

LEGISLATIVE COUNCIL.

Thursday, October 15, 1964.

The PRESIDENT (Hon. L. H. Densley) 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 (No. 2),
Road Traffic Act Amendment (Tyres).

QUESTIONS.**FRUIT FLY BLOCKS.**

The Hon. L. R. HART: Has the Attorney-General obtained a reply to my recent question regarding fruit fly road blocks in South Australia?

The Hon. C. D. ROWE: Yes, and it is as follows:

Fruit fly road blocks (plant quarantine stations) are established at Cockburn (on the edge of the township), at Ceduna (half a mile north of the town) and at Yamba (11 miles east of Renmark). These stations operate 24 hours a day, seven days a week. One station, Yamba, has in addition to an inspector of the Department of Agriculture a police constable on duty continuously. Three 8-hour shifts per day are in operation at all three stations. Cockburn and Ceduna stations do not have continuous police assistance. In addition to the three full-time stations, part-time duties occur on the by-pass road at Ceduna, the Wentworth to Renmark road at Cooltong and the Ouyen to Pinnaroo road at Pinnaroo. These part-time inspection points are used to check the quantity of fruit entering the State at these points. No fixed times are used and checks may be made at any time of the day or night for an indefinite period.

ABORIGINAL APPRENTICES.

The Hon. A. J. SHARD (on notice):

1. Are there any aboriginal youths serving apprenticeships in South Australia at the present time?

2. If so, how many?

The Hon. C. D. ROWE: The Director of Aboriginal Affairs advises:

1. Yes.

2. Nine. These are persons who are known to the department. It is likely that there are others who have become assimilated into the community and of whom the department has no direct knowledge.

LICENSING ACT AMENDMENT BILL.

Read a third time and passed.

FESTIVAL HALL (CITY OF ADELAIDE) BILL.

Read a third time and passed.

PRICES ACT AMENDMENT BILL.

Read a third time and passed.

POULTRY INDUSTRY (COMMONWEALTH LEVIES) BILL.

Second reading.

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

That this Bill be now read a second time.

As honourable members are aware, the Commonwealth Government intends to introduce a scheme in respect of the poultry industry for making levies on certain owners of poultry. The scheme, commonly known as "the C.E.M.A. plan", has been recommended by the Council of Egg Marketing Authorities of Australia and is an attempt to provide a solution to the serious problems facing the poultry industry. For many years the industry has been in extreme difficulties because of uncertainty in the marketing of eggs. On the home market production far exceeds consumption and, in recent years, the export market has been unprofitable. In the result, heavy losses have been incurred by egg producers. Almost every State has statutory authorities controlling the marketing of eggs but, because of the freedom of trade between the States guaranteed by the Commonwealth Constitution, producers in any State may market their eggs in other States with absolute freedom. As a result the State Egg Boards are left with large surpluses of eggs which must be sold on the unprofitable export market. In order to overcome this position the C.E.M.A. plan has been put forward.

The plan provides for a levy to be paid by an owner on the number of hens he possesses, and the money will be paid into a fund that will eventually reimburse the State Egg Boards that are selling eggs on the unprofitable overseas market. It is intended that the collection of the levies shall be undertaken by the Egg Boards, and in this connection, if the Commonwealth legislation is passed, complementary legislation by this State will probably be necessary. In theory, the C.E.M.A. plan is designed to counter the excessive interstate trading that has taken place and reduce the transit of eggs from one State to another. The Commonwealth is involved not because it is directly concerned with the marketing of eggs but because it is the only authority that can levy poultry keepers according to the number of fowls owned. The Commonwealth is agreeable to doing this and is keen on the scheme, but it will do it only if all the States agree.

This Government has decided that before it concurs in the C.E.M.A. plan or a modification thereof a poll should be held of the poultry owners affected. The purpose of this Bill is, therefore, to authorize the holding of the poll of owners of 50 or more hens. At present, the C.E.M.A. plan provides for levies to be made on all owners of 20 or more hens, the amount of the levy being prescribed annually. The purpose of the levy is to cover any losses on export sales, but the Government considers that for various reasons it would be unfair to impose these levies on small poultry keepers when the benefit accruing from the levies would go to the larger poultry keepers.

In this State the poultry industry is clearly a sideline industry. The overwhelming proportion of poultry keepers are owners of small flocks and only a few keep flocks as commercial concerns. The Government has, therefore, decided that in this State, in the event of a favourable poll, the levies to be collected by our Egg Board will be restricted to the owners of not fewer than 50 hens. I turn now to the provisions of the Bill.

Clause 1 contains the short title, and clause 2 defines certain terms used in the Bill. Clause 3 (1) provides for the poll to be conducted upon publication of a notice by the Minister in the *Government Gazette*. Under subclause (2) the poll shall be conducted by the Assistant Returning Officer subject to any directions of the Minister, and under subclause (3) he is required to notify the Minister of the result of the poll.

Under clause 4 (1) each person who on June 30, 1964, owned 50 or more hens will be qualified to vote at the poll, and clause 4 (2) provides that in certain cases a person in possession or control of hens on that date may be taken to be their owner for the purposes of the poll. It is intended that the poultry owners who are qualified to vote will, in the event of a favourable poll, be the persons obliged to pay levies in this State. Clause 5 provides for particulars of the scheme and any other relevant matter to be set out in the ballot paper. This procedure is necessary because, until the Commonwealth legislation is passed, it will not be possible to describe the scheme fully. Estimates of the amount of levy which will be prescribed vary greatly, and other essential terms of the scheme have not yet been made clear. The Government considers it important that the industry in this State should have a complete statement of the scheme when the poll is taken.

Clause 6 provides for the reception of informal votes if, in the opinion of the Assistant Returning Officer, a person has indicated a clear intention of voting in a particular manner. Clause 7 provides for the appropriation of moneys required for the poll. Clause 8 (1) empowers the Minister, by notice in the *Government Gazette*, to give directions prescribing the manner of conducting the poll, the form of the ballot paper to be used, and any other matters incidental to the poll. Clause 8 (2) provides that the Minister may revoke or vary any notice published under subclause (1) of this clause or under clause 3 of the Bill.

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

CITY OF WHYALLA COMMISSION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

FAUNA CONSERVATION BILL.

Adjourned debate on second reading.

(Continued from October 13 Page 1395.)

The Hon. C. R. STORY (Midland): I support the second reading of this Bill, which, in my opinion, is a very important measure. We are indebted to honourable members for the attention they have given to and the speeches they have made on the subject. The Bill, which has been drafted by the former Parliamentary Draftsman, Sir Edgar Bean, is very clear indeed, and a certain amount of unanimity has been apparent in that all the things contained in the Bill have been well considered by a group of experts on the subject. However, I believe improvements can be made to the measure, and we have a fairly formidable list of amendments on honourable members' files. I think they are mainly designed not to hamper the operation of the Bill but perhaps to tighten it up a little in some places and generally make it a better Bill. The first clause I wish to deal with is clause 14, which has been given much attention by honourable members. It deals with the powers of inspectors and wardens, which are set out in paragraphs (a) to (f), each of which gives certain powers to either the inspector or the warden. Subclause (2) provides:

A warden shall have similar powers to those conferred on an inspector by paragraphs (a) and (f) of subsection (1) of this section. That makes it clear that a warden has power to request any person whom he finds committing or whom he suspects on reasonable grounds of

having committed an offence under this legislation to state his full name and usual place of residence (as set out in paragraph (a)), and to request any person whom he suspects on reasonable grounds to have done any act or thing for which that person is required to hold a licence or permit under the legislation to produce such a licence or permit (as set out in paragraph (f)). The other powers contained in clause 14 are reserved entirely to an inspector, and I think we must be very clear in our minds about who and what is an inspector.

Some doubt has been expressed by honourable members about whether these are responsible people. They have conferred upon them by this measure very important powers, one of which is contained in paragraph (c), which provides that an inspector may enter and search any land, building, structure, vessel, boat, vehicle, receptacle, place, or thing in which he suspects, on reasonable grounds, that there is any animal, bird, carcass, skin, device, record or other thing which is likely to afford evidence of an offence against the measure or which it is necessary to inspect and examine in order to ascertain whether it is being complied with. I agree that that is giving very wide powers to an inspector but I would draw the attention of honourable members to the fact that in Parliamentary Paper No. 2, at page 100, under the heading of "Minister of Agriculture" these people in the Fisheries and Game Department are enumerated and we see there who these inspectors are.

There is the Director of the department and we have, I think, eight people who are qualified as inspectors. They will be the inspectors under the legislation we are now debating. They are full-time public servants and very responsible people who would think twice, in my opinion, about doing anything which they were not empowered to do under the Act. However, I do have a good deal of sympathy for those members who queried this particular clause because there is reference earlier in the Bill to the fact that the members of the Police Force, too, will become inspectors under the legislation. The point I make is that the inspectors will have slightly more power than that given ordinarily to policemen but they will not have as much power as a policeman who, in the opinion of the Commissioner, is one who holds a sufficiently high status or a peculiar position in the force whereby he would be given a warrant which could be in operation for a period of up to six months.

Some people think that a policeman must obtain a warrant on every occasion on which he enters premises, but in actual fact, if one refers to the provisions of the Act on this particular matter, it will be seen that a responsible policeman has this power all the time. Yesterday, when dealing with the Branding of Pigs Bill, a Bill similar to this one in some respects, we saw that wider power than that contained in this Bill was given, and not one voice was raised against it.

The Hon. N. L. Jude: You would not think it necessary for the police to go into a house to find a pig, surely!

The Hon. C. R. STORY: Well, I understand that there are three-roomed homes and that people might put the wife and family in the middle room, the pig in one end, and the fowls in the other. It is just a matter of who gets there first. Under the Bill which we passed yesterday, the inspector is given even more power than is given to inspectors under this Bill. As I say, no voice was raised against that.

The Hon. N. L. Jude: The word "search" was not used in that Bill.

The Hon. C. R. STORY: I do not think the word "search" has anything to do with it. An inspector who was inside a house would not have gone there to pay a social call; he would have gone in to see if there was a pig in the house, and he would make a search.

The Hon. A. F. Kneebone: It would not matter if he only had three pigs.

The Hon. C. R. STORY: No, but we went into that matter yesterday and it was stated that three pigs today could mean 30 pigs tomorrow. I think it is necessary that an inspector have fairly sweeping powers under this provision, but at the same time I also think that this person must identify himself. I do not think he should have the right to break and enter for the purpose of searching. If the person whom he suspects happens to be in a certain house, the inspector should have power to demand that he enter for the purpose of searching. However, I think he must have a warrant in his possession. The necessary warrant would be printed for him and the inspector would sign it in the presence of the person whose property he intends to search. The person inspecting would say, "I am empowered under the Act to search for the purpose of what is, in my opinion, some breach of this Act. I now hand to you my

authority and warrant." In other words, he serves a notice upon the person at the premises he wishes to search.

The Hon. S. C. Bevan: He would be issued with a sort of open cheque?

The Hon. C. R. STORY: That is so, except that he would have an onus on him to provide—

The Hon. Sir Arthur Rymill: Would it be an open cheque, or a blank cheque?

The Hon. S. C. Bevan: An open cheque.

The Hon. C. R. STORY: My friend said, "An open cheque." I agree with what my honourable friend says, because he helps me a lot and if he says it is an open cheque, it is an open cheque. However, the inspector will have the opportunity of presenting his warrant, which he will sign in the presence of this person whose property is being inspected and he will hand the warrant over in the same way as a summons is handed over. I think that this procedure has some merit because, first, the person would know that the inspector was authorized to inspect and, secondly, the inspector would think twice before issuing one of these documents for which he would have to account to the Minister and prepare a report. It would be necessary for him to report that he had searched that person's house for a specific purpose.

In many of the areas I know best, one would have a great deal of trouble finding a policeman who could go with an inspector to search a house. As far as an ordinary justice's warrant is concerned, that would be equally as difficult to obtain in many cases and, after all, I hope that very few permits will be issued under this measure. Accordingly, the issue of warrants will not occur very often. Cases where a person is suspected of taking duck out of season, or of doing something like that, may occur in the more remote areas, because one does not go around shooting game in areas close to habitation in the closed season. Such a person would get well away and if the inspector was out of the district when he detected somebody and then followed that person to a shack, for example, he would be hindered by having to travel, say, 15 or 20 miles. In addition, bush wireless travels quickly and word would soon get around that there was an inspector in the vicinity and that he had gone to obtain a warrant. By the time he returned, the people whom he was trying to question could be many miles away. I have not much time for people who "pirate" out of season, nor have I much time for people who take wild life for the purpose of making money. Their actions deplete our natural heritage. I do not care how severe

we are on such people, provided we maintain a principle that the inspector shall not have power merely to walk in and search but rather, if there is a suspected person present on the premises, the inspector shall hand to him a warrant authorizing the search.

The Hon. A. J. Shard: Under your suggested clause, would he have the right to break open a locked refrigerator?

The Hon. C. R. STORY: If a policeman had that sort of warrant, he could do that.

The Hon. R. C. DeGaris: For what purpose would a refrigerator be locked?

The Hon. A. J. Shard: Many people lock their refrigerators to prevent their beer being taken.

The Hon. C. R. STORY: I do not want to hamper the work of the eight inspectors in detecting people who are breaking the law, in many cases fragrantly. The law must have some teeth in it, and if a person had to get a search warrant it would be like closing the stable gate after the horse had got out.

Referring to clause 15, I agree with the Hon. Mr. DeGaris and believe that the words "or imported" should be inserted after the word "taken". The clause would then read:

(1) An inspector may seize any animal, bird or eggs taken or imported in contravention of this Act. . .

As the honourable member pointed out, there is considerable traffic in the rare fauna of this country, and particularly of this State. The references he made and the information I have read lead me to believe that some people have made much money in the last few years by trafficking illegally in our rare species of fauna. I agree with the proposed amendment to clause 15. The intention is to get uniformity.

The Hon. S. C. Bevan: What about section 92 of the Commonwealth Constitution?

The Hon. C. R. STORY: As I pointed out, the intention is to get uniformity between the States and so overcome that problem. Most of the States have had these provisions for some time. I would like to insert a new clause 11a, which would be related to clause 39, which gives the Minister power to issue permits to take animals and birds. Clause 39 reads:

(1) The Minister may grant to any person (including the Director) a permit to take protected animals or birds or eggs of protected animals or birds if he is satisfied that it is desirable to grant the permit—(a) to facilitate scientific research; or (b) to enable persons to place bands, marks or tags upon animals or birds and then release them; or (c) to permit the destruction of animals or birds which are causing damage or are likely to

cause damage to crops, stock or other property; or (d) for any other purpose which the Minister considers expedient and not inconsistent with the objects of this Act.

Clause 40 is important, and states:

A person to whom a permit to take animals, birds or eggs has been granted—(a) for facilitating scientific research; or (b) for placing bands, marks or tags on animals or birds; or (c) to permit the destruction of animals or birds causing or likely to cause damage to crops, stock or other property, shall within 14 days after the expiration, revocation or cancellation of the permit deliver to the Director a report in the prescribed form of all animals, birds or eggs taken or destroyed pursuant to the permit.

The Hon. Mr. DeGaris mentioned this matter. I think we should strike out paragraphs (a), (b) and (c), and say that all the things mentioned in clause 39 should be reported upon under clause 40. In other words, what is mentioned in paragraph (d) should be reported upon, as well as the other matters. If a permit is issued it should be reported upon. After any cancellation, within 14 days a report should be made, unless the Minister has reason to grant a longer period.

My proposed new clause 11a would require an annual report to be prepared by the Minister and placed before Parliament concerning the administration of the Act, and include such information as is available on the following matters:

- (a) the number of permits granted under section 40 of this Act:
- (b) the number of animals and birds of each species taken pursuant to such permits:
- (c) the number of licences in force under section 56:
- (d) the number of animals and birds of each species exported under permits to export:
- (e) sales of protected animals and birds.

It is absolutely essential to have such a report. If one had been available in the past the illegal trafficking would not have been so great. The department is entitled to know exactly what is happening in regard to the permits. It should be known whether, in fact, the number of birds for which permits have been issued are actually being taken, or whether the permit is being used only to take a portion of the number permitted. A report would be useful from a scientific point of view, and would help the Minister to know how the Act was being administered. It would be extremely comforting to the general public to know that our

fauna is being properly protected under the legislation.

The old Act contained a section 18, but I notice that it has been omitted from the new measure. It should be reinstated, because it deals with trespassing. I would like to insert a new clause 43a to read as follows:

(1) A person shall not be on any land, other than Crown land, for the purpose of taking an animal or bird or the eggs of an animal or bird, unless the owner or occupier of that land has given him permission to be on that land for that purpose. Penalty: Fifty Pounds.

(2) If the owner or occupier of any land or the servant or agent of any such owner or occupier suspects that a person trespassing on that land is committing or has committed an offence against this Act, he may request that person to do either or both of the following things, namely:—(a) to state his full name and usual place of residence; (b) to quit the land. A person to whom any such request is made shall forthwith comply with it. Penalty: Fifty Pounds.

(3) A person who has quitted land pursuant to a request under this section shall not re-enter that land without the permission of the owner or occupier. Penalty: Fifty Pounds.

(4) In proceedings for an offence against this section—(a) the onus of proving permission to be on any land shall be on the defendant; (b) proof that a person on any land had in his possession a dog, gun or device capable of being used for the purpose of taking an animal or bird, shall be *prima facie* evidence that that person was on the land for the purpose of taking an animal or bird.

(5) The permission of an owner or occupier may be given by any person acting on his behalf.

Under the old Act there was a similar provision but it dropped out, I think on the assumption that this State was now operating under the Trespassing on Land Act; but that is not the position. The Trespassing on Land Act applies only to those areas where the local government has actually taken the necessary action to bring it into force. The areas roughly are: areas within 25 miles of Adelaide, the Port Wakefield district, the area adjacent to Spencer Gulf to a point close to Port Augusta, including Quorn, and a portion of the Murray plains including the District Council of Marne. That leaves us with a large area of the State not under the Trespassing on Land Act. Therefore, in my opinion, landholders should have the right that they had under the old provisions of the previous Act. So I intend to move along those lines in regard to this new clause 43a that I have just discussed.

I come now to clause 56, which deals with the keeping and selling of protected animals

and birds. When the Hon. Mr. DeGaris was speaking on this, he related clause 56 back to clause 40, and I would do likewise. In my opinion, there must be a mistake, because clause 56 (2) (e) states:

the holder of a licence under the Hide, Skin and Wool Dealers Act, 1915-1959.

Then subclause (3) states:

Paragraph (b) of subsection (1) of this section shall not apply to the holder of a licence under the Hide, Skin and Wool Dealers Act, 1915-1959.

I cannot work out exactly why this particular clause is there because, when we look at the Hide, Skin and Wool Dealers Act, we find in the definition section that these people are entitled to this, under the definition of "hide":

"hide" or "skin" means the hide or skin, before treatment in any process of manufacture, of any horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, heifer, steer, calf, camel, ram, ewe, wether, lamb, goat, or kid.

I cannot see anything there connected with this Bill. I think either it has crept in or else there should be some amendment to the Hide, Skin, and Wool Dealers Act. If pelts of opossums are needed to be treated, under the provisions of this Act the wool and skin merchant is not entitled to have those pelts in his possession. I am sure that the Minister will look at this point because I cannot for the moment see why this provision is included in the Bill.

I agree with the honourable member who referred to the Third Schedule and advocated the inclusion of the Major Mitchell in the list of rare species. In my youth the Major Mitchell cockatoos were common, but nowadays one has to get well off the beaten track to see them. One of the reasons for their scarcity, no doubt, is that they have been sold in the United States and taken out of Australia illegally, in many cases for the sum of £250 (Aust.). It does not take long, when professional trappers are working systematically to catch these birds in watercourses and dams, to deplete a species of bird such as the Major Mitchell.

An honourable member yesterday said that, although a permit for 100 was allowed, only 30 were trapped. The Hon. Mr. DeGaris referred to one or two other varieties of bird that he would like to see included in this schedule. I wholeheartedly agree that we have to protect the fauna, just as we have to protect our old buildings. If our children and their children are to have any idea of the enjoyment that these birds provide for us today they must be sufficiently protected, otherwise we

shall lose them completely, as New Zealand has lost some of its valuable birds and as this country has lost many valuable birds, even in the last 10 to 15 years. I wholeheartedly support this Bill, with the few amendments I have mentioned. I commend it to honourable members and hope it will be supported by them because it is a great attempt on the part of the Minister of Agriculture to introduce a measure that will be of lasting benefit to the people of this State.

The Hon. H. K. KEMP (Southern): The ground has been covered so thoroughly by previous speakers that I shall be brief. I strongly support the Bill. We have all been deeply gratified by the public interest shown in this subject. I have had many private communications and the reason I have no need to say much now is that in the course of the debate every important point raised by my correspondents has been covered. There are only two points I wish to raise. One relates to clause 42, which lifts to some extent the protection given to our Australian magpie, in that anyone can destroy a magpie that is threatening a person. We all know the inconvenience and fright that a magpie can cause in the breeding season. It is not dangerous, in the sense that the injury it inflicts is never very great, but, although we all appreciate that magpies swoop, nevertheless most people fear that there will be unnecessary destruction of these birds if the present protection is lifted to any extent. As far as I can assess the opinion of the people with whom I have been in contact, rather than have even a slight easing of this protection they would be happier to see things remain as they are; magpies are now given fairly solid protection, yet they can still be destroyed by authorized persons—inspectors or police officers—when the occasion arises. For this reason, in the Committee stages I shall move for the deletion of clause 42.

Various matters have been raised that I should like to mention briefly. It was requested that the shanghai, that homely weapon, be specifically mentioned in this legislation, but I do not think that is necessary, as already it is banned, I believe, under another Act. The age of 15 for obtaining a gun licence under this legislation has also been criticized. My experience has been that by far the most responsible people with firearms have been those brought up from early childhood with firearms, and that the irresponsible shooter is not a person given a licence at 15 to whom a

weapon has been a familiar object all his life. I think increasing the age at which a licence can be granted is working in the reverse of the spirit of this legislation.

The Third Schedule, which is the "totally protected" list, should contain the names of two small but lovable birds—the flame robin and the regent honeyeater. The numbers of both of these birds are decreasing fairly rapidly. They are migratory in their character, and they migrate between South Australia and Victoria and, because their habitat is being changed as a result of land improvement, their numbers are decreasing. They are not birds that interest trappers, as neither can be kept in captivity very well but, as we are destroying their habitat so rapidly, they deserve our protection.

The Hon. R. R. WILSON secured the adjournment of the debate.

**BOOK PURCHASERS PROTECTION ACT
AMENDMENT BILL.**

Returned from the House of Assembly with the following amendment:

Page 1, line 7 (clause 3)—Leave out the word "heavy" and insert in lieu thereof the words "bold black".

Consideration in Committee.

The Hon. C. D. ROWE (Attorney-General): Amendments were made by the House of Assembly the effect of which was to see that the indication on the face of the contract that a person had time in which to confirm it was in clear type. In the circumstances, I ask that the amendment be accepted.

The Hon. A. J. SHARD: I understand the amendment relates to the face of the type. **Is that correct?**

The Hon. C. D. ROWE: That is what I understand. We have previously said that it should be of a certain size, and the amendment will ensure that the type is clear.

The Hon. A. F. KNEEBONE: I understand that, whereas we provided for heavy type, the amendment provides for bold black type, which is a fairly heavy type, and I understand it is an improvement.

The Hon. C. R. STORY: I think this amendment was made because we got into some difficulty in relation to the wording, and I think the amendment should be accepted.

Amendment agreed to.

CAMPBELLTOWN BY-LAW: TRAFFIC.

Adjourned debate on the motion of the Hon. F. J. Potter:

That by-law No. 7 of the Corporation of the City of Campbelltown in respect of traffic, made on July 13, 1964, and laid on the table of this House on September 22, 1964, be disallowed.

(Continued from October 14. Page 1428.)

The Hon. F. J. POTTER (Central No. 2): I move:

That this motion be now discharged.

This matter was dealt with in another place, and the by-law was disallowed.

Motion discharged.

ADJOURNMENT.

At 3.14 p.m. the Council adjourned until Tuesday, October 20, at 2.15 p.m.