LEGISLATIVE COUNCIL

Wednesday, August 4, 1965.

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

QUESTIONS

CORPORAL PUNISHMENT.

The Hon. Sir LYELL McEWIN: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. Sir LYELL McEWIN: My question, which is directed to the Minister of Local Government as Acting Leader of the Government in the Council, relates to a report that appeared in this morning's *Advertiser* of a question asked in this Chamber yesterday by the Hon. Mr. Potter and answered by the Chief Secretary. The report said:

The Government's decision to abolish flogging had no relation to corporal punishment inflicted on boys of school-going age, the Chief Secretary (Mr. Shard) said yesterday. He was replying in the Legislative Council to Mr. Potter (L.C.P.), who asked if the Government intended to repeal Education Act regulations relating to school discipline in view of its "avowed policy on the abolition of corporal punishment." Mr. Shard said that Mr. Potter was apparently confusing two completely different matters.

The reply given yesterday as reported in *Hansard* was not, if I may say so, a reply on behalf of the Government. It commenced with the words "The Director of Education reports", and it had rather an unfortunate clause in it, too, I think. There was an unfortunate remark at the beginning that I was sorry to see come from a public servant who has my unqualified respect, as the words "the honourable member is attempting to confuse two completely different matters" can have an unfortunate inference. However, the report we had was given as a reply from the Director of Education. Did the Minister of Local Government notice the press report and did he consider it an accurate report of what was actually said by the Minister?

The Hon. S. C. BEVAN: If the words quoted by the Leader are the actual terms used in the report, it is not a factual report of the reply given by the Chief Secretary in answer to the question on notice asked by the Hon. Mr. Potter. The honourable member's question related to policy in relation to corporal punishment under the criminal code and also what is termed corporal punishment of children. These are two different matters. I do not feel that any member of the Government can be held responsible for any report of the proceedings in this Chamber that appears in any of our daily papers. In this respect, from time to time there are various complaints, and not only in another place, of misreporting, and the attention of the Speaker is drawn to it by members themselves by way of personal explanations. If I may voice an opinion, it would be better if press reports of the proceedings in this place could be as near as practicable to the actual proceedings or answers given to questions in this Chamber, and then we should not be placed in the position in which the Leader of the Opposition finds himself this afternoon of asking the question that he has. If I may express my personal opinion, I feel that correct reporting is something that should be strictly adhered to, because our press is the medium of information to the general public. If something is not correctly reported, a misconception, a misunderstanding, arises with the general public, who look to our press for their information.

The Hon. F. J. POTTER: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. F. J. POTTER: My question follows the answer just given by the Minister of Local Government and relates to the question I asked on notice yesterday. I put this question on notice last week and thought that the terms of it were fairly specific, but yesterday the Chief Secretary in giving me an answer quoted the interesting opinion of the Director of Education on this matter. What my question was and what I want to ask now is this: is the reply that was given yesterday by and on behalf of the Government the Government's policy on this particular question?

The Hon. S. C. BEVAN: This matter was discussed by Cabinet and I would say that the answer given by the Chief Secretary yesterday to the question on notice is an answer that was given due consideration by Cabinet and is the policy of the Government itself.

SOLDIER SETTLERS' ALLOWANCE.

The Hon. M. B. DAWKINS: Has the Minister of Local Government a reply to a question I asked on July 28 about allowances to soldier settlers in the Upper Murray area?

The Hon. S. C. BEVAN: Yes. My colleague the Minister of Lands has advised me that the increase in the living expenses allowance from £712 to £800 per annum was effected as from January 1, 1964, not from January 1, 1965, which was incorrectly advised earlier. All

allowances including living expenses were reviewed in July, 1964, and again on May 20, 1965, when increases in some items were approved. However, an increase in the living expenses allowance was not considered to be justified.

POTATOES.

The Hon. H. K. KEMP: The reply to a question I asked yesterday about the Potato Board contained the following passage:

The Chairman of the Potato Board advises that all functions relating to grower delivery, acceptance of potatoes, distribution to washers, merchants or processors, re-distribution of washed potatoes, price-fixing at all levels (grower, washed, pre-packaged, wholesale and retail) are carried out by the board or persons directly employed by and administered by the board.

The whole point is that this large mouthful does not cover in any way the board's most important function, which is the payment of growers for potatoes. That has been completely evaded. Therefore, I seek to put before the Minister representing the Minister of Agriculture the following specific questions:

1. Is not the Manager of the Potato Distribution Centre also the Manager of the Wholesale Fruit Merchants of Adelaide Limited?

2. Are not all payments to growers effected through the office of the distribution centre?

3. Is not this also the office of the Wholesale Fruit Merchants of Adelaide Limited?

4. Is not the Potato Distribution Centre a subsidiary of the Wholesale Fruit Merchants of Adelaide Limited, although registered separately, and the staff of the two organizations the same?

5. How many of the merchants to whom the growers are authorized to deliver potatoes to the board are not members of the Wholesale Fruit Merchants of Adelaide Limited?

6. Is the Wholesale Fruit Merchants of Adelaide Limited a body which is authorized to purchase potatoes from the Western Australian Potato Board?

7. How many personnel are directly employed by the Potato Board and what functions do they perform?

The Hon. S. C. BEVAN: As this series of questions will need a series of answers, I ask that the honourable member put them on notice.

COOBER PEDY WATER SUPPLY.

The Hon. G. J. GILFILLAN: On June 29 I addressed a question to the Minister of Transport regarding Government policy in supplying a desalination plant for the new bore at Coober Pedy. I realize that an answer to a question of this description needs some investigation, but has the Minister representing the Minister of Works received a reply?

The Hon. A. F. KNEEBONE: I have not received a reply from my colleague, but I will ask for one.

ELIZABETH TRAFFIC LIGHTS.

The Hon. R. A. GEDDES: When the traffic lights were first put on the main road running through the city of Elizabeth they used to flash at intervals with the amber colour after a certain hour after sunset. At present at all hours of the night these traffic lights go through the phases of green, amber and red. Can the Minister of Roads say whether this is the policy of the Highways Department and, if it is, why?

The Hon. S. C. BEVAN: I do not know the reason offhand, but I will call for a report on the reason and notify the honourable member later.

LEVEL CROSSINGS.

The Hon. Sir NORMAN JUDE: Has the Minister of Roads a reply to the question I asked on July 27 regarding the overall work and expenditure at level crossings last year and the proposals for this year?

The Hon. S. C. BEVAN: I have received the following reply:

During the financial year 1964-65 the department paid over £8,000 to the South Australian Railways for railway crossing protection works carried out on six crossings throughout the State (three metropolitan area, three rural). Actually, £50,000 was budgeted by the department for expenditure on railway crossing protection. Orders were issued for work at eight sites at an estimated cost of over £43,000. At the same time treatment for two other sites was requested. Some of the delay in expediting the programme was occasioned by the relatively late issue of the order for the works to be carried out. (The order was not actually issued until 26/8/64.) It is understood that further delays were caused by the extensive programme of works which the South Australian Railways had to undertake in relation to the staff available. The department has budgeted an amount of £50,000 for this financial year for railway protection works. This should cover the cost of works carried over from last financial year, as well as four additional crossings. Orders have already been issued on the South Australian Railways for these additional works.

The Hon. Sir NORMAN JUDE: Following the Minister's clear reply, it becomes obvious that the bottleneck is caused by the difficulty experienced by the Railways Department in

doing any more work on these crossings in a comparatively short time. Will the Minister consider insisting that the department call for tenders for this work, using a procedure similar to that adopted in relation to road intersections?

The Hon. S. C. BEVAN: I think the honourable member will appreciate that this is specialized work; it is not the ordinary work involved in relation to traffic lights and other traffic matters.

The Hon. Sir Norman Jude: It is much more simple.

The Hon. S. C. BEVAN: I do not agree, as it may involve the installation of booms at level crossings. This is specialized work, and only people who specialize in it are capable of doing it. This is what has caused the delay, as only a limited number of people employed by the Railways Department are capable of doing the work. If men are not available we can call all the tenders we like but we will still not get the work done. However, I will see what can be done in the matter.

SHORTAGE OF GENERAL PRACTITIONERS.

The Hon. F. J. POTTER: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. F. J. POTTER: At the present time a commendable appeal is being launched by the Australian College of General Practitioners and, according to press reports, the purpose of this appeal is to bring more doctors into general practice. This matter was mentioned in another place yesterday and some of the people supporting the appeal there, and also comments in the—

The PRESIDENT: Order! The honourable member must not discuss debates in another place.

The Hon. F. J. POTTER: This matter was mentioned in the press this morning and, from comments made there by people supporting this appeal, the support given was on the basis that this would greatly alleviate the shortage of general practitioners. One hopes that it will have that desirable effect. However, another major factor affecting the shortage of general practitioners in this State at present is the rigid quota for the admission of students in the first and second years to the medical faculty at the University of Adelaide. I suggest that this is a difficult problem and is not only associated with the question of the facilities of the university to deal with those students but is also linked with the question of availability of space for training doctors in teaching hospitals. The question I ask of the Acting Leader of the Government is: will he obtain a report from the appropriate Minister or the appropriate authorities on the restriction of admissions of students to the medical faculty of the university and when it is likely that this quota can be lifted or greatly increased?

The Hon. S. C. BEVAN: I will refer the question to the appropriate Minister and obtain a complete report and advise the honourable member when it is available.

PRICE OF LAYING MASH.

The Hon. Sir LYELL McEWIN: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. Sir LYELL McEWIN: I address my question to the Acting Leader of the Government, but I do not expect that he will be able to give an answer imediately. During the weekend, whilst in a business establishment, I was informed by a customer who had purchased a bag of laying mash for feeding poultry—I think it is called "High Energy Mash"—that the price of the bag of mash had risen by 1s. I was asked what had caused this rise in price, but I was unable to answer that question. I believe I was in the same position as the Minister may now be, that is, I was not able to give a reason. I said that as far as I knew the wheat price was the same as far as the Wheat Board was concerned, but that I was not aware of any other factors that may have had to be taken into account. However, earlier in the week I noted with interest the announcement that the price of eggs had dropped 6d. a dozen and I have no doubt that this person's concern about the price of the mash was aggravated by the drop in the price of eggs. Will the Minister ascertain why the price of the laying mash has risen and make that information available to the Council?

The Hon. S. C. BEVAN: I shall attempt to obtain the information for the honourable member. I was unaware of any increase in price until he mentioned the matter. I do not know offhand what the reason for that rise would be, but necessary inquiries will be made and an answer given as soon as possible.

ABORIGINES' DOGS.

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

Leave granted.

The Hon. R. A. GEDDES: I understand that in the Aboriginal mission area near Port

Augusta there are 300 or more dogs belonging to Aborigines. Will the Minister of Local Government say whether the Government will consider providing that all dogs belonging to Aborigines within local government areas shall be registered?

The Hon. S. C. BEVAN: I am investigating this matter at present.

LEAVE OF ABSENCE: SIR FRANK PERRY.

The Hon. Sir LYELL McEWIN (Leader of the Opposition) moved:

That one month's leave of absence be granted to the Hon. Sir Frank Perry on account of illness.

Motion carried.

ABORIGINAL AND HISTORIC RELICS PRESERVATION BILL.

Second reading.

The Hon. H. K. KEMP (Southern): I move:

That this Bill be now read a second time.

It is almost identical to the Bill before us in the closing days of the last session, and therefore it does not require a lengthy explanation. It is designed to replace the Bill passed through the Assembly that lapsed here because the defects in the provisions could not be easily corrected by amendment. The important defect was that the Assembly Bill set up an authority with wide power of prosecution and expenditure beyond the control of Parliament, and even beyond the control of a Minister.

The Bill before us properly appoints to administer the Act a Minister who delegates his authority but remains responsible for actions carried out under its provisions. The scope of the Act has, at the same time, been widened to cover not only relics of the Aboriginal population but relics of the early settlement and exploration of the State where protection is considered warranted. For instances, it legalizes the removal of Frenchman's Rock from the shores of Penneshaw Cove (or Hog Bay, in other words), and gives the Minister power to take similar action where it is deemed necessary to protect any of the many ruins and relics of the early days of white settlement. This can overlap and support the work of the South Australian National Trust, the Tourist Bureau and the National Parks Commissioners until such bodies can take over responsibility in these matters where appropriate.

The mechanism of the Act is that the Minister of Education is designated Minister in charge—naturally so, as the Museum Department and the university, already deeply concerned in these matters, are already under his control. He will appoint an honorary advisory board representative of both these bodies, the Aboriginal Affairs Department and the Lands Department under his designated chairman. The Director of the Museum becomes the Protector of Relics, with due powers of delegation.

Provision is made for appointment by the Governor of the necessary inspectors and wardens, and members of the Police Force are given power necessary with these officers for the working of the Act. The urgent problem that gives rise for the need for this Bill is effective protection for rock drawings and carvings: objects that seem inevitably to attract the initial carver as well as the person who commits the terrible vandalism of cutting away part of the rock face itself and taking away specimen material. These important and irreplaceable relics in remote districts are, with modern motor car transport, within easy access, and they are being damaged seriously. The only way to protect them at present is to keep them and their location secret. Beyond that, there are a few old long-inhabited camp sites and burial grounds which it is desired to protect. The Bill provides that any land containing relics whose protection is considered necessary may be declared an historic reserve. Once this has been done access can be limited and protective measures taken.

In the case of private land, this can be done only with the consent of the owner and occupier who in the great majority of cases is ready to join with the Crown in the purpose of saving worthwhile relics and act as warden for their protection.

Where it is deemed necessary, access may be prohibited and appropriate notices may be posted or, in the case of reserves, access of the public may be permitted once the relics have been safeguarded, but relics on a reserve or prohibited area are regarded as Crown property and under the protection of the Crown. Any damage to a relic in such reserve or prohibited area is a punishable offence under the Bill.

In the case of relics on private land which has been proclaimed a reserve or a prohibited area but which is required for development or other purposes, power is given to move and preserve relics thereon and for the closure of a reserve and where any damage is done in this work it shall be paid for.

Power is given to purchase relics, or the land upon which they are situated, if the landholder is not willing to join with the Crown in

reserving part of his holding, and to erect screens, shelters or other safeguards over immovable relics such as cave drawings, rock carvings, etc.

An important provision of the Act is that private collection of artefacts exposed by chance is encouraged. Such relics are every day exposed in some parts of the State where the Aboriginal population was concentrated. But collection of such relics carries with it the responsibility of safeguard and they may not be sold or traded until the museum has had, in effect, first refusal. This is considered necessary, for many very valuable relics of the Aboriginal have been saved and treasured by private individuals in the past. They would otherwise have been lost, just as relics exposed today will be lost unless interest is encouraged. But some of these tools and utensils are very valuable to collectors and must not be lost overseas without our knowledge.

It is an offence to damage, destroy or conceal knowledge of a recognizable relic from the protector. There have been instances of intentional destruction of rock carvings newly discovered by individuals jealous of their land ownership. It will be the duty of everyone finding relics beyond small portable artefacts exposed by chance to bring their existence to the knowledge of the protector directly or through the Police Force.

This Bill has been examined in detail by the specialist committee set up when this matter was previously before the Council. I am told that it covers every particular of the needs for the preservation of the traces of our past and I commend it to the consideration of honourable members. It is important that the malicious, wanton and careless damage to which many of our valuable traces have been subjected be stopped and all measures possible taken to preserve them for the future.

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

EMPLOYEES REGISTRY OFFICES ACT AMENDMENT BILL.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry) obtained leave and introduced a Bill for an Act to amend the Employees Registry Offices Act, 1915-1953. Read a first time.

STATUTE LAW REVISION BILL.

Adjourned debate on second reading.

(Continued from August 3. Page 766.)

The Hon. C. D. ROWE (Midland): I listened with much interest yesterday to the second reading explanation of this Bill. I say at the outset that I am not prepared to say at this stage whether or not I shall support it, because some matters need careful consideration. The second reading explanation began in these terms:

It (the Bill) repeals two Acts now considered obsolete and makes miscellaneous amendments of a drafting nature to several Acts.

I think that is a true statement so far as it states that the two Acts are obsolete (I think they can properly be repealed) but it goes on to say that it makes miscellaneous amendments of a drafting nature to several Acts. I consider that this Bill goes much further than that, that it makes at least one substantive alteration to an Act. Consequently, it was unfortunate that those words were used at the commencement of the second reading explanation, unless my understanding of the matter is not complete. I await further explanation on a point I wish to raise later on. At this stage I am not prepared to indicate whether I support or oppose the Bill until I get additional information.

The second reading explanation then refers to clause 2 of the Bill, which provides for the repeal of the Sand Drift Act. It sets out the reasons for doing that. I agree with what is said about the repeal of that Act. So far as I can see, there is no objection to that being done. Clause 2 also refers to the provision in the First Schedule to repeal the Travelling Stock Waybills Act. This also is probably in order. The only reservation I make is that in country areas today there is considerable apprehension about the activities of some people who, unfortunately, cannot always be apprehended, who are engaged in stealing stock from farmers' properties, which is a serious matter. It is difficult for a farmer to keep physical observation over his sheep or cattle (and more particularly sheep) at all times, and we should do nothing to make it more difficult for the police and everybody concerned to see that people stealing stock are brought to justice. As things stand at present, the repeal of the Travelling Stock Waybills Act will not impede the prosecution of these people but I wonder whether it should not be left until the Commissioner of Police, who, I understand, has certain measures in mind to make it easier to detect these people, has fully in operation a process that he is considering. A part of the second reading explanation states:

The Commissioner of Police, in recommending the repeal, proposes, as a more satisfactory measure for detecting any stealing of stock,

the introduction of stock movement forms to be completed by police officers whenever stock is observed on the move.

I think that would be a more effective means but I am wondering, so that there shall not be confusion with the public, whether this new method should be brought into being and actually operating before we repeal the Travelling Stock Waybills Act, so that people can be told that it is no longer necessary for a person to carry a stock waybill but it is necessary for him to comply with the new requirement laid down by the Commissioner of Police: the discontinuation of one to coincide with the bringing into force of the other. In certain areas in the Midland District, which I represent, this problem of sheep-stealing is becoming increasingly grave and causing growing concern. Therefore, I would not be a party to doing anything that would make it more difficult for those people to be brought to justice, because it is a simple matter for some person to take a truck up beside a fence or a paddock late at night, load a few sheep into it and be hundreds of miles away before morning, with no chance of detection. Nothing must be done that could make this easier to accomplish. I should like that matter looked at carefully before we remove the requirement to carry a stock waybill. Could not we have the other procedure in force and operating, although it is true to say that stock waybills are not an effective way of bringing people to justice?

I come now to the clause that I think makes a substantive alteration to the law—clause 3. The second reading explanation states:

Clause 3 and the Second Schedule provide for the amendment of several Acts. This schedule contains two amendments to section 48 of the Dentists Act consequential on the amending Act of 1960.

I do not think that the proposed amendments to section 48 are consequential on the 1960 amendment of the Act. I think they touch a new matter altogether, and I do not agree that they are purely of a drafting nature. In the Second Schedule of the Bill we find the following reference concerning Acts to be amended:

Dentists Act, 1931-1960 . . . Section 48—Paragraph (*b*)—Strike out "and is performed under the immediate supervision of such registered dentist".

Section 48 (*b*) states:

No registered dentist shall permit any unregistered person to perform any act or operation in dentistry which has been entrusted to, or is in charge of, such registered dentist unless the act or operation is performed by a licensed operative dental assistant employed by such registered dentist in accordance with this Act and is performed under the immediate supervision of such registered dentist.

The Bill proposes to delete the words:

and is performed under the immediate supervision of such registered dentist.

The "operative dental assistant" is defined in the principal Act as a person (other than a registered dentist) practising dentistry as an assistant to a dentist. As section 48 stands at present, this assistant can perform these acts provided he is under the immediate supervision of a registered dentist. If we remove the words "and is performed under the immediate supervision of such registered dentist" it means that he can perform the work without being under the immediate supervision of a registered dentist. This is a point on which I am awaiting instructions because I am not sure of my facts, but if they are correct it means that at present the dentist could be in his rooms attached to his surgery and have an operative dental assistant doing work in the surgery, which would mean that he would be under the immediate supervision of the registered dentist. If those words are taken out the operative dental assistant could be doing work in the surgery even if the dentist were not in the building. If the words were removed it would be possible for the dentist to have two surgeries, and if he had an operative dental assistant in one the dentist would not need to be at that surgery at any time. If that is correct, this goes far beyond a small amendment; it is a substantial amendment.

The Hon. S. C. Bevan: Are operative dental assistants now in existence?

The Hon. C. D. ROWE: I do not know. I cannot see in the 1960 Act any provision revoking the definition of "operative dental assistant". I think I have made it clear that what I am saying is subject to my facts being correct. If they are wrong I will withdraw what I have said. I have already pointed out that there is no explanation of this in the second reading explanation of this Bill, and because of the lack of explanation I am making these points. If it involves a subsequent alteration of the law it is something that should be discussed with the appropriate dental authority. The second reading explanation included the following passage:

The need for these amendments has been raised from time to time by the present Minister of Education and the opportunity is taken of including the appropriate amendments in this Bill.

We have every respect for the Minister of Education, but the fact that he has raised the

matter does not necessarily mean that I agree that this is something that should be introduced. As far as I can see, all that we are doing to section 48 is to remove the words "is performed under the immediate supervision of such registered dentist". The words "operative dental assistant" still remain. I shall want more details on this matter before being prepared to support it. If there is any substance in what I have said, the amendment should not have been made in a Statute Law Revision Bill. There should be an amendment to the Dentists Act. It should be treated as a separate matter.

The Hon. Sir Arthur Rymill: Don't you think all these amendments would be better treated in that way?

The Hon. C. D. ROWE: That is another angle I was about to mention. I think we are getting a little careless (I was going to say a little lazy) when we try to amend about 10 Acts in one Bill. It should not be done in a Statute Law Revision Bill.

The Hon. Sir Arthur Rymill: It has been done before.

The Hon. C. D. ROWE: As Sir Arthur Rymill has said, this has happened before in this Council.

The Hon. Sir Arthur Rymill: Not to the same extent.

The Hon. C. D. ROWE: I think that is so, but when carried to this extent it is a procedure we must frown upon because when people are looking up amendments to Acts in order to ascertain the latest legal position, instead of looking up, in this instance, the Dentists Act, they would have to look up a Statute Law Revision Act. This matter was pointed out to me this morning. If the amendments are accepted, how will they be indexed in the annual volume of our Statutes? It may be that they will be indexed under the name of this Bill, whereas they should be indexed under the Acts that have been amended.

The Hon. Sir Arthur Rymill: There must be some solution.

The Hon. C. D. ROWE: Yes, a solution must be found. If the Bill makes substantial alterations to the Dentists Act, those amendments should be made under an amendment of the Dentists Act. This is an important matter. Last year when we attempted to do something like this the Hon. A. J. Shard (then Leader of the Opposition) spoke on the matter and referred to the undesirability of trying to do this sort of thing. I think his view would still be the same. I recall his remarks on the matter and those of other honourable members.

Another amendment to be made by the Bill concerns a clerical alteration to the Licensing Act. I have not had an opportunity to look at that alteration to see what it does, but apparently it strikes out the word "pounds" and inserts the word "pound", so it appears to be a minor amendment. I will look at this later and make sure that such is the case.

The next amendment is to section 384 of the Local Government Act and this also is a matter that causes me some concern. It is proposed to strike out subsection designation "(2)" and insert "(1a)". It does not seem to matter whether it is designated subsection "(1)" and "(2)" or "(1)" and "(1a)". It seems to me that the reason for altering it is that there is a reference to it in another Bill, or it may be another amendment to the Local Government Act referring to subsection "(2)" as subsection "(1a)". I consider that we should be given an explanation of the reason for altering this subsection as it is not clear by merely looking at the section on its own.

Section 443 of the Local Government Act is also amended by striking out the words "or coupon" wherever occurring. That section deals with the question of debentures and so on, and it reads:

(1) The holder of any debenture, or coupon, upon default being made by the council in the payment thereof, shall have all the rights of a creditor of the council in respect of any sum of money due upon the debenture or coupon, and may apply to the Supreme Court or a Judge thereof for the appointment of a receiver.

I take it that the reason for deleting the words is that coupons are no longer attached to debentures and it is a practice that is no longer followed. The word "coupon" has become superfluous but I would like to know the reason for deleting it.

The next amendment is to the Metropolitan Taxi-Cab Act, 1956-1963: it is intended to strike out the words "of the said Act" in section 29. It appears that when the previous amendment was made we omitted to make this necessary alteration and this Bill rectifies that oversight.

With regard to the Mines and Works Inspection Act Amendment Act, 1964, the Bill seeks to strike out "Mines and Works Inspection Act, 1929-1962" and insert "Mines and Works Inspection Act, 1920-1962". That appears to be something that is acceptable as it rectifies a clerical error.

The next amendment is to the Nurses Registration Act, 1920-1964. It amends section 33nb, subsection (3). The amendment appears to be in order and I think that when a previous amendment was made there was a mistake in the wording. It was intended that it should refer to a dental nurse and not to a nurse in the normal sense of the term. Section 32nb subsection (3) reads:

Notwithstanding anything contained in this section the board may refuse to enrol a person as a dental nurse if such person has not at any time within the period of five years before the date of that person's application for enrolment been (or deemed under this Act to have been) enrolled as a nurse . . .

The amendment proposes to insert the word "dental" before the word "nurse" last occurring and it then continues:

until that person has satisfactorily completed such refresher course as the board shall require.

That alters the sense of the Act as it now stands as it means that she must do a refresher course unless she has been enrolled as a dental nurse. I have no further comment to make on that matter.

I have looked at the next amendment, which applies to the Phylloxera Act, 1936-1963, and that seeks to strike out the words "phylloxera-resistant" in section 38, subsections (1) and (6). I cannot see any objection to that amendment. The next amendment is to the Police Offences Act, 1953-1961, and is to strike out "Part II" and insert "Part I" of the Road Traffic Act in section 45 (1) and I agree that that alteration should be made.

The next amendment is to the Prevention of Pollution of Waters by Oil Act, 1961-1964, and seeks to alter section 7 (1) by striking out "either the owner or master" and inserting "the owner, agent or master". Whereas at present action can be taken only against the owner or the master it may in future be taken against the owner, agent or master if this amendment is passed. In effect, it brings another person into a position of responsibility in connection with a breach of this section. I think that such action goes a little beyond what the second reading speech started to say, that it made miscellaneous amendments to the drafting of several Acts. If an additional person is brought into a position of responsibility it is going further than the second reading explanation implied. An additional person is to be involved if there should be any pollution of water resulting from a big discharge of oil from a vessel. I would like to know why an agent is being included as well as the owner and master.

I do not propose to comment on the remaining two amendments. In the time available to me I have not had an opportunity of making a detailed investigation into those matters. I consider that matters I have mentioned raise several important issues as far as this Council is concerned and I would be grateful if the Minister could obtain reports on them so that they could be raised again in Committee.

This brings me to the criticism sometimes levelled against this Council for the time it takes to deal with some matters. This is a House of Review and I think that, by tradition, members speak strictly to the matters being considered. They are concise and nearly always constructive in their remarks and time is not wasted in covering unnecessary matters as in some other Parliaments, particularly those where the proceedings are broadcast. I think many speeches are made in those places where the member is more conscious of the effect of his speech on his electorate and its possible effect on his position as a member than he is of the effect on the matter under discussion.

I think in this Chamber we hear far less irrelevant matter in speeches than in any other House in Australia and that shows the efficiency with which this place has dealt with matters in the past and will continue to do in future. The Bill before us today is an indication of the worth and value of this place. As I have said, it is a House of Review which by tradition ensures that any errors are corrected before legislation is confirmed. It also ensures that any Act will be more clearly understood by the general public and I think that our examination of this Bill shows the important role that the Legislative Council plays in this State. That has been borne out over the years and an examination of our Statutes will show that their language, form and clarity compare more than favourably with those of any other Parliament in Australia.

The Hon. L. R. HART secured the adjournment of the debate.

PISTOL LICENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 3. Page 767.)

The Hon. C. R. STORY (Midland): We have heard several interesting speeches on this Bill, and other honourable members have given a clear picture of the history of pistol clubs in this State and an interesting dissertation on their functions. I join other honourable members in commending pistol clubs for

teaching many people the different ways of handling and firing pistols. This is important, because in these days we need to have people who know how to handle firearms of all kinds. Rifle clubs also play an important role in this connection. Pistol clubs make sure that only the right types of people are admitted to their clubs, and they have the full support of the police. The police also have their full support.

I do not wish to deal with matters mentioned by previous speakers. However, the Hon. Mr. DeGaris has foreshadowed an amendment, and I should like to deal with that and with a subsequent amendment placed on members' files today by the Minister of Local Government. These two amendments conflict to some degree. After studying both amendments, I think I should comment on them, and to do so it is necessary to refer to clause 3. The amendment foreshadowed by the Hon. Mr. DeGaris is:

Provided that the fee payable on the issue or renewal of any pistol licence in excess of one to a *bona fide* pistol club affiliated with the South Australian Revolver and Pistol Association Incorporated or any member of any such pistol club shall be 2s. 6d.

The amendment proposed by the Minister of Local Government is:

Provided that the fee payable upon the issue or renewal of any pistol licence in excess of one to any member of any pistol club shall be 5s.

The Minister's amendment does not conform to my thinking. The pistol clubs have been affiliated and have by the test of time built up a fine tradition with the public and the police. If the reduced fee applies to any pistol club, the provision will immediately break down everything that the Act and the affiliated pistol clubs have built up in the community. Consequently, I cannot support the Minister's proposed amendment; I think it should relate to *bona fide* pistol clubs affiliated with the South Australian Revolver and Pistol Association Incorporated.

Under the amendment to be moved by Mr. DeGaris, a person owning four pistols according to the provisions of the Act and rules of the association would pay £1 7s. 6d. a year, and under the Minister's foreshadowed amendment he would pay £1 15s. Under Mr. DeGaris's proposed amendment the clubs would not pay as much as they would under the Minister's proposed amendment.

The Hon. Sir Norman Jude: Where do you get £1 15s. 0d.?

The Hon. C. R. STORY: The Minister's proposed amendment provides for the payment of £1 for the first pistol and 5s. for the next three pistols, which comes to £1 15s. 0d.

The Hon. Sir Norman Jude: Compared with £4?

The Hon. C. R. STORY: No, I am comparing the Minister's proposed amendment with Mr. DeGaris's proposed amendment. Under the Bill, as introduced, the cost would be £4, under the Minister's proposed amendment it would be £1 15s., and under Mr. DeGaris's proposed amendment it would be £1 7s. 6d. Under Mr. DeGaris's proposal, the clubs would be much better off than they would under the Minister's proposal.

The Hon. S. C. Bevan: That leaves it wide open.

The Hon. C. R. STORY: Under Mr. DeGaris's proposal the clubs would pay £1 for the first pistol and 2s. 6d. for each other pistol. The figure of the number of pistols held by clubs seems to vary according to the member who is talking about it. I have heard of varying numbers of pistols owned by clubs. From my inquiries I have ascertained that the majority of clubs would have no more than 10, so that under the Bill they would be up for a fee of £10 for the club, and its members, under the Minister of Local Government's amendment, would be up for 5s. for each pistol. Under the proposal of the Hon. Mr. DeGaris, I have explained that it would be £1 for the club and 2s. 6d. for additional club pistols and members' pistols.

I can see much merit in both these propositions. They are certainly better than the provision in the Bill that came before us and I commend Mr. DeGaris for raising this because I am sure that the speech he made and the speeches that followed influenced the Government to appreciate that the original figure was too high. The Government has at least come to the party now to a reasonable degree. I shall listen with interest to the Minister of Local Government's comments to justify this 5s. I want to know why he proposes to charge the club £1 per pistol and why he is letting individual members pay only 5s. There may be good reasons for that. One could see a reason, perhaps, that it would be possible for all the members of a club to decide to have the club own all the pistols, which would save them some money. Perhaps the Minister has seen that. But the proposals of Mr. DeGaris are, to my way of thinking, a fair way of approaching that situation. As I have said, I would want to hear a very good explanation from the Minister before I could go along unconditionally with this amendment.

Yesterday the Hon. Mr. Banfield stated that he thought that £1 was not excessive. I suppose if one examines the position today it is not

excessive for some things, but these pistol clubs provide an excellent sport, which keeps people in the open air and amused on Saturday afternoons. He himself made the point, and I do not think that this amount of money, which is not considerable, would make much difference to the State's revenues: it is merely a fee.

I am sure that to keep the administration going and for policemen to have to write out the necessary forms, 2s. 6d. was completely inadequate but, if we get £1 as the licensing fee for the first pistol, I do not think it involves much effort for the second, third or fourth pistol. So I do not think that £1 is very fair. Something along the lines suggested by Mr. DeGaris is better, although I must say that the Minister's proposal has some appeal, too. I shall listen with much interest to the Minister's reply to the debate before I finally make up my mind about this. I commend Mr. DeGaris and Sir Norman Jude for the part they have taken in gathering information from the clubs and doing research; I also commend Mr. Octoman and Mr. Dawkins, who have spoken to this Bill, for getting the Government to see the light—at least to the extent of bringing down a compromise amendment. I have pleasure in supporting the second reading.

The Hon. F. J. POTTER secured the adjournment of the debate.

NOXIOUS TRADES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 3. Page 769.)

The Hon. R. C. DeGARIS (Southern): In his second reading explanation the Minister of Health indicated the reason why this amending Bill was introduced. It appears that a prosecution was launched before a court of summary jurisdiction under section 83 of the Health Act and section 540a of the Local Government Act. That prosecution failed. Let me quote the exact words of the Minister of Health. They are as follows:

The owner or occupier of these premises was licensed under the Act to carry on his noxious trade. More specifically, the owner or occupier was charged before a court of summary jurisdiction under section 83 (2) of the Health Act, 1935-1963, and section 540a of the Local Government Act, 1934-1963, with causing the state of his premises to be a nuisance by allowing emission of smoke, soot and ash in such quantities as to constitute a nuisance. The owner or occupier was acquitted on the charges by virtue of the protection afforded to him under the provisions of section 13 (2) of the Noxious Trades Act.

This subsection afforded a defence to the charges that were laid against the owner or the occupier of the licensed premises. It gives protection in respect of any nuisance arising from carrying on a noxious trade.

Prior to 1943 the Statute law for the control of noxious trades was contained in Division I of Part XXVIII of the Local Government Act. Under that Act householders and residents of an area could petition for the constitution of a manufacturing area. It can be appreciated that not many householders or residents would so petition. After the consideration of a memorial or counter-memorial, the council, by resolution which was approved by the Minister, could constitute a manufacturing district and define the trades that could operate in that district. Thereafter anyone could carry on a manufacturing industry so defined by that Act, with certain exceptions which could be contained in by-laws, and no action could be taken against that noxious trade if it caused a nuisance. When a manufacturing district was established the council could exempt from the provisions of the Local Government Act and the Health Act certain of these manufacturing industries. By-laws could be made for the registration of the noxious or offensive trades.

A further provision having a bearing on this matter was included in the Health Act. It provided that the local board, two medical officers and six householders could complain to a court and ask for the imposition of penalties because of an offensive or noxious trade. The 1943 legislation was introduced because it was found that the existing provisions were not satisfactory. For instance, there was no provision about uniformity. Local government bodies had various ideas about noxious trades and the local boards could make their own rules. It is obvious that certain areas must be set aside for these noxious trades. The Bill amends section 13 of the principal Act by inserting after the word "arising" in subsection (1) the words "before the commencement of the Noxious Trades Act Amendment Act, 1965". If this is accepted, the section will read as follows:

(1) No person shall be entitled to any civil remedy, legal or equitable, on the ground of any nuisance arising before the commencement of the Noxious Trades Act Amendment Act, 1965, from the carrying on under licence under this Act of any noxious trade within any part of the State to which this Act applies unless it is shown that the person carrying on the noxious trade has failed to carry on the

noxious trade in accordance with the licence issued therefor or with the regulations under this Act.

The Bill inserts the following new subsection:

(1a) No person shall be entitled to any civil remedy, legal or equitable, on the ground of any nuisance directly arising, after the commencement of the Noxious Trades Act Amendment Act, 1965, from the carrying on under licence under this Act of any noxious trade within any part of the State to which this Act applies—

(*a*) unless it is shown that the person carrying on the noxious trade has failed to carry on the noxious trade in accordance with the licence issued therefor or with the regulations under this Act; or

(*b*) unless it is shown that the noxious trade was not conducted in a proper manner to prevent the same becoming a nuisance;

The first part appears to correct things of the past, whereas the second part appears to correct things of the future. As the amendment arises from a prosecution that failed, we must be doubly careful about the implications of the alteration. Any noxious trade that has been operating for a considerable period should have some protection. Many members have had experience in this matter. I recall visiting Bendigo in Victoria some time ago, where a similar set of circumstances arose concerning the saleyards. This is a large stock-selling centre and the yards were close to the outskirts of the city. As the city grew there was an agitation for the removal of the yards, and some of them were removed to a site two or three miles farther out. Now the city has grown around those yards and there is an agitation to put them farther out again.

Once a noxious trade has been established, and is operating within certain bounds, it should be afforded protection. However, if an industry is classified as noxious and offensive and is given protection, I do not feel that the protection should exempt it from any prosecution that may be launched because inefficient operation has caused it to become more offensive than it need be. I wonder whether the proposed amendment will afford the protection intended in the 1943 Act. Sir Lyell McEwin expressed his views on this matter and stated:

I have examined this matter from the point of view that if a prosecution is beaten at law legislation can be enacted to find another solution. I do not think I can read into this amendment anything inconsistent with what has been attempted.

The Chief Secretary then interjected "Or intended". I assume that is the position. So long as an established noxious or offensive industry can operate within accepted conditions, and is afforded reasonable protection, I am happy about the Bill. At the same time I believe any established noxious industry not maintaining a reasonable standard should not be beyond prosecution under the Health Act or the Local Government Act. In his second reading explanation the Chief Secretary said the prosecution failed because of the protection afforded under the Noxious Trades Act. He said that the industry was creating a nuisance by allowing the emission of smoke, soot and ash in large quantities. I wonder whether the noxious industry involved in the prosecution had become inefficient, or was always inefficient?

I support the second reading of the Bill provided the original ideas on protection for an established noxious industry are not abrogated in any way, and we do not place that industry in the position of being prosecuted for something that is normal to the industry. When the Bill is in Committee I shall ask for an assurance from the Chief Secretary.

The Hon. R. A. GEDDES (Northern): I want first to commend the Chief Secretary for his explanation of the amendment and the Leader of the Opposition for his remarks on the Bill. The principal aim of the measure is to deal with a noxious trade being conducted in such a way as to create a nuisance. The Chief Secretary referred to the emission of smoke, soot and ash, and then referred to the noxious trades of tanning, fellmongering, and wool-scouring. These industries come within the definition of "noxious trade" and they must do so because of the very nature of their operation. The Bill refers to an industry not being conducted in a proper manner, but what will be the position in the future of an already established industry, and licensed as a noxious trade, because of technological advancement in the operation of that industry, with more smell, soot, or other nuisance to the community being emitted from its works? On the other hand, some industries that were sending out a lot of smoke, because of scientific advancements, now find it possible to reduce the amount of smoke. However, the reverse can occur, especially in chemical industries, and there also is the matter of the hardy annual—soot at Port Augusta. No matter what the authorities do they are unable to solve this problem and soot continues to come into the township.

Another question is: how will any new industry be able to establish itself under this legislation? If it is able to obtain a licence and operate, will it be prepared to continue working if it becomes aware that because of

this amendment it may be committing an offence if it continues to do the things that it was established to do? Who will be the authority to define whether an industry is causing a public nuisance? It is assumed that a court would be the authority to decide whether the party is guilty, but it would be interesting if a witness giving evidence said, "The factory smells a lot more this year than it did last year", or, "The soot coming from the factory this year is much more than the quantity coming out last year."

The Minister mentioned the Manufacturing Industries Protection Act and the problems caused by vibration. I think that a charge of excessive vibration would be far easier to prove than proving an industry guilty of causing obnoxious smells or excessive soot from chimneys. If a steam hammer or similar implement is operating in a back yard it is easy for people to say, "Come and listen to this—we did not have this last year." It is obvious that noise or vibration is much easier to prove. In future, when applying for a licence, an industry could well be given a questionnaire along these lines, "Will your factory smell more this year than it did last year?", or, "Will your factory emit more smoke this year than it did last year?". I will be pleased to hear an explanation from the Government on these matters when the Bill reaches the Committee stage.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

HAWKERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 3. Page 771.)

The Hon. L. R. HART (Midland): In rising to speak to this Bill I compliment the Hon. Mr. Gilfillan on his contribution to the debate yesterday. With most other members I agree with him when he says that the hawker of today provides a service that is appreciated by the general public in most instances. The fact that these services are appreciated is shown by the patronage given them by the general public. Years ago the local trader usually had a delivery service but today very few traders provide such a service and therefore the task of shopping becomes more arduous for the housewife and she appreciates a door-to-door service. However, it is also agreed that this type of trading can be carried to excess, and it is realized that the small businessman must be protected. But we are living in changing times and must accept changes in trading conditions and trading hours that perhaps have been taken for granted in the past. The Bill before us at first glance appears to be a harmless one. It sets out to increase the fees for a hawker's licence and the increase seems to be a reasonable one. However, when one does a little homework it is found that its implications are far greater than at first realized. When I secured the adjournment of the debate yesterday I did not realize that its implications were so great, and therefore my contribution to the debate will not be quite as extensive as I would like because I have not had sufficient time to go into all of its effects.

Confusion is first brought about by the Minister in his second reading speech when he refers to "itinerant traders". This is a Bill to amend the Hawkers Act and nowhere in the Hawkers Act is the term "itinerant trader" to be found. I would like to know the difference between an itinerant trader and a hawker, or if there is any difference between them as far as definition is concerned. We have street traders, hawkers and itinerant traders. Some are door-to-door peddlers, and some hawk along the street and the customer comes to the trader. I would assume that the hawker is one who travels along the street. That brings me to the position of certain classes of trader; in particular, I refer to a certain Mr. Whippy, a trading organization retailing a certain type of confectionery. Mr. Whippy trades in various ways. In some suburbs he has a vehicle that proceeds along the street emitting a wellknown jingle by amplified sound that heralds the fact that he is in that particular street, and people come to him and trade with him. In other areas he sets himself up in a permanent position. We will assume that where his vehicle proceeds along the street he is a hawker and that where he sets himself up in a permanent position he is an itinerant trader. The interesting point is that Mr. Whippy does not hold a hawker's licence in any instance. Because of that, he can be charged a fee as an itinerant trader, a street trader, or under any other name that a council wishes to apply, and he can be controlled by the council.

As the Hon. Mr. Gilfillan pointed out, if he held a hawker's licence he could be controlled by a council as an itinerant trader, but the council would not be able to charge him a fee. Because he does not have a hawker's licence, the council can charge him a fee. Many councils are granting Mr. Whippy permission to trade and charging him a fee, which in many cases is £5 5s. a quarter. I think they could

charge him a fee of £4 a day if they wished. They are charging varying fees and making it possible for him to trade in their areas. These fees are being charged under the Local Government Act; section 669 (13) III. permits them to do this. It is a little confusing, because paragraphs I. and II. of section 669 (13) deal with hawkers and street traders. Paragraph III., however, allows a council to charge a fee, but there is no mention of the word "hawker". This bears out the fact that if he held a hawker's licence councils would not be able to charge him a fee for being a street trader.

Some councils are doing their best to prevent him from trading, and are drawing up regulations for this purpose. The Notice Paper shows that on Wednesday next a motion will be moved for the disallowance of two by-laws which have been laid on the table of this Council and which endeavour to prevent Mr. Whippy from trading in the areas mentioned.

The Hon. S. C. Bevan: Why refer all the time to Mr. Whippy? About half a dozen of these people are operating.

The Hon. L. R. HART: I think the references I am making are adequate in this case. These businesses may not all be called Mr. Whippy, but perhaps they are working under the same management. If they are not, it does not matter for the purposes of this Bill. Another section of the Local Government Act under which councils are trying to prevent Mr. Whippy from working is section 781a (*c*), which provides that any person who in any street, road, or public place, amplifies or reproduces or causes to be amplified or reproduced for the purpose of making any announcement or advertisement, any words or other sounds by means of any apparatus or device, whether electrical, mechanical, or of any other kind whatsoever, shall be guilty of an offence and liable to a penalty not exceeding £5. Where councils have applied that section to prevent Mr. Whippy from operating, he has done away with his amplifying system and has used a bell, as vendors years ago did. I believe this Council would like to know from the Minister what constitutes a hawker. If Mr. Whippy, or several Mr. Whippys, are trading along streets and have no hawkers' licences, why have they not, as it is laid down clearly in the Hawkers Act that people who do these things shall have hawker's licences? I assume that these people trading under the name of Mr. Whippy have had legal advice and are trading strictly within the law.

I should also like to know the position of people who trade without actually carrying the goods with them. The Act says that a hawker means any person who travels either personally or by his servants or agents by any means from place to place carrying or exposing goods for sale by retail. It is possible for a person to travel and sell goods by retail without exposing the goods; he may effect sales and the goods may be delivered by some other means at some later date. Does that person come under the Hawkers Act?

The Hon. S. C. Bevan: He is not a hawker; he is a salesman.

The Hon. L. R. HART: These things need clarification. I realize that this Bill was introduced only to alter charges, but I believe there is confusion between the Hawkers Act and the Local Government Act and that there should be some dovetailing of the two Acts. Also, there should be a better definition of what constitutes a hawker. I believe that much research is necessary at this stage. I have not had sufficient time to delve into the matter, but I think that now these points have been raised some other members will follow them up and that the Act will be brought up to date. I have pleasure in supporting the second reading.

The Hon. H. K. KEMP secured the adjournment of the debate.

ADJOURNMENT.

At 4.4 p.m. the Council adjourned until Thursday, August 5, at 2.15 p.m.