

**LEGISLATIVE COUNCIL.**

Wednesday, October 16, 1963.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

**QUESTION.****STATE ELECTION.**

The Hon. K. E. J. BARDOLPH: I direct my question to the Chief Secretary. As there appears to be a snap-election fever in the air, is it the Government's intention, in view of its knife-edge majority, to seek the dissolution of Parliament after the present session and have an election so that electors may have an opportunity to restore responsible Government in this State?

The Hon. Sir LYELL McEWIN: The germ, to which the honourable member refers, has had no effect on nor has it struck the Government. It seems that the arena is occupied by somebody else and, therefore, I would not contemplate any action which the honourable member himself would not desire.

**NURSES REGISTRATION ACT AMENDMENT BILL.**

Read a third time and passed.

**SECOND-HAND DEALERS ACT AMENDMENT BILL.**

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

*That this Bill be now read a second time.*

In 1949 the Second-hand Dealers Act was amended to make provision for objection to be made to the grant of a second-hand dealer's licence to a company or the renewal thereof, and for revocation of any such licence. There is, however, no general machinery for dealing with an application by a company for a licence, and the general tenor of the Act contemplates only a natural person carrying on the business of a second-hand dealer.

Local courts have overcome this difficulty by granting licences to persons on behalf of companies. This practice is not ideal and the chief purpose of the present Bill is to make clear and definite provision for companies carrying on business as second-hand dealers. The requirements for the issue of a licence are contained in clause 4 and in new section 6b (inserted in the principal Act by clause 5). The company must produce a certificate of

character (as is necessary for a natural person applying for a licence) relating to the manager; the manager must reside in the State; he must be employed solely by the company and the second-hand dealer's business at the premises for which the licence is granted must be conducted under his personal supervision. As in the case of land agents, a licence may not be granted if the court is satisfied that a person who substantially controls the affairs of the company is not a fit and proper person. (New subsection (1b) of section 8 inserted by clause 6.) Clause 7 inserts new sections 8a and 8b in the principal Act. Under new section 8a a company is obliged to appoint a new manager and apply afresh for a licence if, at the premises for which the licence is granted, there is a change of manager. (The change may be by reason of death, the company revoking its nomination of the manager (at any time) or the manager's ceasing to comply with the requirements specified above.) Under new section 8b a company commits an offence if it carries on business without a manager (unless, upon a change of manager, the company complies with new section 8a). The purpose of these provisions is to ensure that there will always be a person to whom the courts can look for the discharge of the personal obligations imposed by the principal Act (as is the case with land agents and publicans). Clause 3 makes consequential amendments.

New section 6a (inserted in the Act by clause 5) makes provision for persons carrying on a second-hand business in partnership. Each partner must apply; only one licence is granted (specifying each partner) and only one fee is payable (clause 9). Clause 3(a) makes a consequential amendment.

Clause 8 gives a court power to revoke a licence if, in the case of a company, the requirements specified above have not been observed or the manager is no longer a fit and proper person to be a second-hand dealer, or if, in the case of a partnership, the conduct of any one of the partners renders it desirable to do so. Clauses 10 and 11 are consequential machinery amendments. Clause 12 increases the maximum penalties, most of which were fixed in 1919, by roughly 100 per cent. Under clause 13 the amendments will not apply to persons or companies at present holding licences until applications for renewals are disposed of.

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

CHILDREN'S PROTECTION ACT  
AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

*That this Bill be now read a second time.*

Its main object is to protect young children from exploitation and other harmful consequences that could result from their participation in various kinds of public entertainment, including participation in radio and television programmes, whether they are intended wholly or partly to entertain or advertise goods or services.

Subsection (1) of section 12 of the principal Act provides that no child under the age of six years shall take part in any public entertainment or be employed in connection with any public entertainment. This subsection is clearly designed to protect children of tender age from exploitation and other harmful consequences that could result from participation in, or employment in connection with, public entertainment. The definition of "public entertainment", however, in section 4 of the Act limits its application to entertainment which is open to the public, and the Act does not make it clear whether section 12 can be applied to cases where children appear on radio and television programmes which have been recorded (without studio audiences) for transmission by radio or television.

To meet this situation the Government proposes, on the recommendation of the Children's Welfare and Public Relief Board, that the definition of "public entertainment" in section 4 of the principal Act be widened to include performances on radio and television programmes, as well as at rehearsals, whether or not such performances are intended wholly or partly to entertain or to advertise or sell goods or services. That definition is accordingly revised and re-enacted by clause 3. In this connection the Government and the board also consider that the age of six years referred to in subsection (1) of section 12 should be increased to seven years in order that the protection of the section might be extended to children who are not enrolled at a school until their seventh year. Clause 4 amends that subsection accordingly.

The other amendment proposed by the Bill relates to section 13 of the principal Act which makes it unlawful to employ a child under the age of 13 years in any circus or acrobatic entertainment by which his life, health or safety could be endangered. The board has suggested, and the Government agrees, that the age of 13 in such cases should be increased to

15 to bring it into line with the present school-leaving age. Clause 5 amends section 13 accordingly.

The Hon. A. F. KNEEBONE secured the adjournment of the debate.

MINING (PETROLEUM) ACT AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Minister of Mines): I move:

*That this Bill be now read a second time.*

Its object is to remove doubts as to areas in which the Minister of Mines may grant licences under the principal Act. In some places it refers to land "in the State"—for example, in section 4, which vests in the Crown all petroleum and helium at or below the surface of land in the State, and in section 84, which refers to mining for oil in the State; section 3, in defining "mining operations", refers to petroleum "produced in South Australia". Clauses 3 (b), 4 and 6 of the Bill strike out these references to "the State" in sections 3, 4 and 84 of the principal Act. Another difficulty is that the principal Act contains a definition of "Crown lands", an expression which is not used and does not appear anywhere in the Act and which therefore serves no useful purpose. This would not matter in itself, but the definition expressly includes lands between high and low water mark thereby implying that lands between high and low water mark might not otherwise be included in "Crown lands" and this suggests that, whatever may be the boundaries of the State, anything between high and low water mark might not, in the absence of the express reference thereto, be comprised within the boundaries of the State. The definition of "Crown lands" is excised from the Act by clause 3 (a).

Clause 5 makes a further necessary amendment to the principal Act, section 52 of which refers to "fencing" of areas, an expression not apt or applicable to off-shore areas. The amendment enables the section to operate by referring not only to "fencing" but also to "defining" areas in a way approved by the Minister.

It is not my desire to enter into a legal discussion concerning the extent of the legislative power or jurisdiction of the State. It is enough to say that off-shore licences in respect of mining operations for oil have been granted in the past and some doubts have been cast on the validity of these licences by the Parliamentary Draftsman and the Crown Solicitor, having regard to the references in the principal Act to "Crown lands" and "the State".

Lawyers are familiar with the general principle that legislation, at least so far as the States are concerned, is limited to legislation for the "peace, order and good government" of the State. Many years ago it was the accepted doctrine that legislation was territorial in the sense that it would normally be construed as not extending to cover persons, objects, situations or things taking place or situated outside State boundaries whatever they might be. This doctrine has, with the march of events, become outmoded and the principle now adopted by the courts is, putting it in general terms, that if there is a sufficient nexus or connection between the legislation and the person, event or thing sought to be covered, and the territory of the State, that is enough to enable the State legislation to operate. For example, a State may validly tax its non-residents in respect of income derived within the State borders because there is a close and obvious connection between the subject of the legislation—that is, the income—and the territory of the State.

There is another matter to which I should refer. It is that, whatever may be the extent of the legislative power of the State, it is always a question whether Parliament has expressed a clear intention that it intends its legislation to operate to its fullest extent or only as applying to persons, events and things within the State boundaries, whether the things affected are connected with State boundaries or otherwise. Legislation is in most cases construed in practice as not applying outside State boundaries unless the contrary intention appears. Clause 3 (c) of the present Bill enacts three new subsections to the interpretation section of the principal Act. These subsections provide quite clearly that the Act is to be construed as operating in respect of everything as to which the State may or can exercise its legislative power. The new proposed subsections are of a technical character and have been carefully drafted. The opinion of the Government's legal advisers is that they are necessary, in addition to the provisions of the other clauses of the Bill, to remove any doubts as to the Minister's powers under the Act.

Clause 7 is designed to validate licences already granted in good faith on the assumption that the existing State legislation did operate to its fullest extent. I should perhaps inform honourable members that the need for this Bill was not seen at the time when the principal Act was passed, or even when it was amended in 1958. Recent interest in off-shore exploration has, however, revealed the possible

deficiencies in the principal Act which the Bill is designed to correct. It will be agreed that everything should be done to ensure as far as possible that the titles of licence holders are not of doubtful validity by virtue of any provision or lack of provision in State law.

This Bill is concerned solely with the powers of the Minister of Mines under State legislation. It has nothing whatever to do with the question whether jurisdiction in respect of off-shore oil rights rests with the Commonwealth or the several States, or both. In view of certain considerations to which I will not refer because they are not relevant to this issue, it is the opinion of the Government and its advisers that jurisdiction over off-shore oil rights does not lie with the Commonwealth (except in relation to its Territories), but, as I have said, this is another question. What is essential is that the State should remove any doubts regarding the statutory powers of the Minister in respect of the grant of licences whether over areas on land or areas off the shore within such limits as the general law permits.

This is important legislation, which I commend to the favourable consideration of members. I had a visit from representatives of an overseas company who were interested in investing in what is a very expensive phase of oil exploration, namely, off-shore exploration in deep water. They questioned me on what their licence covered, and it is necessary to do something to validate their position. They have already done a considerable amount of work and spent a lot of money and it is essential that they should be fully protected under our legislation at all events, so that whatever legal arguments may occur at least those who are interested in oil search shall not be handicapped because of any doubt as to whether the document they hold means anything or nothing. They are not interested in any other decision that may be made as regards the territory in which they are operating; they simply want some document that is of value to them and so, because of its importance—and, I may say, its emergency nature—I ask members to consider this measure favourably and expeditiously.

The Hon. S. C. BEVAN secured the adjournment of the debate.

#### EXPLOSIVES ACT AMENDMENT BILL.

In Committee.

(Continued from October 15. Page 1029.)

Remaining clauses (5 and 6), schedule and title passed.

Clause 4—"Enactment of Part IVa of principal Act"—reconsidered.

The Hon. Sir LYELL McEWIN (Chief Secretary): I move:

In new section 28c after "may" to insert "on the recommendation of the Minister of Mines".

I asked that progress be reported yesterday in an endeavour to clear up a small point. I should explain that at present the clause inserts, among other things, the following new section:

28c. Where any land required for the purposes of this Act is comprised in a mining lease, the Governor may accept a surrender of the lease or any part thereof or resume for the purposes of this Act the land or any part thereof comprised in the lease.

Mine is a formal amendment designed to make it clear that acceptance of a surrender of a mining lease or resumption of land comprised in a mining lease shall take place only on the recommendation of the appropriate Minister of the Crown administering the Mining Act of the State. It is merely a machinery provision to make sure that any action by another department shall not take place without the knowledge of the department concerned, which may be vitally interested in the lease or be concerned with that particular piece of land.

Amendment carried; clause as amended passed.

Bill reported with an amendment. Committee's report adopted.

#### TRAVELLING STOCK RESERVE: HUNDRED OF MANNANARIE.

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

That the travelling stock reserve in the hundred of Mannanarie, shown on the plan laid before Parliament on October 30, 1962, be resumed in terms of section 136 of the Pastoral Act, 1936-1960, for the purpose of being dealt with as Crown lands.

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

That the resolution be agreed to.

The Hon. G. J. GILFILLAN (Northern): I support the motion for the resumption of this stock reserve but, since this matter passed in another place, there have been some objections in the area concerned. The District Council of Jamestown, which recommended the resumption, held an inquiry, which was attended by the Director of Lands, the Chairman of the Land Board, and myself. The findings of that inquiry prompted the council to confirm its original recommendation that this reserve be resumed and allocated to adjoining landholders.

Originally, the recommendation was that the whole of this reserve be resumed, with the exception of that land adjacent to sections 196 and 200 in the hundred of Mannanarie, as shown on the plan on the notice board, this portion, comprising 120 acres, to be held as a water reserve immediately adjacent to the bridge on the main road from Peterborough to Port Pirie. The recommendation is supported by the Weeds Advisory Committee. The Stock-owners' Association and the Pastoral Board have recommended that, in addition to the land adjacent to sections 196 and 200 being retained, another additional amount adjacent to sections 201 and 202 be retained also as a reserve.

This additional land comprises 250 acres of rather rough country infested with Lincoln weed. It is also this portion through which passes the main Peterborough to Port Pirie road, which is a sealed road carrying fast traffic. The council has confirmed its original recommendation that this land also should be resumed, as it believes that the control of weeds could be carried out far more effectively if the land were subject to controlled grazing by an adjoining landholder.

The amount of money spent on weed control on stock reserves by this council in the last 10 years is £2,400, of which the council's contribution is approximately £400. This particular section is adjacent to a further portion containing about 80 acres in the Peterborough council area. The Jamestown council believes that the original recommendation of a water reserve of 120 acres adjacent to sections 196 and 200 is quite sufficient for the needs of any genuine travelling stock. Most of the objections came from people who had used this reserve for grazing their stock; but the main point to be considered, and it is the only real point at issue, is whether this land is still needed for its original purpose—as a travelling stock route. A full investigation has shown that stock, because of modernized transport, rarely travel by this route. For this reason I support the motion.

Resolution agreed to.

#### PISTOL LICENCE ACT AMENDMENT BILL.

The Hon. Sir LYELL McEWIN (Chief Secretary) introduced a Bill for an Act to amend the Pistol Licence Act, 1929. Read a first time.

#### ADJOURNMENT.

At 2.50 p.m. the Council adjourned until Tuesday, October 22, at 2.15 p.m.