school areas.

The Hon. Sir ARTHUR RYMILL: The Hon. Mr. Shard agrees that a speed of more than 10 miles an hour around some corners can be a safe speed. I point out that this is an arbitrary clause and applies to every corner. It even applies at the cut-a-way corners, where vehicles would have to slow down to 10 miles an hour. On the Port Road near Port Adelaide at a pedestrian crossing where vehicles had to slow down to 10 miles an hour I have seen incidents galore. The reduction of speed on a main highway like that can be dangerous. There is a general clause dealing with driving without due care. It is a wide provision and says that if a motorist drives without due care or without due consideration for other drivers he is guilty of an offence. That provision should allay the fears of the honourable member. If we accept the Minister's amendment it does not mean that vehicles will be permitted to travel around corners at any speed.

The Hon. C. D. ROWE: I remind honourable members that clause 68 says that a driver when turning his vehicle to the right or left at an intersection or junction shall give right of way to pedestrians. Under it pedestrians have absolute right of way. That should allay the fears of the honourable member.

The Committee divided on the amendment:

Ayes (13).—The Hons. Jessie Cooper, L. H. Densley, E. H. Edmonds, G. O'H. Giles, N. L. Jude (teller), A. J. Melrose, Sir Frank Perry, F. J. Potter, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Noes (3).—The Hons. S. C. Bevan, A. F. Kneebone and A. J. Shard (teller).

Pair.—Aye—The Hon. Sir Lyell McEwin. No—The Hon. K. E. J. Bardolph.

Majority of 10 for the Ayes.

Amendment thus carried.

The Hon. C. R. STORY: I believe that provision relating to a speed limit past schools is justified because people have some idea when children are going to or returning from school, but to apply the provision in respect of Sunday schools is carrying the provision too far. There are church halls in all sorts of places and Sunday schools may be held any time from Saturday to Sunday night. If the restriction is carried that far it may as well be extended to the erection of such signs outside cinemas and ice-cream hand-out places. If these signs were erected on the Main North Road everywhere Sunday schools were held, that would result in a compulsorily restricted zone of 15 miles an hour. That is carrying the matter too far when one sees hundreds of children pouring out of cinemas on a Saturday afternoon with no protection. This provision will result in unnecessary restriction of traffic flow. There are far more churches and church halls on main roads than there are schools, because schools are usually well sited off the main highways. Will the Minister examine this aspect of the matter?

The Hon. N. L. JUDE: The point missed by the honourable member is that the provision applies only when children are proceeding to and from schools. We must have regard to the safety factor. I know of a Sunday school close to my house and the street is practically cluttered up on Sundays with children proceeding to and from Sunday school. I do not imagine that in some remote country places it will be necessary to erect a sign, but a sign has to be erected to limit speeds when children are proceeding to and from Sunday school.

The CHAIRMAN: Did the honourable member move an amendment?

The Hon. C. R. STORY: No, at the moment I am asking the Minister a question relating to clause 49. I appreciate what the Minister said about the restriction applying when children are proceeding to or from Sunday school, but how could I be expected to know on a Sunday whether the children were going to or from Sunday school? How do I know they are not going to the butcher's picnic? I cannot understand why this particular category of children should be singled out when the children may be attending at a hall or any other building. How can a driver know whether he is committing an offence if a number of children are congregated near a house or near a school? They could be attending a children's party.

The Hon. N. L. JUDE: A sign must be erected before this restriction applies.

The Hon. C. R. STORY: A fine of £50 is provided and it is a serious matter.

Clause passed.

Clauses 50 to 52 passed.

Clause 53—"Speed of heavy vehicles".

The Hon. A. J. MELROSE: Nowadays members adopt the view that before enactments like this are passed Parliament should not fly in the face of modern trends. This clause proposes to restrict the speed of heavy vehicles outside certain areas and a further restriction applies within municipalities. People who travel on country roads know that heavily laden motor trucks travel at speeds of 40 to 50 miles an hour and they hold their place with fast modern cars on the main roads.

The Hon. L. H. Densley: This provision lifts the speed limits a little.

The Hon. A. J. MELROSE: It does not lift them to modern limits. It is common to see heavily laden quarry trucks in the city travelling at up to 40 miles an hour on North Terrace. Will the Minister re-examine this question, because he has provided himself with a speed limit of 60 miles an hour for his long runs to the South-East and other country areas. The Minister should ensure that Parliament does not pass something that cannot be enforced.

The Hon. N. L. JUDE: Honourable members will agree that we have given much time to this Bill and in view of the honourable member's question I move that progress be reported.

Progress reported; Committee to sit again.

BOTANIC GARDEN ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 18. Page 1344.)

The Hon. K. E. J. BARDOLPH (Central No. 1): I support this measure and I pay a compliment to the Director of the Botanic Garden for the work he has done during the period he has occupied that position. The Botanic Park and Garden has existed for many years and Mr. Lothian, by his enthusiasm and energy, has established a research bureau at the garden. His services are sought by various municipalities for advice on tree planting and in some cases on laying out of various streets and avenues in some of our new settlements. This is an occasion when he should be commended for that work. The Botanic Garden and Park are governed by a board of governors who do not look for payment nor would they accept it. It is one of the few honorary boards in this State. There

are two Parliamentary representatives on the board, the Speaker of the House of Assembly (the Hon. B. H. Teusner), and myself. There are other members of the board who give their time and apply themselves assiduously to problems in connection with the advancement of the garden. There have been many notable people on this board, including the late Sir Lavington Bonython, who was chairman for a number of years and took a keen interest in its activities. He was on the board for a period of 35 to 40 years and on his lamented death, Mr. Harold Finnis, who had been on the board as a member, became the chairman. He is well-known for his activities when secretary of the Royal Agricultural and Horticultural Society of South Australia, and has played an important part in the development of the garden. The members of the board have attempted to make the gardens and annexe at Mount Lofty worthy of the City of Adelaide.

I commend the Minister controlling this department, the Hon. Sir Cecil Hincks, who as Minister of Lands has the overall control of the Board of Governors. During the period I have been on the board, and prior to that, the Minister has always co-operated in every way, and a request for increased funds to purchase land has always received his approval, and I take this opportunity of complimenting him. The Botanic Garden and Park, because of the innovations that have been made and the development over the years, are equal to anything of their kind in Australia.

Some years ago the Board of Governors purchased 150 acres of land at Mount Lofty, which is now referred to as the Botanic Garden annexe. However, after receiving an opinion from the Crown Law Office that the principal Act did not convey the necessary powers to the board, it has been found necessary to amend it. The annexe at Mount Lofty is employing a foreman gardener, three assistant gardeners and a youth gardener, and various deciduous trees from alpine regions, exotic plants and other shrubs, which cannot grow on the plains, are being developed there. This annexe will eventually develop into one of the tourist show places of South Australia, and at present the major portion of the 150 acres is being cleared.

The first amendment in this Bill gives the board legal jurisdiction over the Mount Lofty annexe; the second gives the board power to make regulations governing this annexe, and the third deals with a common seal. Over the years the board has let tennis courts, entered into agreements, and leased kiosks, and most boards carrying out similar duties have a common seal. The Board of Governors desire to have a common seal placed on all official documents of the board. They are the three major amendments desired by the board. They are purely machinery clauses, and have no conflict with any of the work being done by the board. I support the Bill.

The Hon. JESSIE COOPER (Central No. 2): I wish to support the Bill which is, in the main, devised to include the Mount Lofty annexe within the term of the Botanic Garden, and in doing so I would like to mention the justifiable pride that South Australians have in the Botanic Garden and Park. The Botanic Garden of Adelaide is unusual in that it started from its earliest days as a garden in the best botanical sense. It was planted with a wide variety of plants from all over the world, with the definite object of having an educational display of trees, shrubs and plants which would, among other things, give definite information as to whether they would thrive in this climate.

In addition, a botanical museum was built, at great expense for those days, in association with the garden. Consequently, because of this far-sighted policy, we have today a botanical garden which contains a unique collection of rare and exotic plants. Recently, the curators have done a marvellous job of re-arranging the garden from an aesthetic point of view. The present director has, by his originality, enthusiasm and skill, made the garden a place of great beauty. It seems to me that he has that rather rare gift of second sight, which helps him to visualize what the place is going to look like in 10 years' time. I envy him that gift, because I belong to a different class of person who puts in a tree and then has to move it, to the gloom and despondency of the gardener.

A particularly happy feature of his planning has been the establishment of an all-Australian section in what hitherto was a sort of no-man's land at the back of the tramway barns. Only last Sunday I walked through the gardens and found infinite delight. The scent from the roses and lilacs was very heady indeed and I recommend that honourable members who need a little freshening up by the end of the week should make a visit. South Australia should be very grateful for the thought and care that the board has given to the garden for many years. I congratulate its members and support the Bill.

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

DOG FENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 18. Page 1345.)

The Hon. S. C. BEVAN (Central No. 1): In 1946 legislation was enacted to provide for the erection of fences to prevent wild dogs entering our agricultural and pastoral areas. For this purpose a dog proof fence was established and maintained in our northern areas. Prior to 1946 these matters were dealt with under the Vermin Act. A fence was erected extending from the New South Wales border in a westerly direction for about 1,350 miles. It had to be kept in first-class condition, was constantly patrolled and necessary repairs were made. Under the parent Act a board was constituted comprising one member of the Pastoral Board, one nominated by the Vermin Districts Association and two by the Stock-owners' Association. The board is vested with power to establish and maintain a dog proof fence in South Australia. It is the responsibility of the owner of land on which the fence is erected to inspect and maintain that part of it within the boundaries of his property. For this purpose the board pays him a certain amount per mile that is determined by the board each year. In 1946 the Act provided for a uniform amount to be paid per mile, and that was not to exceed £8. In 1953 this provision was amended and the amount increased to £16. The Bill now proposes a further increase to £30. This appears to be a rather substantial increase, but apparently the position has been aggravated by the increasing costs of materials and labour.

Section 25 of the original Act gave power to the board to declare a rate in respect of any financial year and set out what was to be ratable land. Section 26 provided for the declaration of the amount of the rate, which in 1946 was 1s. 3d. per square mile, and in 1953 it was increased to 3s. It is now proposed to further increase it to 6s. Section 27 dealt with an additional rate to be paid on every square mile of ratable land situated within 10 miles of any part of the dog fence. The Bill provides for the deletion of this provision, thus relieving the owners of this additional tax. Section 31 provides that the Government shall subsidize the board for every pound of rates declared by the board for that year. The rate per square mile was increased in 1953, but a proviso was inserted that in effect prevented any increase in the Government subsidy, leaving the maximum at 1s. 3d. a square mile. The principle of the subsidy was to enable the board to raise sufficient funds to carry out its duties, but the amount paid to the board by owners of ratable property was not sufficient for the purpose.

The Auditor-General in his report has disclosed a deficit during the last two years, amounting to more than £2,000 in 1959-60 and about £1,000 last year. The Bill now proposes to increase the maximum subsidy from 1s. 3d. to 2s. This means an increase of 9d. in the pound in the rate struck by the board. There was a steep increase in the rates per square mile and a considerable increase in the amount the owners had to contribute towards maintaining the fence. I thought that the subsidy would be on a par with the increases I have mentioned. It should have been increased from 1s. 3d. to 3s. instead of to 2s. This would have been more in conformity with other amounts in the legislation, especially as no increase took place in 1953 when the board had an additional burden placed upon it. We must consider this matter in the light of present day circumstances and I support the second reading.

The Hon. W. W. ROBINSON (Northern): The Hon. Mr. Bevan has explained the various clauses and I will not repeat what he said, except to say something about the increase from £16 to £30 a square mile. The Chairman of the Dog Fence Board assured me that although provision is made for this steep increase the board does not feel that it will be necessary to call on anything like that amount for some years to come. For years the board has budgeted for the amount needed for expenditure, but it does not expect that there will be any increase for some years. Under section 27 the board may declare an additional rate of 1s. 3d. a square mile on property owners within 10 miles of the dog fence. They had to pay the first levy and being called on to pay an additional rate was unfair. This Bill remedies the position. That additional rate imposed an extra burden on the people whom the Act was designed to assist. The Government feels that the increase in the subsidy is justified, but I agree that it is not in the same ratio as the other increases. The dog fence extends for about 1,400 miles across the northern part of South Australia from the New South Wales border to the top end of Lake Eyre, and then across Eyre Peninsula to the far West Coast, and it is a great protection for our pastoral

industry. If the fence were not kept in proper repair the dogs would come down into the settled areas, including the South-East. The rate of 2s. a square mile is not too high and cannot be regarded as excessive.

Representatives of the Stockowners' Association and members of the Vermin Board interviewed the Premier and as a result of the meeting this Bill was drafted, so it is reasonable for us to pass it. I pay a tribute to the members of the Dog Fence Board. The chairman is Mr. J. L. Johnson, also Chairman of the Pastoral Board, Messrs. B. H. MacLachlan and R. J. Rankin represent the Stockowners' Association, and Mr. I. R. McTaggart represents the Vermin Board. We can have every confidence in them for they have great ability and integrity. They have proved themselves over the years as conscientious in carrying out their duties. The payment to owners for the maintenance of fences in 1960 totalled £20,396. The income subsidy from the State Government was £6,494. We must remember that only one-fifth of our stock number is in the area subject to the levy, yet the payments there totalled about £12,330 as against about £8,000 for the rest of the State. This shows that the contributions are liberal. The penalties levied against ratepayers for late payment totalled £50. This left the deficit of about £2,000, as mentioned by the Hon. Mr. Bevan. The fence runs into New South Wales for about 450 miles, and is there maintained at 13s. 4d. a square mile. South Australia's 1,400 miles of fence are maintained at a maximum of 3s. a square mile. This Bill will enable the Dog Fence Board to carry on for a number of years without there being any need to introduce a similar measure. The fence will be kept in good order, which will not only safeguard the people directly concerned, but people in the rest of the State.

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

PRICES ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

ADJOURNMENT.

At 4.29 p.m. the Council adjourned until Tuesday, October 24, at 2.15 p.m.