LEGISLATIVE COUNCIL.

Wednesday, October 21, 1964.

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

QUESTIONS.

ISLINGTON WORKSHOPS.

The Hon. A. J. SHARD: Recently I asked the Minister of Railways a question about providing a full-time safety officer at the Islington railway workshops, and he was good enough to say that he would take up the matter with the Railways Commissioner and secure a report. Has he obtained that report?

The Hon. N. L. JUDE: Yes. The Commissioner of Railways has sent me the following detailed report:

There is at present at the Islington workshops a full-time transport and safety officer, as well as a safety committee chaired by the Assistant Chief Mechanical Engineer. The committee meets regularly, and discusses and reaches decisions on a variety of important problems dealing with safety within the workshops. The meetings are attended by the safety officer, the foremen of various shops, a shop committee representative, and a first aid representative. The minutes of the conferences are circularized to all who attend, and in consequence the shop committee is made fully aware of the action taken on the various matters brought under discussion.

Any employee, shop steward, supervisor, or shop committee member has the right to discuss with the safety officer any matters appertaining to safety, and I am informed that the opportunity to do so is readily availed of by all concerned. In addition, senior and executive officers—who are fully aware of the departmental accent on safety within industry—do not hesitate, during their tours around the workshops, to bring under notice any unsafe condition or practice which they observe has come into existence. The same can be said of the supervisors, who, because of the activity of the safety committee, find that added emphasis has been placed on accident prevention and are therefore fully alert to their obligations in regard to good housekeeping, plus the fact that it is their responsibility to see that employees at all times take full advantage of the safety devices that are provided for their protection by the department. For the above several reasons, I am firm in my belief that the appointment of a full-time safety officer at Islington is not necessary. I might add that the transport and safety officer attends all safety conventions as well as meetings of the Safety Engineers Society.

RAILWAY RESERVOIRS.

The Hon. G. J. GILFILLAN: My question, which is directed to the Minister of Railways, relates to the future use of reservoirs on the Peterborough-Cockburn line when steam locomotives are completely replaced by diesel locomotives. Will the department continue to maintain these reservoirs for the benefit of the small communities in the area?

The Hon. N. L. JUDE: The honourable member was good enough to inform me he would ask this question and I can answer it this afternoon. The department will continue to maintain reservoirs on the Peterborough to Cockburn line to supply residences of employees. The department will also continue to cart water by tanker, when required, for the use of both private persons and employees.

RENMARK AVENUE.

The Hon. C. R. STORY: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. C. R. STORY: Recent reports in the *Murray Pioneer*, a newspaper circulating in the Upper Murray, give prominence to the fact that plans have been tabled at the local council dealing with the matter of a dual highway on Renmark Avenue. For many years this avenue has had poplar and willow trees planted along its length, some four miles. In the plans which have been submitted, it is proposed that these trees be bulldozed out in order that the dual highway can be constructed. I ask the Minister of Roads whether he will personally look at the plans and see whether an alternative can be worked out whereby these trees can be spared and, perhaps, a median strip or something like that provided.

The Hon. N. L. JUDE: I am not aware of the specific details of the plan at present, nor have I been asked to approve of the removal of trees in Renmark Avenue. I am aware of the difficulty. It may be that there is some problem in regard to the tree roots and the water table. The Hon. Mr. Story is aware, as he lives in the area, that the right-of-way is a very narrow one. It is an obvious bottleneck and should be dealt with in future plans. However, I will get the information for the honourable member and let him have it as early as possible.

DECOMPRESSION CHAMBER.

The Hon. A. F. KNEEBONE: On October 1 I asked the Chief Secretary a question regarding the availability of a decompression chamber in South Australia. Has he an answer to my question?

The Hon. Sir LYELL McEWIN: Yes. I have made inquiries and find that there is a high pressure oxygen tank in use at present

at the Royal Adelaide Hospital. In a recent case, which may be the one to which the honourable member has referred, the hospital was notified and it was possible to start the machine and give treatment in a matter of minutes after the patient's arrival. However, apparently the patient in question sought treatment elsewhere, as reported in the newspaper, and I would think that that was the case. The Royal Adelaide Hospital can receive a patient in the high pressure oxygen tank.

NEW WEST ROAD.

The Hon. R. R. WILSON: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. R. R. WILSON: There are two roads which leave Port Lincoln, known as the Old West Road and the New West Road, which meet the Flinders Highway at a point known as the Pine Reserve, a distance of approximately six miles from the Port Lincoln council boundary. The new road carries nearly all the heavy traffic to the grain silos and the freezing works and avoids the necessity to negotiate a steep hill. At present the road is badly corrugated, has many potholes and is a dust nuisance.

I appreciate the amount of money spent on roads in Eyre Peninsula in recent years, but because of many requests made to myself and the members for the district to have this road sealed, I ask the Minister whether he can give any assurance that this road will be sealed in the near future.

The Hon. N. L. JUDE: The position is as indicated by the honourable member. The new deviation was regarded as highly desirable by the department, but, being a major highway deviation, it has cost a tremendous amount of money. The department intends to seal the deviation, and it is hoped to commence the work in this financial year.

COST OF LIVING INCREASE.

The Hon. S. C. BEVAN: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. S. C. BEVAN: In this morning's press index figures for the cost of living have been released by the Commonwealth Statistician's Department, and they indicate that the increased cost of living in South Australia in the last quarter was 4s. 6d., the highest in the Commonwealth. In the preceding quarter there was also an increase in the cost of living and, again, South Australia with 4s. had the highest figure. Over the last three quarters the cost of living in this State has increased by 10s. 6d. Considering that the basic wage in South Australia is the next to lowest in the Commonwealth, can the Chief Secretary say whether the Government will now consider re-controlling the prices of foodstuffs, clothing and footwear in this State?

The Hon. Sir LYELL McEWIN: I will obtain a report for the honourable member. All the things mentioned are not necessarily relevant, so I prefer to investigate the matter before replying.

APPRENTICES ACT.

The Hon. A. F. KNEEBONE: Can the Attorney-General furnish me with information regarding amendments to the Apprentices Act, which amendments he forecast would be introduced before the end of this session?

The Hon. C. D. ROWE: I regret that it has not been possible to bring down the schedule of amendments that I had hoped to introduce, because the session is terminating considerably earlier than I expected when I made the statement. The matter is actively under my consideration at present, and I know that some fairly far-reaching amendments need attention and should be implemented.

POTATO PRICES.

The Hon. H. K. KEMP: Has the Minister representing the Minister of Agriculture a reply to the question I asked yesterday about potato prices?

The Hon. Sir LYELL McEWIN: No, I have not had a reply from the Minister of Agriculture but I shall endeavour to get one for the honourable member tomorrow.

ABORIGINAL AND HISTORICAL RELICS PRESERVATION BILL.

The Hon. H. K. KEMP (Southern) obtained leave and introduced a Bill for an Act to provide for the preservation of aboriginal and historical relics. Read a first time.

The Hon. H. K. KEMP moved:

That the Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay.

The PRESIDENT: There being a dissentient voice, there must be a division.

While the division bells were ringing:

The Hon. Sir ARTHUR RYMILL: Mr. President, I understand the motion is to allow the Bill to pass through its remaining stages without delay, and not that the second reading be taken forthwith, which I would have supported.

The PRESIDENT: The motion is that Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay, and as there was a dissentient voice there must be a division.

The Council divided on the motion.

The PRESIDENT: There being only one dissentient, the division is called off and I declare the motion carried.

Motion thus carried.

The Hon. H. K. KEMP: I move:

That this Bill be now read a second time.

It is presented as the only way possible to sustain my promise that our valuable relics of the aboriginal and early State history shall no longer remain unguarded. Many attempts have been made to remedy the defects in the Bill on this subject passed to us from another place. The corrections became immediately so voluminous as to be impractical and leave the Act with little useful purpose. It is important that, when Parliament confers power by legislation, it shall be limited strictly to the purposes laid down and that, in the exercise of power, the people given it shall remain answerable to Parliament.

Secondly, Mr. President, this land has been occupied by Aborigines certainly for 5,000 years and probably much longer. There are few parts of the State in which there are no traces of this long history but much of the land has been in cultivation or occupied by the white man in the century and a half since the first settlement. Legislation designed to save our history can achieve its purpose only if it recognizes this fact and is designed with it in mind. I think this Bill does both these things, which are grave defects of the alternative legislation. The Bill sets up a board of specialist knowledge to guide the Minister in his administration. This fundamental was neglected in the alternative Bill. It also confers the right to purchase, preserve and safeguard any relic of importance without depriving a living Aboriginal of the right to make and sell his own handicraft. It gives the Minister the right to join with anyone willing to join with him in the work of preserving the past, in setting up a reserved area and/or in conferring official wardenship. It is designed also to encourage anyone with a genuine interest of these relics of the past to collect and preserve them where they are unguarded. It places on the individual so collecting, however, the responsibility of safeguarding them and does not confer the right of trafficking in them.

This Bill is introduced only late in the session in an emergency. I earnestly commend it to the consideration of the Council. If pressure of business, as it probably will, prevents its being fully disposed of, it is sincerely hoped that another Parliament will be able to bring to fulfilment the need for close preservation of our past.

The Hon. C. D. ROWE (Attorney-General): The honourable member was good enough yesterday not only to give me notice of this Bill but also to supply me with a copy of it, so that I was able to do some work on it. I entirely agree with the closing remarks of the honourable member, that it may be advisable for this Bill to remain laid on the table of the Council between now and next session so that we may have an opportunity of perusing it to see what is in it. It amounts to a considerable alteration to the previous Bill on this matter introduced by the Government and passed through another place without serious difficulty, but there were some complaints about its provisions when it came before this Council. For the sake of helping any honourable member who wishes to make a detailed study of the provisions of this Bill, I shall place on record at this stage one or two comments that it is proper for me to make in relation to the Bill.

In the first place this Bill deals with relics which are defined as traces, remains or handiwork of Aborigines or of exploration and early settlement. The Government measure deals with the preservation of objects relating to Aborigines or to the State and of archaeological or historical interest or value, articles manufactured by Aborigines or persons of aboriginal blood and other prescribed objects. There is power to exempt objects or class of objects from the operation of the Act but no such power appears in Mr. Kemp's Bill. There is also power in the Minister to exempt persons from the operation of the Government measure. This does not appear in Mr. Kemp's Bill.

In the second place, clause 5 of the Government Bill empowers the Minister to purchase or otherwise acquire prescribed objects on the Queen's behalf. Mr. Kemp's Bill on the other hand while containing this power provides further that the Minister may purchase land upon which immovable relics, etc., may be present. His Bill also goes further than the Government measure in automatically vesting all relics within a prohibited area or historical reserve in the Crown. The Government may consider that this goes too far.

The Government measure prohibits the removal of prescribed objects without consent, and requires persons who are aware of the

existence of prescribed objects to inform the police thereof. These and other provisions of the Government measure apply of course throughout the State. Mr. Kemp's Bill is rather more limited in the sense that it empowers the proclamation of prohibited areas or historical reserves which persons may not enter without permission. There is also power in the Minister to direct the excavation of historical reserves and the removal of relics therefrom.

A provision which is new in Mr. Kemp's Bill is that in clause 5 requiring the Minister to appoint an Advisory Board from the University, the Museum, Lands, Aboriginal Affairs and a Chairman. The members are to serve in an honorary capacity. The Director of the Museum is to be the Protector of Relics in charge of certain functions including power of acquiring relics and giving consent to the sale of relics.

A most important provision of Mr. Kemp's Bill is that it is not an offence to pick up or collect any portable relic exposed on the surface. I understand that this is intended to cover collectors in parts of the State not within the proclaimed areas who are to be encouraged to collect relics. However, the section goes on to provide that, having collected or otherwise being in possession of a relic, a person cannot sell it without the consent of the Protector—*i.e.*, the Museum. This may be desirable but could lead to difficulties and embarrassment. For example, I might (but do not in fact) have in my house an object which happens to come within the definition of a relic. I might send all my furniture and effects to an auctioneer for disposal. I do not necessarily know whether the object is a relic or not, neither does the auctioneer or my agent.

As I said earlier, I have had an opportunity of making only a brief comparison of this Bill with the previous one but it appears to me that what I have said constitutes the main differences between the two measures. Of course, it is possible that there are others since the whole tenor of the Bill now before us is somewhat different from that of the Government measure. Because of this, I should like to do two things. First of all, I should like to congratulate the Hon. Mr. Kemp on his industry in doing as much work as he has done with this Bill and getting it to the stage where he can bring it before us at this point of time. Secondly, as indicated by the fact that the honourable member feels that the appropriate course is not to rush an important and complicated measure through in the dying hours of the session (it is unusual for a Minister of the Crown to complain about a Bill being introduced in the dying hours of a session, although it is not unusual from other sources) I think this Bill should be allowed to lie on the table of the Council so that it can be considered by honourable members.

The Hon. C. R. STORY secured the adjournment of the debate.

The Hon. Sir ARTHUR RYMILL (Central No. 2): Pursuant to Standing Order 173, I ask the indulgence of the Council to explain a matter of a personal nature, although there is no question before the Council. I opposed the honourable member's motion that the Bill should be permitted to pass through its remaining stages without delay; I emphasize "remaining stages". I would not have opposed the customary motion that the Standing Orders be suspended to enable the second reading to be given without delay. It appears now from the remarks of the mover and the Attorney-General that there is no intention that the Bill will pass through its remaining stages this session, and I therefore claim that I was quite correct in doing what I did.

POTATO MARKETING REGULATIONS.

Order of the Day, Private Business, No. 1: the Hon. F. J. Potter to move:

That the regulations under the Potato Marketing Act relating to the licensing of potato merchants, washers, etc., made on August 13, 1964, and laid on the table of this Council on August 18, 1964, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

POULTRY INDUSTRY (COMMONWEALTH LEVIES) BILL.

Read a third time and passed.

NURSES REGISTRATION ACT AMENDMENT BILL (AGES).

Adjourned debate on second reading.

(Continued from October 20. Page 1486.)

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill, which reduces the age at which a person may be registered as a nurse, psychiatric nurse or mental deficiency nurse from 21 years to 20 years. I take it that after nurses pass an examination they cannot be registered until reaching the age of 21. I do not object to a person of 20 years of age who is qualified being entitled to act as a nurse. As the Minister has pointed out, this is

the practice in all other States except New South Wales, which is now considering introducing legislation along the lines of this Bill. I think we should go out of our way to encourage young people to become nurses to assist those who need their help rather than hinder them. If a person is qualified at 20, I do not see why that person should have to wait until reaching the age of 21 before being registered.

Bill read a second time and taken through its remaining stages.

FAUNA CONSERVATION BILL.

In Committee.

(Continued from October 20. Page 1504.)

Clause 40—''Reports by grantees of certain permits''—which the Hon. R. C. DeGaris had moved to amend by striking out paragraphs (*a*), (*b*) and (*c*).

The Hon. R. C. DeGARIS: This morning I had a long discussion with Mr. Bogg, the Director of Fisheries and Game, and as a result I am now happy with the clause as it stands. Under clause 39 the Minister, in giving a permit to take protected animals or birds or eggs of protected animals or birds, will know exactly how many birds and animals can be taken. The permit could be given for a very restricted period. There is therefore no reason why a report should be made under clause 40. I ask leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Clause passed.

Clause 41 passed.

Clause 42—''Australian Magpie.''

The Hon. A. J. SHARD: I move:

In subclause (1) to strike out ''caused or appears likely to cause injury to'' and insert ''attacked or is attacking''.

There has been much publicity in connection with this clause. Some colleagues in another place and people outside have approached me to see whether something can be done about this clause. I believe that it is far too wide. It gives to any person the right to take a magpie which has caused or appears likely to cause injury. I do not know how anyone can say when a magpie ''appears likely'' to cause injury to a person. I have discussed the matter with the Parliamentary Draftsman and it appears that there are two ways in which we could overcome our objection to the wideness of the clause. First, we could delete the whole clause and then the matter would be covered in paragraph (*d*) of subclause (1) of clause 39, which enables the Minister to grant a permit ''for any other purpose which the Minister considers expedient and not inconsistent with the objects of this Act''. Under that paragraph, if the Minister agreed that a magpie was attacking someone, or was dangerous, he would be empowered to issue a permit. However, I feel that that is going to the other extreme. The other suggestion put by the Parliamentary Draftsman, which was a happy compromise, was that we could delete the words which I have moved to delete and add the words ''attacked or was attacking''. If the whole clause was deleted, it appears that children being attacked by a magpie would have to go to a Government office and obtain a permit to destroy the bird after the damage had been done.

My amendment appears to be the ''halfway mark'', as it were. The person who took the magpie would be placed in the position of having to prove that the bird attacked somebody or was in the act of attacking somebody when he destroyed it. As clause 42 stands, too much liberty is given to people to take guns into thickly populated areas, small areas in country towns and the suburbs. They must have a very good reason for wishing to take the magpie, in the first instance, and they must have a very good reason for using a gun or rifle in any thickly populated area. I mentioned in my second reading speech that I understood that the Minister was prepared to look at this matter and, perhaps, come to some compromise. However, I have heard nothing further so far, and I should like to know whether the Government has considered my amendment or whether it is going to adhere to the Bill as it stands.

The Hon. H. K. KEMP: I support the Hon. Mr. Shard in regard to the need to tighten up clause 42. This amendment does not affect the question of the destruction of magpies in the suburban area, because the use of a firearm in the suburbs is prohibited under another Act. Even with the proposed amendment, the clause will provide an excuse for shooting the magpie and it will be easy for the person concerned to escape the consequences. The majority of people would prefer to have things remain as they are, whereby an inspector is the person authorized under the Act to kill the magpie. It is not necessary for the inspector to go to the Minister to obtain a permit. Therefore, when this amendment is dealt with, I intend to move for the deletion of the whole clause.

The Hon. Sir LYELL McEWIN: I suppose that everyone would be sympathetic to the amendment, but I have an entirely different

view from that of the honourable member who has just resumed his seat. I speak as one who is a lover and protector of magpies. I intended to ask the honourable member if he could give me the interpretation of when the bird "attacks". For example, would it apply in a case where the magpie is nesting where children have to pass on their way to school? On the other hand, has the child to wait until its eye has been knocked out before the magpie can be destroyed?

I can speak from experience in my own childhood, when I was protecting a bird which nested near a sandpit where children of three years of age were playing. Up to that time my defence of the magpie was that unless it has been teased, or robbed, it would not threaten anybody. In this case, the "attack" had to come before I was convinced. Fortunately, the magpie missed my eye, but it injured my forehead. The Hon. Mr. Kemp has suggested that the whole clause be deleted. Is it necessary to bring the magpie along in order to prove that it is dangerous? After all, if we cannot teach people to act sensibly in these cases, I do not know where we are going. I think that the clause as it stands at present goes far enough. If a magpie knocked off my hat, I would think that that was near enough to an "attack".

The Hon. F. J. Potter: Are you supporting the amendment?

The Hon. Sir LYELL McEWIN: Yes.

The Hon. Sir ARTHUR RYMILL: I have also had experiences of this nature and I think that some of the trouble today stems from some reluctance to grant these permits, which is very understandable. Like the Chief Secretary, I am a lover of magpies and I, too, have had experience of attacks by them. I think that these attacks occur more frequently in the suburban areas than in the country. As honourable members know, I have had a property at Willunga for several years. There are many magpies on that property and, curiously enough, it was only the other day that I was attacked for the first time. The magpie was a long way from his nest and he was standing on the ground. I have always treated magpies with respect. I did not like the look of this bird and sure enough he came for me several times. However, I waved my hands and subsequently kept away from him. I did not want to interfere with the bird. In suburban areas it may be necessary to go past the nest of a magpie and if this provision does not apply to suburban areas it is a defect. I am still undecided whether or not to support Mr. Shard's amendment. Having heard his explanation I think the amendment is more restrictive than is the position now. Having heard the Minister's remarks I have been given cause for further thought. I do not want to see magpies destroyed, but if they harm children, as they do on occasion, some action must be taken. If it is necessary to wait and prove to a police officer that something has happened by showing evidence, as was mentioned by the Minister, that is bad enough, but without that evidence what is the position? Often the magpie swoops down and flies past.

The Hon. A. J. Shard: Isn't a swoop an attack?

The Hon. Sir ARTHUR RYMILL: I thought so until I heard the Minister, and I am not so certain now. We know the ways of birds and their natural defences. Often an apparent attack is a defence. I think there could be difficulty if the word "attack" were used, because of the distinction drawn by the Minister. This is a difficult problem, and I am not happy either way. However, there should be further protection, particularly for children.

The Hon. S. C. BEVAN: I support the amendment. The clause has a loophole at present. The words "appears likely to cause" leave the matter wide open. Any person who destroyed a magpie under these circumstances could say that it looked as though the magpie would cause some injury, and that it was thought desirable to get rid of it.

My experience of magpies has been that they attack only at nesting time. At other times they are usually docile birds. Some years ago I had a similar experience to that mentioned by the Minister. It concerned my younger sister. I was with her when a magpie swooped as we got close to its nest in a tree. Fortunately for my sister the magpie made impact, not in the centre of the forehead as mentioned by the Minister, but immediately under her eye. It ripped the skin wide open. Had the impact been a fraction higher I would have had a sister with one eye. The amendment should be accepted. When the word "attack" is used there should be a common sense interpretation. I suggest that any person is entitled to defend himself against an attack. It could happen on any day of the week when a person walking along a street is attacked without warning. In such circumstances a person would be entitled to defend himself, and surely one should be entitled to defend himself against magpies.

If the Commonwealth Government could secure a dive bomber as fast and as accurate as a magpie in its attack we would have an air force second to none. The magpies rarely miss their targets, and they are deadly in their aim. The words proposed to be inserted give

a greater protection to the magpie, which is the aim of the Bill.

The Hon. M. B. DAWKINS: I support the amendment. When a magpie swoops, as instanced by the Minister and Mr. Bevan, it is definitely an attack. In my experience with magpies, and it has been entirely in the country, it would be difficult to prove that the swoop by the magpie was a negative action. It is definitely a positive action. Magpies can be dangerous to children. I am a lover of bird life generally, but I believe that clause 42 is necessary. I will support the amendment and oppose very strongly any move to delete the clause.

The Hon. F. J. POTTER: I am not opposed to the amendment, but am somewhat at a loss to understand how it will make a distinction between what appears in the Bill and what is proposed. The provision says that it is lawful for any person to take a magpie that is dangerous. There is no suggestion of witnesses, and it seems to me that if a person took a magpie he could say that it was likely to cause injury to him, or that the magpie attacked him. No witnesses would be required.

The Hon. A. J. Shard: There is no "likely" about it; it must be an attack.

The Hon. F. J. POTTER: If a person took the bird without witnesses he could say that the bird attacked him. That would be as easy as saying that the bird appeared likely to cause injury to him, or that, in fact, it had caused injury to him. It seems that artificial distinctions are being made, and as no witnesses are required anybody could exercise this right to take a magpie. I don't think much is being achieved by the amendment.

Amendment carried.

The Hon. H. K. KEMP moved:

To strike out the clause.

The CHAIRMAN: The honourable member will have an opportunity of voting against it.

Clause as amended passed.

Clause 43—"Possession of animals and birds unlawfully taken."

The Hon. R. C. DeGARIS: I move:

In subclause (1) after "taken" to insert "or imported into the State".

There is no need for me to further explain this amendment: it is exactly the same as that made to the previous clause.

Amendment carried.

The Hon. R. C. DeGARIS: I now move:

In subclause (2) to strike out "show" and insert "satisfy the court".

This is an escape clause for the trapper to take protected birds and animals. This puts the onus of proof upon the person committing any offence under this Act to satisfy the court that he had no reason to suspect that the animal or bird was unlawfully taken.

The Hon. S. C. BEVAN: I oppose the amendment. To accept it would mean that at all times for all alleged offences under this provision we should have to have court proceedings before an opportunity was given to a defendant to prove before the court that he was ignorant, and had no intention, of committing a breach of the law. This phraseology would debar any authorized person, although he might be satisfied with the explanation given under this clause, from accepting it. The defendant would have to appear in court and proceedings would have to be taken, involving a certain amount of expense, and no doubt within five minutes of appearing in court the defendant would be able to satisfy the court about his innocence. At all times the onus is now placed upon the person to prove his innocence, which is contrary to the British conception of justice. The honourable member moving the amendment said that the onus of proof would be upon the person concerned.

The Hon. R. C. DeGaris: Only if he had committed an offence.

The Hon. F. J. Potter: No.

The Hon. S. C. BEVAN: I remind the Hon. Mr. Potter that the reason why I rose to my feet was that the Hon. Mr. DeGaris used the expression that the onus of proof would be upon the defendant. Admittedly, the person concerned would have been suspected of committing an offence under this Act before any action was taken in the first place but, when we say "only after an offence has been committed", we are getting a little ridiculous because a breach would have to be suspected of having been committed for any action to be taken. The insertion of this amendment would mean court proceedings in all cases. I can put no other interpretation upon it than that. Inspectors and wardens are appointed with full authority, and then we say, "Irrespective of the fact that you may be satisfied with an explanation, under clause 43, you have to institute court proceedings." That is wrong. I see nothing wrong with the clause as it now stands.

The Hon. F. J. POTTER: In my opinion the Hon. Mr. Bevan's interpretation is wrong because, first of all, this clause deals with an offence against the Act, and subclause (2)

deals only with a defence to a charge in a court, not to an allegation of a warden or an inspector that a person has committed an offence. There is nothing to prevent an inspector or warden alleging to a person whom he has caught "in the act" that he has committed an offence and accepting an explanation given on the spot. This is a case not of that but of a man who has been charged in court. When the inspector is not prepared to accept the explanation of the person concerned and the case goes as far as a charge being laid in court, then the Hon. Mr. DeGaris's amendment is to provide a defence to the person charged in court of satisfying the court that he had no reason to suspect that the animal or egg had been unlawfully taken.

The Hon. Sir Arthur Rymill: Which places the higher onus on the defendant—to "show" or to "satisfy the court"?

The Hon. F. J. POTTER: I can recall many occasions when the wording "satisfy the court" has been used. I do not quite know what meaning "show" has. I suspect it has no real meaning based on any custom or usage. Therefore, for that reason alone, there is merit in the amendment of the Hon. Mr. DeGaris.

The Hon. Sir LYELL McEWIN: The information I have does not support the view of the Hon. Mr. Potter; it is that clause 43 provides that when a person is charged with an offence of unlawful possession under that clause he will be entitled to be acquitted if he shows that he had no guilty knowledge. The degree of proof required from the defendant under the Bill as it stands is that which is usually required from defendants in criminal cases, namely, that he should prove his case by evidence that appears probably true. The effect of the amendment would be to throw a heavier onus on the defendant, namely, that he should prove his lack of guilty knowledge beyond all reasonable doubt. The proposal is contrary to the usual accepted legal rules about proof in proceedings for offences, and for this reason the Government asks the Committee not to accept the amendment.

Amendment negatived.

The Hon. R. C. DeGARIS: I move:

In subclause (2) after "taken" to insert "or imported into the State".

Amendment carried; clause as amended passed.

New clause 43a—"Trespassing."

The Hon. C. R. STORY: I move to insert the following new clause:

43a. (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.

In the old Act there were provisions dealing with trespassing, but these have been left out of this Bill, I think from a misunderstanding that the provisions of the Trespassing on Land Act cover the majority of the State. That is not the case; that Act applies only to those district councils that have been proclaimed, and there are few of them. The District Council of Marne, which extends over the Mount Lofty ranges and the Murray Plains, bordered by the Murray River, to a point somewhere near Black Hill, and across the river at Swan Reach, is one area that has been proclaimed. Others are the District Council of Port Wakefield, Pirie (which covers the Port Pirie area and a strip along the edge of the gulf), Kanyaka (near Port Augusta), and a radius of 50 miles from the General Post Office, Adelaide. The rest of the State is not covered by that Act. I think it necessary that people be given this protection by having the provision in this Bill.

The Hon. Sir Arthur Rymill: Will you indicate the form in which it is included in the existing legislation?

The Hon. C. R. STORY: It is in the same form as my amendment. The amendment only

puts into the Bill what is provided in section 18 of the old Act. It is in identical terms.

The Hon. S. C. BEVAN: Although the amendment may be the same as the provision in the existing legislation, I oppose it. Subclause (1) provides that 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. Subclause (4) provides that in proceedings for an offence the onus of proving permission shall be on the defendant and that proof that a person on any land had in his possession a dog, gun or device capable 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. Subclause (5) provides that the permission of an owner or occupier may be given by any person acting on his behalf.

A person could have a dog with him and obtain permission from an occupier to enter the land. The dog would naturally follow its owner, and that would be *prima facie* evidence that he was on the land for the purpose of taking an animal or bird. A person acting on behalf of an owner may give verbal permission for a person to enter the land, yet the owner may come along and violently object. He may take his agent to task for giving the permission. It could be that, for self preservation, permission to enter was denied. In later court proceedings the owner or occupier could complain bitterly that he did not give permission and the person entering then has to stand up to what he said. As it was a verbal permission, the defendant would only have his own evidence of what was said, against the evidence brought by the person or persons prosecuting. In those circumstances, it could well be that the weight of evidence adduced on the side of refusal of permission would be such as to cause the court to find against the person entering.

The Hon. R. C. DeGaris: Would that not apply also under the Trespassing on Land Act?

The Hon. S. C. BEVAN: In normal circumstances, a notice reading "trespassers will be prosecuted" is erected. Even in the absence of such a notice, the owner or occupier could tell the person entering that he was trespassing and, in those circumstances, I believe that the person would obey without any prosecution being necessary. However, those cases would be rare. In the present case, the whole onus is on the individual and until this afternoon I thought that a person was deemed to be innocent until he was proved guilty. Although I placed a hypothetical case before the Council, I am not by any stretch of the imagination submitting that it could not happen. A completely innocent person who had obtained permission to enter land could be found guilty after evidence had been given that no permission had been granted. The permission has not to be in writing. I feel that there is no need for the insertion of the whole of the suggested clause, because there is adequate provision under the Act to meet all these circumstances. I do not like the onus of proof being on the defendant and my intention is to vote against the amendment.

The Hon. JESSIE COOPER: I am strongly opposed to this amendment. Yesterday the Chief Secretary said that the Bill as presented by the Government did not go nearly as far as the amendments on the file, and I feel that this is a case in point. I do not believe that this section was overlooked when the Bill was prepared. The matter must have been considered and not included for a very good reason. I speak on behalf of the sportsmen of this community. It is an age-old right of a person to go across land and I feel that these amendments are really savage. I, therefore, propose to vote against them.

The Hon. Sir LYELL McEWIN: The position regarding this amendment is as the Hon. Mr. Story stated. I can give the explanation of why it was not included in the Bill, and that will give some assurance to the Hon. Mrs. Cooper. Provisions along the lines of the amendment were in the old Act and the reason why they were not included in this Bill is that the Government was advised that the rights of landowners at common law and under the Trespassing on Land Act and the Police Offences Act contained sufficient safeguards. However, it is admitted that these other laws were not aimed specifically at persons trespassing for the purpose of taking animals or birds by shooting or trapping and they did not make it an offence in all cases for a suspected offender to refuse to give his name and address on request to an owner or occupier or to the servant or agent of an owner or occupier. After further consideration, we are advised that it would be reasonable to include a clause such as that now proposed, which is, in substance, similar to provisions in the Animals and Birds Protection Act. However, the wording in this Act is a little different. I am informed that two sections of the Act have

been drafted into the one amendment submitted. The provisions are the same as have been in the Act since 1909. Therefore, I support the new clause.

New clause inserted.

Clauses 44 to 55 passed.

Clause 56—"Licences to keep and sell protected animals, birds, carcasses, eggs."

The Hon. R. C. DeGARIS moved:

In subclause (1) (*b*) after "skin" to insert "or eggs".

Amendment carried.

The Hon. R. C. DeGARIS: I move:

To strike out subclause (2) (*e*) and subclause (3).

This clause deals with the getting and selling of protected animals, birds, carcasses, skins or eggs. The parts I am moving to strike out give an exemption from this provision to the holder of a licence under the Hide, Skin and Wool Dealers Act. I cannot see why the possession of a licence under the Hide, Skin and Wool Dealers Act should give a person complete immunity from this clause.

Amendment carried.

The Hon. R. C. DeGARIS moved:

In subclause (6) after "taken" to insert "or imported into the State".

Amendment carried.

The Hon R. C. DeGARIS moved:

In subclause (6) after "skins" to insert "or eggs".

Amendment carried.

The Hon. R. C. DeGARIS: I move to add the following new subclause:

(8) The holder of a licence under this section shall furnish the Director with such returns as are prescribed:
Penalty: Twenty-five pounds.

This will give the Government some idea of the trade taking place in protected animals or birds, and their carcasses or eggs.

Amendment carried; clause as amended passed.

Clause 57—"Species not to be sold."

The Hon. R. C. DeGARIS moved:

In subclause (1) after "birds" to insert "or the eggs of any specified species of animals or birds".

Amendment carried.

The Hon. R. C. DeGARIS moved:

In subclause (2) after "bird" to insert "or egg".

Amendment carried; clause as amended passed.

Clause 58—"Export and import of protected animals and birds, carcasses, etc."

The Hon. R. C. DeGARIS: Amendments to this clause are on the files in my name, but I will not be proceeding further with them. I have an amendment to clause 59, which is not on the files, but which does all the things my filed amendments to clauses 58 and 59 do.

Clause passed.

Clause 59—"Grant of permits to export or import."

The Hon. R. C. DeGARIS: I move to insert the following new subclause:

(4) A permit to import shall not be granted unless the Minister is also satisfied that the animals, birds, carcasses, skins or eggs proposed to be imported were not taken in contravention of the laws of any other State or country.

When dealing with this matter in the second reading debate I pointed out that protected animals or birds in one State could be illegally taken to another State where they were not protected and then they could move freely around Australia. This subclause says that, before giving a permit to import, the Minister must be satisfied not only that it is in accordance with the laws of the State, but also that the birds or animals were not imported in contravention of the laws of any other State or country.

New subclause inserted; clause as amended passed.

Clause 60 passed.

Clause 61—"Payment of royalties."

The Hon. R. C. DeGARIS moved:

In subclause (2) after "carcasses" to insert "or eggs".

Amendment carried; clause as amended passed.

Clauses 62 to 66 passed.

Clause 67—"Prohibition of transfers of licences or permits."

The Hon. R. C. DeGARIS: I move:

Before "permit" second occurring to insert "licence or".

I think that this amendment will correct the position.

Amendment carried; clause as amended passed.

Remaining clauses (68 to 78) and First Schedule passed.

Second Schedule—"Unprotected species (section 35)."

The Hon. R. C. DeGARIS moved:

To strike out "South" in the last line.

Amendment carried; Second Schedule as amended passed.

Third Schedule—"Rare species (section 7)."

The Hon. R. C. DeGARIS: I move:

Before "Mallee Fowl" to insert "Major Mitchell Cockatoo (Kakatoe Leadbeateri). Beautiful Firetail Finch (Zonaeginthus Bellus)."

As the names of the birds in this schedule appear before those of the animals, I think these names should appear at the beginning of the schedule rather than at the end. My reason for asking for the inclusion of these two birds is that, mainly because of the depredations of the trapper, they have, in my opinion, reached the stage of becoming rare species in this State. Perhaps I may read part of a report issued by the Field Naturalists' Society of South Australia:

Pink Cockatoo or Major Mitchell (Kakatoe Leadbeateri): Due to its demand as a cage bird, this beautiful cockatoo is quickly becoming Australia's rarest because of predations by trappers. It now occurs in remote northern mallee, Far North-West and Gawler Range districts; whereas it originally occurred in large numbers through all mallee areas of this State as well. The blocks of mallee scrub throughout central districts which support a large Galah population, and the blocks of Victorian mallee which still support a strong Pink Cockatoo population show that habitat clearing is not responsible for the gradual disappearance of the Pink Cockatoo from the South Australian scene.

This is a report issued two or three years ago. Then it says this about the Beautiful Firetail Finch (Zonaeginthus Bellus):

Confined to the thick sclerophyll scrubs of the Lower South-East and Mount Lofty Range. It has become very rare in recent years due to predations by trappers and egg collectors.

The point about this particular finch is that it does not breed well in captivity; the only replacement of stock comes from trapping these birds.

Amendment carried.

The Hon. H. K. KEMP: I move:

To add "Flame Robin (Petroica Phoenicia). Regent Honeyeater (Banthomiza Phrygia)."

These two birds should be added to the schedule in the appropriate place.

Amendment carried; Third Schedule as amended passed.

Title passed.

Bill read a third time and passed.

COMPANIES ACT AMENDMENT BILL.

Consideration in Committee of the House of Assembly's amendments:

No. 1. Page 14, lines 32 and 33 (clause 6)—Leave out ", before or after making any such order,".

No. 2. Page 15, lines 35 and 36 (clause 6)—Leave out ", or any order made by the Minister under subsection (2) of this section,".

No. 3. Page 18, line 42 (clause 6)—Leave out "Subject to paragraph (*b*) of this subsection,".

No. 4. Page 19, lines 17 to 26 (clause 6)—Leave out paragraph (*b*).

No. 5. Page 19, lines 34 and 35 (clause 6)—Leave out "and the provisions of paragraph (*b*) of this subsection,".

No. 6. After clause 14 insert the following new clause:—

15. *Amendment of principal Act, s. 173—Appointment of investigators*—Section 173 of the principal Act is amended—

(*a*) by substituting for the word "defrayed" in paragraph (*b*) of subsection (2) the words "paid in the first instance"; and

(*b*) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) (*a*) Where the Governor is of the opinion that the whole or any part of the expenses of and incidental to the investigation should be paid by the company or by any person who requested the appointment of the inspector the Governor may by order direct that the expenses be so paid.

(*b*) Any such order may specify the time or times and the manner in which the payment of the expense shall be made.

(*c*) Where an order has been made by the Governor under this subsection the company or person named in the order to the extent therein specified shall be liable to reimburse the Minister in respect of such expenses.

(*d*) Action to recover any such expenses may be taken in the name of the Minister in any court of competent jurisdiction.

(*e*) Where an order under this subsection has been made for the payment of the whole or part of the expenses by a company and the company is in liquidation or subsequently goes into liquidation the expenses so ordered to be paid by the company shall be deemed to be part of the cost and expenses of the winding up for the purposes of paragraph (*a*) of subsection (1) of section 292.

(*f*) The report of the inspector may, if he thinks fit, and shall, if the Minister so directs, include a recommendation as to the terms of the order, which he thinks proper in the light of his investigation, to be made by the Governor under paragraph (*a*) of this subsection.

No. 7. After clause 23 insert the following new clause:—

24. *Amendment of principal Act, Second Schedule.*—The Second Schedule to the principal Act is amended—

(*a*) by inserting immediately after item 29 thereof the following items:—

29a. On lodging any application to the Registrar under section 161a	£10	0	0

29b. On lodging any appeal against a decision of the Registrar under section 161a .. £10 0 0

(*b*) by inserting in item 33 thereof after the word "For" being the first word in that item the words "a typewritten";

(*c*) by inserting after item 33 thereof the following item:—

33a. For a copy or extract (made by photographic process and certified by the Registrar) of any document in his custody—

For the first sheet so made	£1	0	0
For each additional sheet of foolscap size or less	0	5	0
For each additional sheet larger than foolscap size ..	0	7	6

(*d*) by striking out item 35 thereof and inserting in lieu thereof the following item:—

35. For a copy or extract (made by photographic process by the Registrar) of any document in his custody, but not certified by him—

For the first sheet so made	0	15	0
For each additional sheet of foolscap size or less	0	5	0
For each additional sheet larger than foolscap size	0	7	6

(*e*) by striking out the word "company" in item 36 thereof and inserting in lieu thereof the word "corporation";

(*f*) by striking out item 38 thereof and inserting in lieu thereof the following item:—

38. For search for and inspection of a document or documents filed by or in relation to a corporation 0 10 0

Amendment No. 1.

The Hon. C. D. ROWE (Attorney-General): I have a report on the House of Assembly's amendment which states that subsection (7) of proposed new section 74 (*a*) empowers the trustee for debenture holders of a borrowing corporation to apply to the Minister for an order imposing certain restrictions on the borrowing corporation if the trustee is of the opinion that the assets of the corporation are insufficient or likely to become insufficient to discharge the principal debt. The same section also empowers the trustee to approach the court for an order, which the court is empowered to make under subsection (4). The approach to the Minister was offered in case the trustee considered that the publicity associated with an application to the court might be detrimental to the interests of the debenture holders.

The Bill as originally introduced into this Chamber provided that, upon an application to the Minister, the Minister may make the order applied for or may, and if the borrowing corporation so requires shall, direct the trustee to make an application to the court, thus giving the borrowing corporation the right virtually to elect to have the matter dealt with by the Minister or the court. The words proposed to be omitted were inserted by this Committee on the motion of the Hon. Sir Arthur Rymill, and if retained would have the effect of giving the borrowing corporation, after electing to have the matter dealt with by the Minister, the right to have the Minister's decision reviewed by the court. This is not the position in the other States where this legislation is in force, and the purpose of this amendment is to restore this provision of the Bill to its original form as introduced into this Council and to bring the South Australian legislation into line with the legislation of other States and with the decision of the standing committee of Attorneys-General.

I think the explanation is clear—that as the Bill was introduced into the Council the trustee had the right to apply to the court, or if he thought that the publicity attached to the matter would adversely affect the interests of the company he could apply to the Minister. This Committee inserted the provision that there could be an appeal from the Minister's decision. It was thought in another place that the Minister would be put in an invidious position if his decision were reviewed by the court. The House of Assembly has put the Bill back to its previous state so that a trustee has the option of appealing either to the Minister or to the court, but there is no appeal from the Minister's decision. I think there are good reasons for accepting the amendment.

The Hon. Sir ARTHUR RYMILL: I do not regard the amendment that I moved previously as being tremendously important, and if it is not acceptable to another place I shall not urge this Committee to insist on it.

Amendment agreed to.

Amendment No. 2.

The Hon. C. D. ROWE: This amendment is consequential on amendment No. 1, so I do not think it is necessary for me to explain it.

Amendment agreed to.

Amendment No. 3.

The Hon. C. D. ROWE: This and subsequent amendments relate to the same matter, but I shall deal with this particular amendment at this stage. Under proposed new section 74 (*f*) as originally introduced in this Chamber the directors of a borrowing corporation and the director of each of its guarantor corporations were required to lodge half-yearly audited accounts with the trustee for the holders of the debentures of the borrowing corporation and with the registrar. This requirement was decided upon by the standing committee of Attorneys-General after very careful consideration of the factors involved, including the expense involving in furnishing audited accounts. It is considered that the considerable losses sustained by debenture holders as a result of the disastrous failures of certain borrowing corporations in the Eastern States could have been averted if those corporations had been obliged to furnish half-yearly audited accounts to their trustees, who would then have been in a position to take appropriate action to protect the interests of the debenture holders. These salutory provisions were amended by this Council so as to provide that they will operate and have effect only if and when and so long as the trustee for the debenture holders, for some substantial reason, requires the directors of the relevant corporations to comply with those provisions.

If the Bill was amended in this form, some borrowing corporations could escape the obligation to furnish half-yearly accounts and this could react to the detriment of debenture holders. The purpose of these amendments is to restore these provisions of the Bill to their original form as introduced in this Council so as to ensure that half-yearly audited accounts are required without exception from borrowing corporations and their guarantor corporations. This would bring the South Australian legislation into line with the present legislation in Victoria and New South Wales and with legislation proposed to be introduced in Western Australia and Tasmania.

The Hon. Sir Arthur Rymill: But not in Queensland.

The Hon. C. D. ROWE: Not in Queensland. I might mention that the Bill already contains a provision enabling a trustee for debenture holders to dispense with an audit or to consent to a limited audit in appropriate cases, as well as a provision which was inserted by this Council under which the accounts of a borrowing corporation may be based on the corporation's stock-taking made for the purposes of its annual accounts. In asking the Committee to agree to this amendment, I should like to read an extract from an article by Edward Stamp, M.A., Chartered Accountant and Senior Lecturer in Accountancy at the University of Wellington, New Zealand, that appeared in *The Accountants' Journal of New Zealand* and was reproduced in the *Accountancy Magazine* published in England in August, 1964. It says:

> When the 1962 results of Reid Murray were tentatively revealed in December, 1962, they showed a loss of over £2.5 million. (Later figures, released in 1963, indicated total losses of over £5.2 million.)

In commenting on the December, 1962, bulletin the *Sydney Morning Herald* had this to say:

> In June while actively canvassing more debenture money from the public it quoted £251,507 as the half year's taxable profit, mentioning that this was nearly identical with the corresponding profit for the previous year. That statement was made within three months of the close of the company's year for which audited trading losses of £1.5 million, plus debt losses of at least £1 million, are now revealed.

Then it goes on to say:

> The practice of issuing half-yearly and even quarterly statements to shareholders is commendable, but it might be worthwhile to require that such statements be audited. One hesitates to be too dogmatic about this, since one could inhibit the desirable practice of publishing interim results. It might be observed, however, that the new Companies (Public Borrowings) Act in Victoria compels the publication of audited half-yearly accounts in certain circumstances.

I think what I have said shows quite clearly that if this legislation had been in force, the last debenture issue which was sought from the public by Reid Murray might have been avoided and a considerable amount of money saved. I think we have gone a considerable distance in ensuring that we do not make this legislation too burdensome so far as companies are concerned. Under this amendment, we say that the half-yearly accounts are required but then we go on to say that if the trustee so requires, he can dispense with the requirement for an audit, or, if he so desires, he can require only a limited audit, or he has the power to accept the figures which were provided at the last stock-taking. I think that removes one of the onerous requirements of this particular clause, and in those circumstances, I ask the Committee to accept the amendments.

This is an Act of the South Australian Parliament and, consequently, it does not have

force beyond the boundaries of this State, so it would only apply to those companies that would want to raise money within the boundaries of this State. If they desire to raise money in other States—and the vast majority of them do—they will have to comply with the requirements of the other States, which require them to have their half-yearly accounts audited, and they will not enjoy any of the leniencies we have written into this legislation.

Amendment agreed to.

Amendment No. 4.

The Hon. C. D. ROWE: This is consequential on what we have done previously.

The Hon. Sir ARTHUR RYMILL: I have an amendment on the file to amend both this and the next amendment from the House of Assembly and I think that this is the time at which I should move the amendment to the Attorney's motion. I apologize to honourable members for supplying this amendment only five or ten minutes ago. I thought it had been put on the files earlier this afternoon. I move:

That amendments Nos. 4 and 5 of the House of Assembly be agreed to with the following amendments:

Clause 6—

Page 20, line 47 and page 21, line 1—Omit "or the audit thereof may be of a limited nature or extent if" and insert in lieu thereof "unless".

Page 21, lines 2 to 4—Omit "consented to the audit being dispensed with or being of a limited nature or extent, as the case may be" and insert in lieu thereof "addressed to the corporation concerned required that they be audited, and in any such case the audit thereof may be of a limited nature or extent if, and only if, the trustee has specified in such notice that the audit may be of such limited nature or extent".

I am quite happy to agree to what the House of Assembly wants in relation to the half-yearly accounts being audited compulsorily instead of being requested by the trustee for debenture holders, as long as what I regard as a necessary consequential amendment is made. It is my desire, of course, to try to meet the wishes of the other place. As the Attorney has said, my amendments were made in this House. In particular, the amendment relating to stocktaking, which was the really expensive provision, has been left intact by the House of Assembly. When I drew my amendment, I left intact the clause relating to audit, subclause 7(*a*), because the new subclause which was inserted, 4(*b*), qualified subclause 7(*a*) and, therefore, made it do what I thought it was to do. However, the other place, in its wisdom, wants to dispense with subclause 4(*b*) and that means that subclause 7(*a*) will also have to be amended.

In the Bill as it left this Council, subclause 7(*a*) was qualified by subclause 4(*b*) and, thus, by that subclause 4(*b*), it was given a different meaning from the one it will have if subclause 4(*b*) is omitted. Subclause 7 of the proposed section 74(*f*) provides that the audit of the half-yearly accounts need not be made or may be of limited nature or extent if the trustee for the debenture holders has so consented in writing. I emphasize the words "consented in writing". The effect of my amendment to this clause now is to provide that there need not be an audit of these acounts unless the trustee so requires in writing; in other words, instead of the provision being that the half-yearly audit need not be made if the trustee consents, this amendment provides that a half-yearly audit need not be made unless the trustee requires it. This is a technical matter and at first sight members might think that my amendments are just an alteration in the verbiage and with no other effect, but they have a definite legal significance. I claim that my amendments will make the clause workable in practice, and I further claim that, in its present form, although it says that something can be done, no trustee could act upon it, and that is why I want to make the clause mean what it seeks to mean. My amendment gives the trustee a real discretion and not one that seems to be entirely nominal and one that he will not be able to exercise.

The Hon. Sir FRANK PERRY (Central No. 2): I support Sir Arthur Rymill. Cases have been cited of companies that have gone wrong over the years. We want to guard against such cases, but in the process of doing it we should not penalize unnecessarily the many firms acting properly and honourably and raising their money by the usual methods. I think this type of legislation is a little panicky, inasmuch as it places at a disadvantage companies that perforce have to raise money by debenture issues or unsecured notes. This entails much extra work. Most reputable companies strike some form of half-yearly balance, but it is an internal balance and not one for publication. Dividends are paid, but to say that the results for the year should depend on a half-yearly balance is a dangerous procedure, and the directors and management would be placed in an awkward position. The Bill is limited and applies only to companies

that have debenture issues and unsecured notes, or debenture issues only, but many strong companies of good repute have had debentures for years, and have safeguarded them with assets that are published yearly and have some relationship to the capital structure.

I cannot understand why we should place difficulties in the way of companies that seek to extend their activities. To contrast the hire-purchase and risky company with the average type of company is a dangerous procedure.

This Council is indebted to the Hon. Sir Arthur Rymill for his close examination of the Bill and for the information he has submitted. I deprecate the slur that may have been cast upon him in another place because of the interest that he took in this measure. It is of interest to note that not one of the firms of which Sir Arthur Rymill is a director would come under this debenture proposal, so it certainly cannot be said that he was acting in self-interest. He acted in the interests of all companies, and we are all indebted to him.

As I see it, Sir Arthur Rymill wants to give the same option to the trustee as is given to the stock holder. The other place agreed to our ideas about stock holders. The cost to individual stock holders in satisfying an auditor is far different from the cost of supplying a manager with a half-yearly balance. We did something to alleviate the onerous part of the Bill and that is all to the good. The amendments inserted in another place will allow a company to make up the last yearly balance with an adjustment for the stock-taking period. That will be better than having the actual stock-taking.

An aspersion was cast on certain companies (not in this Chamber but in another place) which are at a great disadvantage. They have been of great use in developing our economy, and have done a good job. Why there should be distrust of the company law and companies of this type surprises me. It would be more reasonable to distrust a privately-owned company than a company where there is good management by the directors. In management now every care is taken to see that companies are honourably and correctly conducted. It is a shame that because a few companies have failed, and everybody deprecates that, all companies should be labelled similarly. We should have every confidence in South Australian companies that would not do anything to jeopardize their shareholders' interests. I cannot understand why an option should not be given to a trustee who holds a responsible position to call for information. I support the stand taken by Sir Arthur Rymill.

The Hon. C. D. ROWE: I do not want to add much to what I said previously, except that I agree with Sir Arthur Rymill that the overwhelming percentage of companies in this State has acted honourably and provided satisfactory sources of investments for people who have invested money in them. In that respect South Australia has a much better record than some other States, where I know large and serious losses have been incurred as a result of which the political pressure brought upon the Attorneys-General in those States has been difficult to handle. But we must look to see exactly what the difference is between what the Hon. Sir Arthur Rymill proposes and what is proposed by another place. It is simply this: Sir Arthur Rymill says that an audited statement should not be required unless the trustee expressly asks for it, but the other place felt it should be around the other way, namely, that the statement should be prepared and submitted unless the trustee exempted the company from that requirement.

If we look at the company failures that have occurred, we can appreciate that one of the principal causes is the fact that the trustees have not stood up to their responsibilities and have remained passive when they should have taken some active interest in the affairs of the companies concerned. If we put this clause in, as suggested by the other place, we shall ensure that the trustee recognizes his responsibilities and that he will carry them out. That will give the necessary protection to the investing public. If they know that they have that protection, it will be good for commerce, investment, and business.

It has never been my policy to place undue burdens on commerce and industry. Expenses are high enough already today and it should not be the policy of this Parliament to impose unnecessary burdens; on the other hand, one cannot face up to the large losses that have occurred without feeling there should be some adequate safeguard to the investing public. That is all we are asking for in this amendment.

The Hon. Sir ARTHUR RYMILL: I have to contradict two statements just made by the Attorney-General. First, he said that, if trustees had had the information sought by this Bill, some of these things that have happened to companies (that some of these companies have "gone through", as the saying is), would not have happened, or the lot of the debenture holders would have been alleviated. I totally disagree with that. The Attorney-General must know as well as I do that before

a trustee can do anything a breach of the provisions of the debenture must be committed. It does not matter whether he has a half-yearly statement of account to show that a company is making losses and committing a breach of the Act when the company is in breach of the terms of the debenture itself. In the case of Reid Murray Limited, the trustee could do nothing until it defaulted in its payment to the debenture holders; then the trustee acted, but he could not have acted before then because there was nothing for him to do.

The Hon. C. D. Rowe: He could have made a statement of the position as he believed it to be.

The Hon. Sir ARTHUR RYMILL: Yes.

The Hon. C. D. Rowe: That would have had a very big effect on the last lot of money he collected.

The Hon. Sir ARTHUR RYMILL: I do not agree with that because I am talking about the trustee of the existing debenture holders, not the trustee of the former debenture holders: he may have been an entirely different person. I still say there was nothing he could do to save the situation.

The second statement of the Attorney-General to which I wish to refer is that no undue burdens have been imposed by him on companies in South Australia. One major company has written to me and said that the Bill as it originated in this Council would have cost it £15,000 a year for its stocktaking. That has possibly been alleviated but not by any action of the Government: it was by an amendment that I moved. If that is not an undue burden I do not know what is. The Attorney-General is perfectly right when he makes a comment on this distinction between my amendment and the Bill as it now is. The Bill as it now stands states that half-yearly accounts will be audited unless the trustee of the debenture holders consents in writing to their not being audited. My amendment provides that there need not be an audit unless required by the trustee. It is perfectly clear that in any case where the trustee thinks there is the slightest necessity for an audit he will make this requirement but, if the position is allowed to stand as it is at the moment, in my opinion he cannot in law make the consent to the dispensation with an audit that the Bill says he can. In other words, the Bill as drawn is legally ineffective and I am trying to alter it to make it effective, to mean what it appears to mean.

The Committee divided on Sir Arthur Rymill's amendment:

Ayes (7).—The Hons. Jessie Cooper, H. K. Kemp, Sir Frank Perry, F. J. Potter, Sir Arthur Rymill (teller), C. R. Story, and R. R. Wilson.

Noes (11).—The Hons. S. C. Bevan, M. B. Dawkins, R. C. DeGaris, G. J. Gilfillan, L. R. Hart, N. L. Jude, A. F. Kneebone, Sir Lyell McEwin, W. W. Robinson, C. D. Rowe (teller), and A. J. Shard.

Majority of 4 for the Noes.

Amendment thus negatived; House of Assembly's amendment agreed to.

Amendment No. 5.

The Hon. C. D. ROWE: This amendment is consequential on the previous amendment, and I ask the Committee to agree to it.

Amendment agreed to.

Amendment No. 6.

The Hon. C. D. ROWE: This amendment inserts a new clause 14, which was inserted by the Council in erased type; this was necessary because it dealt with certain money provisions that could not be dealt with by the Council. I ask that the amendment be agreed to.

Amendment agreed to.

Amendment No. 7.

The Hon. C. D. ROWE: This also relates to a clause which was suggested by this Chamber to another place but which could not be inserted here because it related to money matters. It has been approved in another place, and I ask that it be agreed to.

Amendment agreed to.

PORT PIRIE TO COCKBURN RAILWAY DEVIATION BILL.

Adjourned debate on second reading.

(Continued from October 20. Page 1505.)

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill, the object of which is to authorize the South Australian Railways Commissioner, in connection with the completion of the Port Pirie to Cockburn railway line to standard gauge, to make deviations of the route to give easier gradings and serve public convenience. This matter was dealt with by the Public Works Committee and, although conflicting opinions were expressed before that committee, most of those opinions were from a personal point of view. The Public Works Committee has agreed in principle to the Bill, and it has been agreed between the Commonwealth and State Governments that the powers given under it to the Railways Commissioner are necessary. However, I hope it has not been forgotten that at some time in the future it will be necessary to have a standard gauge line between Adelaide and Port Pirie.

Although this Bill deals only with the Port Pirie to Cockburn line, that line has off-shoots, particularly in the northern part of the State, that I hope will eventually become standard gauge. The sooner the railways of Australia are standardized the better it will be for the community. I do not think it is necessary to go into further details about the Bill, as it seems to be necessary in the interests of the people of this State.

The Hon. W. W. ROBINSON (Northern): This Bill enables the South Australian Railways Commissioner to provide a deviation of the Port Pirie to Cockburn railway route and improve the grade for the more efficient working of the line. In 1949 an agreement was entered into with the Commonwealth Government for the conversion of the Peterborough Division, but later the High Court ruled that the agreement was not legally enforceable. In 1961, however, the Commonwealth Government agreed to provide £1,325,000 towards the cost of 12 diesel locomotives and 100 ore waggons on the 3ft. 6in. gauge for use on the Port Pirie to Cockburn line. The State Government agreed to pay 30 per cent of the sum over a period of 50 years. This contribution by the Commonwealth Government had no connection with the 1949 agreement; it was given because of the economy to be gained from the use of diesel locomotives. However, although some improvement has resulted from the use of diesel locomotives, it is thought by the Railways Commissioner and the State Government that this does not bring about the economies necessary to retain the ore traffic from Broken Hill to Port Pirie. There is some competition for this traffic from other States, which want the ore to be railed there for treatment. It is essential that some improvement be made to this line in order that we can successfully compete with the other States. The State bears the full cost of regrading the 3ft. 6in. gauge line until standardization is approved and commenced by the Commonwealth Government. If the Commonwealth approves of standardization, the standardization fund will accept the debit for the whole of the cost of regrading and converting the Port Pirie to Cockburn line to 4ft 8½in. gauge and of converting the Terowie to Peterborough line to 5ft. 3in. gauge, provided that the State will bear the difference between the estimated cost of 3ft. 6in. gauge regrading, plus subsequent standardization, and the cost of regrading and standardization carried out concurrently.

The operating savings with 3ft. 6in. gauge diesels on the regraded line compared with the existing grades would be £26,500 but the operational savings with 4ft. 8½in. gauge diesels on the regraded line compared with 3ft. 6in. gauge diesels on existing grades would be £323,000 a year. Thus, the line and the service have been allowed to deteriorate more than would be the case had the agreement for standardization not been in vogue. A modern service is required to meet the expanding needs. It is necessary for the transport of goods to New South Wales to have a more direct route, particularly as we have greater competition consequent upon the standardization of the line between Melbourne and Sydney.

I think it is unnecessary for me to elaborate further. The Bill enables the Railways Commissioner to effect the deviation of the line so as to provide better grades and to improve the track in order to bring about economies in the working of the line between Broken Hill and Port Pirie, and also to change the line from Terowie to Peterborough from the 3ft. 6in. gauge.

Bill read a second time and taken through its remaining stages.

STATUTES AMENDMENT (ORIENTAL FRUIT MOTH CONTROL, RED SCALE CONTROL AND SAN JOSE SCALE CONTROL) BILL.

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

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

That this Bill be now read a second time.

It is designed to strengthen the provisions of the three Acts recently passed to provide for committees to control and eradicate the diseases of oriental fruit moth, red scale and San José scale. The Bill makes only certain necessary amendments to the three Acts, pending further consideration of other desirable amendments that are not considered urgent. Certain of the committees have encountered difficulties in giving effect to their programmes for pest control and the purpose of the Bill is, therefore, to confer greater powers on the three types of committee.

The Bill is divided into Parts. Part I is of a formal nature. Part II makes three principal amendments to the Oriental Fruit Moth Control Act. Clause 3 inserts new section 9a in the principal Act to give oriental fruit moth committees power to issue notices requiring certain measures for the eradication of oriental fruit moth. Under subsection (2) of the new section any such notice may require

an occupier of land, on which the disease is found or is likely to occur, to bait, spray, prune or otherwise treat his trees, vines, and the like with specified materials and by specified methods, the materials and methods having been approved by the Director of Agriculture. Upon failure to comply with the notice the occupier will be liable to a penalty not exceeding £100 (subsection (3) and section 14 of the principal Act) and, by virtue of subsections (4), (5) and (6), the Minister may authorize the committee to take certain measures for the eradication of the disease, including the destruction of the occupier's trees, vines and the like. Subsection (7) provides for the recovery of expenses so incurred by the committee, and subsection (8) is a machinery provision. Subsection (9) extends the provisions of the section to the owner of land in a case where it is unoccupied.

Clause 4 adds a new subsection to section 10 of the principal Act relating to the committee's power to require growers to make contributions to the committee towards the general costs of the administration of the principal Act. Such contributions are levied according to the number of host trees in a grower's orchard. However, there is no power in the principal Act to require growers to state the number of trees in their orchards. The new subsection provides that, upon receiving notice in writing so to do, an owner or keeper of an orchard must furnish to the committee a statement of the number of host trees in his orchard and the ages of those trees. This will facilitate the determination of the amount he is liable to pay to the committee. There is a small amendment setting down the date for the furnishing of a statement about those trees to the committee each year. I draw the attention of honourable members to that amendment, which will be to lines 24 and 26 of clause 4. A date will be inserted.

Clause 5 adds a new subsection to section 15 of the principal Act to enable committees to prosecute for offences against the principal Act and to receive any fines imposed. Clause 6 and the schedule make two minor amendments of a drafting nature to the principal Act. Parts III and IV of the Bill make identical amendments to the Red Scale Control Act and the San José Scale Control Act respectively. One further amendment that has been inserted in another place is on page 7, clause 14, in relation to section 10. This amendment, similarly, inserts a date. As a matter of fact, this amendment occurs three times—to clauses 4, 9 and 14. In each case it inserts a date. I submit this Bill for the consideration of honourable members.

The Hon. C. R. STORY secured the adjournment of the debate.

ADJOURNMENT.

At 5.18 p.m. the Council adjourned until Thursday, October 22, at 2.15 p.m.