LEGISLATIVE COUNCIL

Thursday, September 23, 1965.

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

ASSENT TO BILLS.

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

Local Government (District Council of East Torrens),
Public Purposes Loan,
Supreme Court Act Amendment.

QUESTIONS

MILK VANS.

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

Leave granted.

The Hon. C. R. STORY: It has come to my notice that under the Act dealing with milk vans it is not necessary in the metropolitan area to have a cover for the vans during the winter months, but outside the metropolitan area it seems to be necessary that a cover remain on for the whole year. I have been asked by some interested constituents whether the Government will look into this matter and, if necessary, correct it, because it is causing much difficulty for some of the milk pick-up trucks in country areas. Will the Minister representing the Minister of Agriculture ask his colleague to examine this matter and let me have a report on it?

The Hon. S. C. BEVAN: I shall refer the matter to the Minister of Agriculture for report and inform the honourable member accordingly.

MILLICENT SOUTH PRIMARY SCHOOL.

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

Leave granted.

The Hon. R. C. DeGARIS: A tender has been accepted for the construction of the Millicent South Primary School. Over the past week there has been correspondence in the *South-Eastern Times* about a possible delay because of the water table being too high in the area for the work to be commenced. Considerable criticism has been levelled at the contractor, who has asked for an extension of the commencing time. In view of the urgency of this school, will the Minister representing the Minister of Education ask his colleague for an assurance that this school will in no way be delayed in its construction?

The Hon. A. F. KNEEBONE: Of course, I cannot give any assurance in the direction that the honourable member has asked, but I will discuss this matter with my colleague and bring down a report as soon as possible.

BERRI TECHNICAL HIGH SCHOOL.

The Hon. G. J. GILFILLAN: Has the Minister of Labour and Industry, representing the Minister of Education, an answer to my question of September 15, about the Government's intention with regard to a technical high school at Berri?

The Hon. A. F. KNEEBONE: Yes. My colleague the Minister of Education states that there is no present intention on the part of the Education Department to recommend to the Government the establishment of a technical high school at Berri. However, preliminary inquiries are being made to see whether a suitable site could be obtained for such a school if it should become necessary at some future time.

LAND SETTLEMENT COMMITTEE REPORT.

The PRESIDENT laid on the table the report by the Parliamentary Committee on Land Settlement on South-Eastern Drainage and Development (Eastern Division).

MUNICIPAL TRAMWAYS TRUST ACT AMENDMENT BILL.

Read a third time and passed.

BUILDING ACT AMENDMENT BILL.

Read a third time and passed.

REFERENDUM (STATE LOTTERIES) BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 1658.)

The Hon. Sir LYELL McEWIN (Leader of the Opposition): This Bill reached us only yesterday and we have had the second reading explanation from the Minister, in which he described it as a controversial subject, on which strong opinions are held by various sections of the community. Usually, when dealing with Bills like this, members are careful to try to obtain sufficient time in

which to do a little homework. However, I understand that it is the Government's desire to have the Bill dealt with as expeditiously as possible, and so, in the short time at my disposal, I have endeavoured to marshal a few facts.

The Bill is unique and unusual, because there is no provision for a referendum in our State Constitution. Hence, a Bill of this magnitude (it contains 31 clauses) is required to ask an ambiguous question of the electors and to compel an answer to be given. In the last day or two we have had personal explanations from members on both sides of this Chamber regarding the misreporting of statements that they have made. I hope that what I have to say today will be expressed in such a way as to help those concerned to correctly understand or assess my attitude to this Bill.

First, in fairness to members of another place, I wish to say that the statement that the Bill was carried there by 20 votes to 16 did not indicate that 16 members were opposed to the referendum. I am afraid that that interpretation was possible when a person read what was a perfectly good report of the proceedings.

It was suggested that the Bill was carried by that small majority and that, therefore, it could be assumed that the others were opposed to the referendum. The vote was not against a referendum, but was a protest at the Government's refusal to provide a complete Bill to enable electors to understand the implications and to give an intelligent vote. The Government refused to consider amendments in another place under a technical disallowance, and we in this Chamber are controlled by a Standing Order that I think will bring about a similar set of circumstances. It may be that our Constitution does not provide for a referendum, and that our Standing Orders are too restrictive when applied to a Bill of this nature. Having said that, I will establish my position under three headings as briefly as possible and I trust I will make clear my attitude to the Bill. First I am supporting the holding of a referendum. I do not support referenda generally, but upon this particular issue I am prepared to support this consultation of the electors of this State. Secondly, I protest at the manner of submission, which I consider is negative and confusing. Thirdly, I am opposed to conscriptive voting upon social questions.

They will comprise the basis of my remarks this afternoon. I wish to indicate to this council that these are my own views. As on other questions that do not involve Party policy, other members no doubt will give their personal views as to their intentions. Having expressed my approval for a referendum, let me enlarge upon my protest against not taking the electors into Parliament's confidence. It is a fundamental principle of referenda that a Bill should be presented for the legislative sanction of the people, and that is the procedure where referenda are part of the constitution of a country. The nearest we have to it here is the Commonwealth Constitution under which occasional referenda are held, and in those cases there is first of all a Bill and then a case prepared for the affirmative, sponsored by the Government, and for the negative sponsored by someone else. That information is given to every elector in order that any person may make an intelligent decision upon the issues submitted.

A consultative poll does not provide the directive sought by the Government. I would like to refer to a statement made by an ex-Labor Premier, the Hon. Crawford Vaughan, when speaking on a Bill following the only referendum that has really been held in South Australia. That referendum was on liquor hours of trading and, incidentally, it was taken in conjunction with an election in which there was a change of Government. Upon the result the Hon. Mr. Vaughan had to introduce legislation because of the opinions expressed in that poll. I shall not deal with the whole of his speech, but I shall read the words that are pertinent. He said:

> In this case the verdict came before the machinery was actually in existence. The proper course, in my opinion, would have been to have submitted the Bill to the electors, but we are glad to know at any rate that the electors have given such a decision and so emphatically as they have done in this case.

He went on to refer to what happened at that poll.

The Hon. A. J. Shard: Was that held in 1916?

The Hon. Sir LYELL McEWIN: No, it was in 1915. The result of the poll showed about 100,000 in favour of six o'clock closing and 61,000-odd in favour of 11 o'clock closing. I presume from his remarks that the figure for seven, eight and nine o'clock closing was about 15,000, because he said it was fortunate that there was a definite majority for six

o'clock closing in order that the Government could base legislation on it. Even then, the result of that referendum was the subject of two Bills introduced into Parliament. The opinion was expressed by one speaker on the Bill that the reason why there were two Bills was that if the whole lot were combined in one measure six o'clock closing would be defeated by some other means in the Bill itself. Although speakers were able to say that fortunately the majority was such that a definite opinion was expressed and although legislation was passed or a proclamation was made for six o'clock closing, the problems associated with the matter (such as whether people could have a drink with meals after six and all the other implications associated with the decision) were dealt with afterwards.

The question to be asked under this measure —"Are you in favour of the promotion and conduct of lotteries by or under the authority of the Government of the State"—is a simple question, but how anyone is to understand what it means I do not know. One may just as well submit the question "Are you in favour of Sunday sport?" People could ask whether this referred to private sport, organized sport, or what was involved. Much time would have been saved if this legislation had been prepared on whatever was the intention of the Government so that the proposals could be put clearly to the people, and that is the normal procedure. I realize why the Government did not submit a Bill or attempt to do it in this way; it is because the division in Cabinet and Caucus in itself would be sufficient to prevent the Government from presenting a Bill to Parliament that would command the support of its own followers, and also there would be the disadvantage it would have of not being able to sponsor an affirmative case with the Bill.

What is to be the position after the poll? Will it be easier to reconcile these conflicting opinions within the Government's own Party or in Cabinet without some definite direction from the electors? I will now mention some of the things I imagine the people desire to consider in voting on a matter of this nature. Is it to be a State lottery operated through a Government department, and what size will it be—£1,000, £100,000 or £250,000? What is to be the frequency of drawings—weekly, monthly, or annually? Is it to be by arrangement with another State on a commission basis, is it to be operated by a private company authorised by the Government (which we have not been told), and is it to be run for the benefit of charity?

We do not know whether charities will benefit, except that opinions have been expressed in Government circles that they will not. If it is for charity, what will those charities be? Is it to provide another form of revenue tax? Is it to be confined to a lottery, or will it include art unions? How is it to function—through a central bureau or by postal application? Will tickets be sold through barbers' shops and milk bars? What percentage will be allowed for prizes and commissions? Will it operate on race meetings, and will it operate on other sport? All these things are involved in a question of this nature, so I strongly protest at the complete silence of the Government except for one or two revelations made by Government supporters that have not been reassuring.

My third point is about compulsory voting. I oppose compulsory voting on this issue particularly because the question is not clearly defined. It asks, "Are you in favour of the promotion of a lottery?" without there being any information about what it will be. As no information is supplied by the Government, I think it is unjust for it to expect people to vote on something about which they have not been informed. If a person exercises a franchise under a voluntary vote, at least we know that the vote comes from somebody directly interested in the matter or someone who has made an investigation; it is therefore an indication of the wishes of the people.

I have refrained from discussing lotteries in any way, as the Bill is confined to the taking of a referendum, so I am not at the moment concerned with arguments for or against a lottery; that is something on which the electors will have to form an opinion. However, in my brief reading of the Bill I have noticed one or two things that may require attention, and I draw the Minister's attention to them. Clause 7 provides certain exemptions from the application of the Electoral Act, and one of the sections exempted is section 99, which deals with scrutineers. A new clause was inserted in another place relating to scrutineers, whose authority to operate is contained in the Electoral Act. Should not section 99 of the Electoral Act operate in this matter now that scrutineers are provided for in the Bill?

Clause 11 refers to the mode of voting and provides that if a voter is in favour of

the question "1" is to be placed in the appropriate square. What will be the position if people put "1" and "2" on the paper or if they mark with a cross, as can easily happen, or place a tick in the square they want? Does that render the vote informal? I have not had time to analyse this Bill closely but these are things that occurred to me as I scanned it. Under clause 13 the electoral roll has to be closed on August 30. I presume there is some reason why the Government has decided on August 30, but it means that anybody whose birthday falls after that date will be disfranchised. We seem to get over the problem of electoral rolls all right at election time, when a supplementary roll is published; and there is a lapse of only two or three weeks from the time of issuing the writs.

The Hon. A. J. Shard: Generally three weeks.

The Hon. Sir LYELL McEWIN: It seems logical to me that we should follow the same principles in a poll of this nature. Perhaps the Minister will have some information on that. I have already referred to clause 14, and my objection to compulsory voting. I need not add to that. I notice an error in the first line of clause 16, where appears the word "scrutininy". That is a new word to me. I do not know whether it is a new word that the draftsman has introduced.

The Hon. Sir Arthur Rymill: It is a piccaninny scrutineer!

The Hon. Sir LYELL McEWIN: I have noticed that error. There may be others but I have not looked right through the Bill. I offer these comments and, subject to the reservations I have mentioned, support the second reading.

The Hon. C. R. STORY (Midland): I rise to speak to the second reading of this Bill. At the outset let me make it clear that there seems to be some confusion in people's minds about what the Bill will do. In the first place, we should be clear about the title, which is cited as the "Referendum (State Lotteries) Act, 1965." Some people have the feeling at this stage, I am afraid, that this is a Bill going through Parliament that will set up a lottery—which, of course, is completely erroneous: this is merely a Bill going through Parliament to see whether or not we shall have a referendum in this State upon a question set out in the Bill at present.

I make the following points: (1) I support the second reading. (2) I want to make it perfectly clear that this Bill is not a Bill to set up a State lottery at present: it is designed to obtain an expression of opinion by the public whether they are in favour of the promotion and conduct of lotteries by or under the authority of the Government of this State. That is how simple it is at present. (3) I am fundamentally opposed to a compulsory vote on social questions such as this. (4) I am critical of the form in which the question is being put to the people of this State. (5) I reserve the right to move amendments if I cannot obtain satisfaction from the Minister on several points I wish to raise in the Committee stage of this Bill.

I have done some research on this Bill and on lotteries operating in other parts of the country. One of the first things that struck me was the fact that other Parliaments have always had the opportunity of knowing what the Bill that they were voting for would contain. We are very much in the dark at the moment about what form it will take. If this measure passes through both Houses and the people agree that we should set up a lottery, I take it that the Government will then introduce a Bill. As the Hon. Sir Lyell McEwin has said, we have no idea of just what form that Bill would take.

In five other States of Australia at present lotteries are being conducted. State Governments operate on their own account lotteries in New South Wales, Queensland and Western Australia. The lotteries are operated directly by the Governments themselves. In Western Australia it is done by a commission set up by the Government. In New South Wales and Queensland it is a direct responsibility of Ministers controlling lotteries in those States. In Victoria they have given a licence to a private operator to function, and Tasmania is acting at present as an agent for another lottery outside that State. In New South Wales, lotteries are conducted as prescribed in the 1960 *Year Book*. I should like to give one or two illustrations of what is happening, because the *Year Book* for 1960 is most explicit about it. At page 808 it states:

New South Wales State lotteries are conducted in accordance with the New South Wales State Lotteries Act, 1930, and the first drawing took place on August 20, 1931. Net profits on the lotteries, with the exception of the net profits of the Opera House lotteries introduced in November, 1957, are paid to the Consolidated Revenue Fund, from which grants

are made to hospitals. The net profits of the Opera House lotteries are paid to the Opera House Account.

That is an account, I presume, set up in the Treasury, the money being paid into general revenue to be earmarked for that specific purpose.

The Hon. R. C. DeGaris: It is a fairly big account at the moment.

The Hon. C. R. STORY: Of course, they need big accounts and lotteries in New South Wales in respect of the Opera House.

The Hon. A. F. Kneebone: It is a very big Opera House.

The Hon. C. R. STORY: Yes, and it is a big debt to have around their necks.

The Hon. Sir Arthur Rymill: And it is a very heavy Opera House.

The Hon. C. R. STORY: Yes. In fact, the roof is so heavy that they are having difficulty in getting it up. The greatest problem has not been solved yet—to find adequate parking space for vehicles, if and when the Opera House is opened. Page 808 continues:

Tattersalls Lotteries, which were previously conducted in Tasmania, were transferred to Victoria in 1954 and the first drawing in Melbourne took place on July 8, 1954. The Tattersall Consultations Act, 1953, provides that prizes in each consultation shall be not less than 60 per cent of total subscriptions to that consultation, and that a duty equal to 31 per cent of subscriptions shall be paid into the Consolidated Revenue Fund from which an equivalent amount will be paid out into the Hospitals and Charities Fund and the Mental Hospitals Fund in such proportions as the Treasurer determines from time to time.

So, they have a definite and specific project, but the Treasurer has the right to decide in what proportion that money will be paid to each of the hospitals and charities mentioned. Regarding Queensland, the *Year Book* says that the Golden Casket Art Union commenced in 1916 with the specific object of augmenting the funds of the Queensland War Council. Subsequently, Anzac Cottages and the Nurses Quarters Funds benefited until 1920, but since then net profits have been paid to the Department of Health and Home Affairs (Hospitals, Motherhood and Child Welfare Trust Fund) and used for the maintenance of hospitals, grants to institutions, and for motherhood and child welfare purposes. A stamp duty is imposed on the tickets sold. The proceeds are paid to Consolidated Revenue Fund.

The Hon. L. R. Hart: The art union or the lottery?

The Hon. C. R. STORY: This is the Golden Casket Art Union. The money is paid into the Consolidated Revenue Fund in that State but there is a specific purpose for which it is to be used. The *Year Book* says that in Western Australia lotteries are conducted by the Lotteries Commission under the Lotteries Control Act of 1932. There a commission was set up and it runs the lotteries. Profits are paid to hospitals and other charities. In Tasmania, lotteries are subject to the provisions of the Racing and Gaming Act, 1950-52. With the transfer of Tattersall Lotteries from Hobart to Melbourne, Tasmanian Lotteries commenced operations under Government licence and the first drawing took place on June 30, 1954. The stamp duty on tickets sold and the tax on prize money are paid to Consolidated Revenue. I think we all know that after an extremely successful period that lottery in Tasmania, conducted by Mr. Drysdale, dwindled and failed, and now it is merely acting as an agent for Tattersall, Victoria, from whom the Government is receiving a percentage.

The Hon. Sir Lyell McEwin: That happened after it went to Victoria.

The Hon. C. R. STORY: Yes.

The Hon. S. C. Bevan: They were paid off, because he was running them out.

The Hon. C. R. STORY: I am not going to get involved with the Minister, who is much more knowledgeable on matters of gambling than I but, as I understand the position, after Tattersall left Tasmania and the new lottery was set up under Government licence, and Mr. Drysdale was the head, bigger prizes were being given than were given by any other lottery in Australia at that time, and tickets were being sold overseas. It went well for a short time, until difficulty was experienced in filling these huge lotteries, for which tickets were £1, £5 and up to £100. I think it is fair to say that finally they could not keep going and they went into liquidation. As a consequence, they are now acting as agent for the Victorian Lotteries. With your permission, Mr. President, I should like to incorporate in *Hansard*, without my reading it, a table setting out details of ticket sales, prizes allotted, taxes paid and other net contributions to State Government revenues relating to lotteries drawn from 1958-9 to 1962-3.

Leave granted.

LOTTERIES: VALUE OF TICKET SALES, PRIZES ALLOTTED, TAXES PAID AND OTHER NET CONTRIBUTIONS TO STATE GOVERNMENT REVENUES.

(£'000)

Year.	New South Wales.	Victoria.	Queensland.	Western Australia.	Tasmania.	Total.
			Ticket Sales.			
1958-59	13,598	8,750	6,760	1,138	796	31,042
1959-60	14,505	9,300	6,510	1,263	490	32,068
1960-61	16,670	10,400	6,480	1,350	105	35,005
1961-62	19,298	9,700	6,690	1,625	(a)	37,313
1962-63	22,215	10,100	6,800	1,950	(a)	41,065
			Prizes Allotted.			
1958-59	8,725	5,250	4,308	628	485	19,396
1959-60	9,292	5,570	4,149	698	299	20,008
1960-61	10,659	6,240	4,130	758	64	21,851
1961-62	12,349	5,820	4,262	920	(a)	23,351
1962-63	14,217	6,060	4,333	1,118	(a)	25,728
			Taxes Paid and Other Net Contributions to State Government Revenues.			
1958-59	4,326	2,713	1,902	352	232	9,525
1959-60	4,661	2,883	1,774	392	143	9,853
1960-61	5,380	3,224	1,744	407	32	10,787
1961-62	6,307	3,007	1,813	484	(a)	11,611
1962-63	7,367	3,131	1,840	573	(a)	12,911

(a) Licence surrendered 30th September, 1961.

The Hon. C. R. STORY: The overall total figures for lotteries in Australia in 1962-63 were: ticket sales £41,065,000, prizes allotted £25,728,000, and taxes paid £12,911,000. A typical example of what happens in the case of a lottery ticket in New South Wales is that 100,000 tickets are sold at 5s. 6d. each, making the total receipts £27,500. Of that amount, the prize money is £17,550 and the gross profit on the lottery is £9,950. Working expenses are then deducted and the net profit goes to Consolidated Revenue. It is used principally to subsidize hospitals. I think almost everybody in this State would at some time or other have had some knowledge of Tattersall, which is the oldest lottery established in Australia. Tattersall began in Sydney in 1881 and it was started by George Adams, an Englishman. The first major sweepstake was held in Sydney in the year 1881, with the sale of 2,000 tickets of £1 each, and there was a first prize of £900. In 1893 New South Wales passed a law declaring lotteries and sweepstakes illegal. Adams moved his whole establishment to Brisbane and operated in that city for two years until Queensland declared sweepstakes and lotteries illegal. At that time the Tasmanian Government was in financial difficulties. Following the bank crash of 1892, the Van Diemen's Land Bank was in liquidation and could not get a satisfactory price for its assets. The Government, therefore, clutched the straw and passed an Act licensing Tattersalls to operate in Tasmania. It is an interesting point.

The Hon. Sir Lyell McEwin: You do not think that history is repeating itself?

The Hon. C. R. STORY: We have not had a bank crash, but I will show how successful George Adams was in going to Tasmania at that time. He took over the assets of the Van Diemen's Land Bank, among them being several hotels and other real estate that he offered as prizes in his sweepstakes. I understand that he raised £100,000 immediately for certain of the assets that were given away as prizes, and by the end of the year the Van Diemen's Land Bank had got out of its difficulties and the Government had overcome certain of its difficulties. More especially, land values rose quickly and those people who received prizes of £10,000 in the early stages finished up with three times the value of their prizes when things improved.

An interesting point was raised by Sir Lyell McEwin. He wondered whether this was a good time, from a Government point of view, to seek approval for a lottery. No doubt the Government has given much thought to the matter. I believe that a leading member of the Labor Party has said publicly that in his opinion the profits of a lottery should go not to charity but to Government revenue.

The Hon. A. J. Shard: That was taken somewhat out of context. That was not what he meant. I think what he meant was that if people thought the proceeds would benefit charities they would vote for it.

The PRESIDENT: Order! The Minister will have an opportunity later to reply.

The Hon. C. R. STORY: I only said what I know.

The Hon. A. J. Shard: I am not blaming you for it.

The Hon. C. R. STORY: I understand these were the words of a member of the Labor Party. We cannot be expected to have interpreters around to enable us to understand statements if they are not clear. I have not seen an official denial of this comment.

The Hon. R. C. DeGaris: Under the terms of the referendum this could be so.

The Hon. C. R. STORY: Quite so. I have not seen any official denial although I understand it has appeared in papers circulating in the metropolitan area, and if Standing Orders would permit me I am sure I could find it in another document that is in the possession of honourable members. However, Standing Orders preclude me from quoting from it. I would think that the Minister of Agriculture when he made that statement knew very well what he was saying, because he is an honest man.

The Hon. A. J. Shard: I do not question that.

The Hon. C. R. STORY: I have always said that about him, and he would not hide it.

The Hon. A. J. Shard: Let us content ourselves with saying that he did not make himself clear.

The Hon. C. R. STORY: That is an indictment of a colleague if ever I heard one. I hope I have made it clear that this position is not unlike the position that Tasmania found itself in after the 1892 bank crash. However, we do not know exactly what is going to happen. In 1954 a Labor Government in Victoria under John Cain negotiated privately with Tattersall, which had been in Tasmania since 1892, to go over to Victoria and leave their political brethren—it was the same political Party, too—out on a limb. It coerced them to come over and do better on the mainland.

The Hon. D. H. L. Banfield: Not coerced, but induced.

The Hon. C. R. STORY: All right, they induced them to come over; dangled the carrot, so to speak. They did come over, and the words of the then Premier, Mr. Cosgrove, were very caustic towards his brother Premier, Mr. Cain, because he said that it was a treacherous act. I do not wonder at that, because if we took the bread and butter out of the mouth of a babe it would be a treacherous act, and that is what happened at that time.

In Western Australia lotteries have been held since 1932, and the Golden Casket in Queensland started off somewhat illegally. It was a sweepstake run during war time, and, like most things that sometimes happen outside the law, certain people closed their eyes to the activities of the people running the Golden Casket because it was raising funds to help soldiers. It was successful and it was run so well that when the war ended the activities of the Golden Casket were retained.

The Hon. R. C. DeGaris: What year was that?

The Hon. C. R. STORY: The Golden Casket started in 1916 in Queensland. Most people are aware that it is one of the well-established art unions. It has been well received and is beyond suspicion in every State in the Commonwealth, including South Australia, which does not have lotteries. It has operated in South Australia quite freely, and overseas as well.

The Hon. Sir Arthur Rymill: Is that a consultation?

The Hon. Sir Lyell MsEwin: The Royal Commission in South Australia was not impressed.

The Hon. C. R. STORY: No. The position in South Australia is well known to honourable members. The Royal Commission sat in 1936 and reported upon a proposal to establish a lottery in this State. Its terms of reference specifically set out that the aim was to subsidize hospitals, but that is not in this Bill. The people do not know what they are voting for, nor do they know what is going to happen to the funds. In 1955, a private member's Bill was defeated in the Assembly in this State.

I think I have made my attitude on this Bill quite clear, and I have given some historical information that I hope will be of some use to members. I shall now deal with one or two aspects of the measure itself. I, too, have gone through the various sections of the Electoral Act mentioned in clause 7, and I think that section 99 of the Electoral Act, instead of being excluded, should operate in relation to this plebiscite. That section was excluded prior to clause 16 being amended in another place, but subsequently the other

place did not amend clause 7 when it made an amendment to the Bill so that scrutineers could operate. I do not know who will decide who the scrutineers will be, as there will be several groups supporting both sides. I imagine this matter will be hard to administer, but the provision was inserted by the Leader of the Opposition in another place to give some protection.

I do not favour having a compulsory vote. I think it is much better in this and in many other things to have a voluntary vote so that the vote is from people who are genuinely interested in what happens. With a voluntary vote there would be only a small informal vote, because people interested in any matter take the trouble to inform themselves thoroughly about it. This is like the franchise for this Chamber; I believe the people who vote for members have given some real consideration to the way in which their vote should be cast. However, if people go to a polling booth to express an opinion simply because it will cost them £2 10s. if they do not, many of them will not consider properly the matter in hand. I think we would be better off to have a voluntary vote on social matters.

I am not happy about clause 4, which sets out the question to be submitted to electors. The prescribed question is "Are you in favour of the promotion and conduct of lotteries by or under the authority of the Government of the State?" I think this should be split into at least four separate questions so as to give people an opportunity of knowing what they are voting for.

The Hon. S. C. Bevan: That would only cloud the issue.

The Hon. C. R. STORY: I do not agree.

The Hon. A. J. Shard: You are trying to make a simple question difficult.

The Hon. C. R. STORY: What we have here is so terribly over-simplified—

The Hon. S. C. Bevan: That you are afraid it will be carried.

The Hon. C. R. STORY: I am not afraid; it is the Minister who will be afraid if the referendum is carried, because the Government will have to put into operation what is a sticky matter. We shall have to be sympathetic towards the Minister if there is a favourable vote, because then the Government's worries will start. It is on record that many important members of the Labor Party, who normally are violently opposed to gambling in any form, have said that they will bend to the will of the people. The only thing in favour of this is that the Labor Party would be most happy to have the revenue from a lottery go to Consolidated Revenue, but I do not know that the Government would like to administer it. I support the second reading.

The Hon. C. D. ROWE secured the adjournment of the debate.

NURSES REGISTRATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 1661.)

The Hon. R. C. DeGARIS (Southern): We have had three excellent speeches by the Hon. Sir Lyell McEwin, the Hon. Mr. Gilfillan, and the Hon. Mrs. Cooper on this Bill. I do not wish to go over the ground already covered by them, but I should like to refer to some of the points made by the Minister of Health in his second reading explanation. He said that the Bill had two purposes, and I think there can be no argument about that statement. The first purpose, as he pointed out, is that it will allow the appointment of two extra members to the Nurses Registration Board. One of those two extra representatives will be a representative of psychiatric and mental deficiency nurses and another will be a representative of the Mental Health Services. The second purpose is to allow former mental nurses to be registered as both psychiatric nurses and mental deficiency nurses. In other words, former mental nurses can enrol on either register or on both registers.

The Hon. S. C. Bevan: What do you mean by "former mental"?

The Hon. R. C. DeGARIS: They are exactly the words used in the Minister's second reading explanation, I think. Is that right?

The Hon. A. J. Shard: Yes.

The Hon. R. C. DeGARIS: I find no argument with that one.

The Hon. Sir Lyell McEwin: The honourable member is only seeking information?

The Hon. R. C. DeGARIS: I find no argument with that part of the Minister's speech. I should like to examine a little more closely the first purpose of this Bill. The Minister in his second reading explanation said that the Government had been urged by the Australian Government Workers Association and by the Director of Mental Health on behalf of the psychiatric and mental deficiency nurses that these people be represented on the Nurses Registration Board. I have no doubt that that is so, that the Government has been urged by the A.G.W.A. and the Director of Mental Health to have the psychiatric nurses represented on the Nurses Registration Board, but I cannot quite follow the request that

has been made that the A.G.W.A. and the Director of Mental Health should both nominate a representative for the board. The Minister went on to say that the absence of this representation means that in the past the "needs, interests and problems of psychiatric nurses and mental deficiency nurses may not have been adequately considered." I shall deal later with those three words "needs, interests and problems". We must accept that registered mental nurses are accepted as members of the Royal Australian Nursing Federation.

The Hon. A. J. Shard: How many of them?

The Hon. R. C. DeGARIS: I do not know.

The Hon. A. J. Shard: But I do.

The Hon. R. C. DeGARIS: They can become members.

The Hon. A. J. Shard: They have only just started to take an interest.

The Hon. R. C. DeGARIS: They can be members of the Royal Australian Nursing Federation, and this federation already has representation on the board.

The Hon. Sir Arthur Rymill: Does this organization admit men as well as women?

The Hon. R. C. DeGARIS: I should think it would. I should like now to quote the exact words of the Minister on this matter. He said:

> Experience has shown, however, that this indirect form of representation is inadequate and that psychiatric and mental deficiency nurses have been denied an effective voice on the board.

I want to look at this phrase "indirect form of representation". Clause 4 of the Bill amends section 5 of the principal Act and, as I said earlier, this allows two extra members on the Registration Board—one to be nominated by the Minister representing Mental Health Services, and one to be nominated to represent the Australian Government Workers Association. If we examine these two appointments to the Nurses Registration Board, we can see in the case of the first one, the one nominated by the Minister, that this appointment could give the psychiatric and mental deficiency nurses direct representation on the Nurses Registration Board. But I think honourable members would agree that no absolute guarantee could be given that this would give direct representation on the board any more than under the present set-up with the representation of the Royal Australian Nursing Federation.

Let us look at the second one, the representative of the Australian Government Workers Association. By no stretch of the imagination could any guarantee be given that such an appointment would give direct representation on the board on behalf of the psychiatric and mental deficiency nurses. It is an acceptable statement that no guarantee could be given that the A.G.W.A. representative on the board would be a direct representation of the psychiatric and mental deficiency nurses. These two new appointments to the board increase its membership by very nearly 30 per cent. Already the direct representation on the board for nurses is three out of seven.

The Hon. R. A. Geddes: This would be one vote one value?

The Hon. R. C. DeGARIS: I do not think it is one vote one value, when we examine the percentages. The present constitution of the board is as follows: one member from the Royal British Nursing Association, two members from the Royal Australian Nursing Federation (South Australian Branch), one from the South Australian Branch of the Australian Medical Association, two members from the South Australian Hospitals Association, and one member appointed by the Minister. So, on a board of seven, there are three direct representatives of the nursing profession.

The Hon. A. J. Shard: And they do not think that that is enough.

The Hon. R. C. DeGARIS: Maybe so, but let us look at what happens if we follow the reasoning of the Minister that two are to be given direct representation for the psychiatric nurses: it means, so far as the nurses are concerned, that we have two members representing the psychiatric and mental deficiency nurses, and three representing the balance of the nursing profession as direct representatives on the Nurses Registration Board. The Minister said that there were 800 nurses in the psychiatric nursing field. I do not know how many there are in South Australia in other branches, but possibly 8,000 is a fair guess.

The Hon. A. J. Shard: About 7,000.

The Hon. R. C. DeGARIS: There were 7,250 officially registered at the end of December, 1964.

The Hon. A. J. Shard: Yes.

The Hon. R. C. DeGARIS: If honourable members want to apply mathematics to this problem, they can see that on the board two members will directly represent 10 per cent of the nursing profession, and three will represent 90 per cent. If we assume that the appointment by the Minister representing Mental Health Services and the appointment from

the Australian Government Workers Association constitute direct representation, which I doubt, then the psychiatric and mental deficiency nurses have 40 per cent of the direct representation, and all the others have 60 per cent. Surely the Minister will not agree that this is a fair representation on the board? I should like to quote the Minister further on this. He said:

The Government has accepted the proposals of the Australian Government Workers Association and of the Director of Mental Health for representation on the board as being fair and reasonable.

I think I have shown clearly that it is not fair and reasonable that such representation should be agreed to. I agree that the psychiatric and mental deficiency nurses should have some representation on the Nurses Registration Board but I do not agree with the method by which this representation is being given in the Bill. We have on the file an amendment to be moved by the Hon. Sir Lyell McEwin and I should like to compare the proposal in the Bill with the proposal in the amendment.

According to the Bill, there will be two appointees of the Minister on the Board (one representing health services), two representatives of the South Australian Hospitals Association, two representatives of the Royal Australian Nursing Federation, one representative of the Royal British Nursing Federation, one from the South Australian Branch of the Australian Medical Association and one from the Australian Government Workers Association. In terms of Sir Lyell's amendment, one member will be appointed by the Minister, two will be from the South Australian Hospitals Association, one from the Royal British Nursing Association—

The Hon. A. J. Shard: I thought he took that one out, but I may be wrong.

The Hon. Sir Lyell McEwin: That is right.

The Hon. R. C. DeGARIS: Sir Lyell proposes to have five representatives from the Royal Australian Nursing Federation, one of whom must be a registered psychiatric or mental nurse and one an enrolled mothercraft nurse, nurse aide or dental nurse. As far as I am concerned, Sir Lyell McEwin's amendment would ensure the appointment of a practical board, with mental deficiency nurses having direct representation, which the Minister of Health in his second reading explanation said was necessary. The Nurses Registration Board is a professional board and Sir Lyell McEwin's amendment does not in any way offend against the concept of a professional board.

The Hon. A. J. Shard: Neither does the Bill.

The Hon. R. C. DeGARIS: In my opinion, the Bill does offend against this concept.

The Hon. A. J. Shard: You are completely wrong.

The Hon. R. C. DeGARIS: It also offends against maintaining it in the future as a purely professional board. I return to the question of the needs, interests and problems of these particular people, which were dealt with by the Minister when he said:

The absence of any such representation on the board in the past has meant that the needs, interests and problems of psychiatric nurses and mental deficiency nurses may not have been adequately considered by the board.

The Hon. A. J. Shard: There is nothing wrong with that.

The Hon. R. C. DeGARIS: In my opinion, the needs, interests and problems of these people are not matters for a professional board, such as the Nurses Registration Board. There are already federations and associations at which levels these problems should be handled. The problems are not such as should come within the scope of a professional board. This was adequately covered yesterday in the speeches of the Hon. Jessie Cooper and Sir Lyell McEwin. At the risk of being repetitive, I should like to quote from the Hon. Jessie Cooper's speech. She dealt with the fact that the Nurses Registration Board is a professional board with certain defined duties and that these are defined in section 15 of the principal Act, which states:

1. The holding of examinations including preliminary entry examinations; to appoint examiners and decide upon their remuneration.
2. To decide the place where and the times when examinations are to be held.
3. To issue and cancel certificates of registration or enrolment.
4. To approve of any institution as a training school or at any time to cancel such approval.
5. To publish periodically a list of the institutions approved by the board as training schools.
6. To take proceedings against persons guilty of offences against this Act and generally to do anything necessary for the due and proper carrying out of the provisions of this Act.

The Hon. Mrs. Cooper said:

This is not, therefore, a board designed to run hospitals or to employ staff but one designed primarily for the supervision of training qualifications and registration of nurses. Such a function requires a small board in which

each member should have technical or specialized knowledge and it does not require any interference from non-specialized outside bodies.

Finally, I should like to quote part of the Hon. Sir Lyell McEwin's speech, where he said:

The Minister may have other views but I maintain that this is a professional board to establish the standard of nurses and that it has nothing to do with wages and conditions. I am not opposing the direct representation of psychiatric and mental deficiency nurses on the board but I consider that to make the board responsible for the needs, interests and problems of these nurses is not within the spirit of the principal Act, nor is it within the function of the Nurses Registration Board. I support the second reading and also give my support to Sir Lyell McEwin's amendment.

The Hon. A. J. SHARD (Minister of Health): In replying briefly, I thank honourable members for the interest they have shown in this Bill. I think it would be fair to say that politics do not come into the matter and that it is an attempt to do the best for nurses in all aspects. Unfortunately, Sir Lyell McEwin and the Hon. Mr. DeGaris seemed to get their lines crossed in relation to my views. Never at any time was it in my mind to say that the Government desired representation of these nurses on the Nurses Registration Board for the purpose of looking after their industrial conditions. It is not an industrial board.

First, let me say that there has been some criticism that I did not discuss this matter with the Nurses Registration Board. I want to say that I did discuss it with some of the members and I was convinced that the board did not desire its numbers to be extended beyond seven. Personally, I believe in small committees but I also agree that, even if it means greater numbers, the enlargement of the board must be considered if everybody in the service is to be represented.

The Hon. G. J. Gilfillan: You support the amendment then?

The Hon. A. J. SHARD: No. I will speak of that later; but generally I would support it although it does not go as far as I want it to go. After this Bill was introduced I had a deputation from the Royal Australian Nurses Federation (South Australian Branch). They are not happy with the set-up of the Nurses Registration Board as it exists at present and I agree that there is some merit in their comments. It was only last week that I conferred with them and I should like time to give the matter more consideration. The Hon. Sir Lyell McEwin, with his wealth of knowledge and long experience, has perhaps sensed somewhere along the line that something should be done to alter the representation. One of the matters that has been brought to my notice deals with the Royal British Nursing Association, an organization that is more or less defunct. I think his amendment on this matter is a step in the right direction and therefore we are not far apart there.

However, there are other matters that they discussed with me to which I have not been able to give proper thought at this stage. I know that Sir Lyell McEwin will agree that conditions at this time of the session make it almost impossible to give proper attention to many problems that are thrust into the lap of a Minister. I saw Miss Huppatz, the President of the Royal Australian Nursing Federation (South Australian Branch), last week and I told her that I thought there was a good deal of merit in the comments of the deputation, but that I would like time to give thought to the matters raised. The Hon. Sir Lyell McEwin may know that I was speaking to a member of the board who said that there may be something in their comments also. I do not want to beat about the bush; they said their members should be increased on the Nurses Registration Board. I am inclined to go a fair way with them in that, but not to the extent that the nurses wanted, namely, a majority on the board.

The second point under discussion dealt with the disallowance by this Council recently of the regulations prescribing the nurses' educational standards and it was put to me that possibly there was some merit in the suggestions made in that regard. I agree that there should be a certain educational standard but I do not mean that it should be at university level or anything like that, but even here I cannot make up my mind yet. I discussed this question with a member of the Nurses Registration Board this morning who said there was a good deal that he wanted to look at, and I said that I would not like to see any amendment carried on that matter until I had more time to examine the position. I should like the Bill before us to be dealt with this session and I should be happy to introduce a Bill next year to correct matters needing attention.

It is true that the Royal British Nursing Federation (South Australian Branch) has altered its constitution to include psychiatric and mental nurses, but they have not sufficient membership. I have been informed, and I believe it is true, that the Australian Government Workers Association has 700 of these

people as members. It was not a request to have a representative on the board from an industrial point of view. I can give the guarantee that if a nominee of the A.G.W.A. was not in actual practice as a psychiatric or mental nurse I would not endorse that nominee.

The Hon. Sir Lyell McEwin: This amendment does not interfere with it.

The Hon. A. J. SHARD: The amendment suggested by the honourable member does not say who shall nominate them, and that is the difference. If my interpretation of the amendment is correct, the federation would nominate them and thus the position would be if they had a minority of psychiatric nurses naturally they would nominate one of their members, possibly to the disadvantage of the vast majority of psychiatric nurses.

The Hon. G. J. Gilfillan: But it would still be a psychiatric representative.

The Hon. A. J. SHARD: Yes, but that representative would be from a smaller section and the vast majority would not be represented. I understand that there may be some dealings going on and progress being made on membership.

The Hon. F. J. Potter: Would all of the people who are members of the A.G.W.A. be eligible to join the Nursing Federation?

The Hon. A. J. SHARD: I think so, but I do not know the real history of it and I can only surmise this as being the position. My union experience tells me that when the psychiatric nurses started to develop some years ago the Royal Australian Nursing Federation (South Australian Branch) did not look after them or did not want them.

The Hon. Sir Lyell McEwin: They were not a profession then.

The Hon. A. J. SHARD: That is the point. Now that they have grown professionally the federation wants them. That is the position, I think.

The Hon. Sir Lyell McEwin: They could not have them before because they were not a profession.

The Hon. A. J. SHARD: That is so. It is not easy; there are other difficulties that I have learned since I have been in office, and I have not had the experience that my honourable friend has had. It is not only the two associations; there are the professional and certificated nurses in the Royal Australian Nursing Federation (South Australian Branch), the mental and psychiatric nurses in the A.G.W.A. and now I find that the trainee nurses are members of the Public Service Association. I think all honourable members wish to do the reasonable thing by the nurses. The Mental Health Department is unfortunately, as I see it, becoming a much larger department than it has ever been before. I think it is right to say that the officers of the Department of Mental Health say, in effect, "We think we should have direct representation on the board" and I agree with them. Before honourable members vote on this measure they should consider what I have said. I can foresee that in the near future the Mental Health Department will be a section on its own with its own departmental head; it will be separate from the Hospitals Department in the same way as the Public Health Department is separate. When that happens I do not see why the department should not have a representative on the board, despite the board's present thought that a membership of seven is sufficient.

The Hon. R. C. DeGaris: Surely there will always be some nurses indirectly represented on the board. They cannot all be covered.

The Hon. A. J. SHARD: The only nurses not represented, I think, are trainees. I think the proposed amendment covers nursing aides. Does the Leader agree?

The Hon. Sir Lyell McEwin: Yes, and they are becoming nurses; they are like apprentices.

The Hon. A. J. SHARD: There may be a board of 10 or 11 as a maximum if the things I have mentioned come about, and I do not think that is too many. I have tried to answer all the questions asked of me. There is no politics in this matter, as we have all tried to do our best. The Australian Government Workers Association representative will be a professional, not an industrial, representative. There will be tutors for mental nurses, just as there are tutors in other hospitals. A man who is trained will soon be going to Melbourne for 12 months to get extra experience and will then become a tutor. If these people are not entitled to have a representative on the board of their own choice, I do not see who is.

The Hon. Sir Lyell McEwin: But tutors in general nursing are not separated.

The Hon. A. J. SHARD: I am talking about psychiatric nurses.

The Hon. Sir Lyell McEwin: But there are tutors among the other nursing staff.

The Hon. A. J. SHARD: What I am saying is that psychiatric and mental nurses are becoming more professional each year and that they should have a representative of their own choice on the board.

The Hon. Sir Lyell McEwin: That is what I am trying to provide.

The Hon. A. J. SHARD: I know that, but it is not clear. I think the Mental Health Department should have a representative on the board. Normally I do not go out of my way to seek out people, but this week I sought out Matron Huppatz to get her opinion on this matter. I think honourable members will concede that the thinking of the Leader and myself is not far apart. However, I am not prepared to throw in educationists, but I am prepared to reconsider that matter next year. I think the measure is reasonable and desirable. The Leader's proposed amendment will be looked at, and no doubt there will be further representation for the Royal Australian Nursing Federation (South Australian Branch), with a possibility that, in addition, there will be an educationist.

I thank honourable members for their attention to this measure. It is important because if the Nurses Registration Board does not function properly the influx of nurses in all fields may be retarded, and I am sure no honourable member wishes that to happen.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Constitution of nurses board."

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

To strike out subclause (*b*).

I did not know quite what the Minister was driving at in his reply on the second reading—whether he was seeking further time to consider this.

The Hon. A. J. Shard: I thought you might consider what I said.

The Hon. Sir LYELL McEWIN: If he has nothing further to offer than he has given today, I wish to proceed with this amendment, because what he has said indicates only that he agrees with what the amendment sets out—that one of the nominees should be a representative of registered mental nurses. I think the profession is capable of selecting the representative it wants. The suggestion that a mental nurse must be nominated from or by a union is introducing a new concept into this legislation. The Minister said that certain nurses were members of the Public Service Association, but I do not think I suggested that a nominee of that branch should come from the Public Service Association. All I am trying to do is keep the Bill within the bounds of professional activity.

The Hon. A. J. SHARD (Minister of Health): I ask that progress be reported so that I can examine just what the amendment, which I did not see until yesterday, involves. I am not happy with it as it stands. If the Royal Australian Nursing Federation (South Australian Branch) is given the right to have a nominee, it has not got the membership to provide one.

Progress reported; Committee to sit again.

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 1664.)

The Hon. G. J. GILFILLAN (Northern): I rise briefly to support this Bill, which I believe was amply covered by Sir Norman Jude yesterday. As an ex-Minister of Railways, he had obviously a full knowledge of his subject and had given this matter much thought, so I do not intend to take up the time of this Chamber unduly, except to say that I believe this is a move that could react favourably in the interests, not only of the railways as a State department but also of the people who are the customers of the railways. I agree with Sir Norman in his comments on the efficient running of the Railways Department and the businesslike attitude that has been taken by those responsible for its administration, but I think that, in the best interests of any public utility, ultimately it should be under the control of a Minister directly responsible to Parliament and, through Parliament, to the people, who in this case subsidize the railways by about £4,000,000 a year.

Admirable as the members of the Public Service can be (I do not imply criticism in this remark) in carrying out the duties of their office, they are, of course, bound by certain restrictions. With a Minister at the head of a department we have a direct representative who is closer to public feeling and needs. If in any way the railways have left something to be desired, it is this close association that should apply in an organization covering such a large part of our State and catering for the needs of so much of our population.

Sir Norman spoke at length about the various aspects of the railways service, referring in particular to the passenger services and the expansion that had taken place to meet this need. I fully realize that the problem

here is involved, because the Railways Department is a public service, which means that it is obliged to provide a service even where there may be a limited need for it. But, where it is necessary to supply a service, it is probably wise to go a little further and try to encourage people to use it.

Sir Norman mentioned the provision of air-conditioned trains, better rolling stock, faster services, and in particular the Bluebird air-conditioned railcars, which compare favourably with anything elsewhere in Australia. Although these air-conditioned railcars are expensive to construct, it is strange that in this day and age people who are using these cars have to wait on a draughty platform, particularly if a train is running late. I cannot recall any station waiting room having a fire in it during the winter months in the northern part of the State when the temperatures are low. Quite often the room is available, and it would cost little to furnish it with perhaps some standard tubular steel chairs and an electric heating bar. This is the sort of service that encourages people to use the railways.

From the Auditor-General's Report it is obvious that the railways have had a good year. Although they have had to compete with road transport, they have shown only a small additional loss. Their net loss over the previous year was £273,000. This was largely because of a fall in the amount of wheat carried. I checked and found out that the reason was that part of the wheat grown in the financial year 1964-65 was sold immediately after the end of that financial year, although it was eventually carried by the railways. We have to remember that in considering these figures. It shows that the railways have met considerably increased costs and have still managed, in spite of competition, to put up a good performance for the year. This shows that our administration is good. However, I consider that it can be an advantage to have control of the railways under a Minister. Sir Norman Jude raised one or two other points about problems that can face a Minister, particularly in industrial matters. However, many men are employed in the department controlled by the Minister of Works and many teachers are employed in the department under the control of the Minister of Education. Therefore, the problems would not be confined to the Railways Minister.

In any case, it appears that this Bill has been brought in with the consent of the Minister concerned.

The Hon. R. C. DeGaris: The Railways Department would be the largest of the departments competing with industry.

The Hon. G. J. GILFILLAN: The department has problems, in that it is earning revenue and must provide a public service that is not profitable in some cases. In the last 12 months the railways have demonstrated their ability to meet competition and I think that efficient service in the best interests of the State would result if road and rail transport concentrated on the areas most suitable for their type of business.' It is interesting to see that the railways this year, in open competition with road transport and after paying wage increases, lost an additional £273,000, whereas the revenue from the Road Maintenance (Contribution) Act over the same period was an extra £713,000, which means a net gain to the Government. I support the Bill and hope that if and when it becomes law the Minister will take a positive view in order that an efficient service can be given in open competition. I do not favour a negative approach whereby the railways will operate to the detriment of other forms of transport by restrictive controls.

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

WILLS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 1668.)

The Hon. R. A. GEDDES (Northern): I support the second reading of this Bill, with the possible exception of clause 6, and realize that its main purpose is to bring our State legislation into uniformity with that of other States and the United Kingdom, and to thus enable the Commonwealth and the United Kingdom to ratify the Hague Convention dealing with the conflicts of laws on testamentary dispositions. The portion of the Bill dealing with this aspect of the State's responsibility is of great importance, and I support it wholeheartedly. The difficulty in regard to clause 6, which, if accepted, will allow an 18-year-old child to make a will, is that there are many conflicting opinions in relation to it.

I think it is fair to say that in layman's language the interpretation in common law of a contract made by a person under the age of 21 years is that, in general terms, it has no legal effect. Of course, that simply means that any contract made by a person under the age of 21 years is fraught with difficulties, because he has no guarantee in law. Through the ages

other limitations have been placed on people under the age of 21 years for their own protection and in the light of experience gained through the centuries. For example, these people cannot hold a legal estate in land, nor can they, as a rule, make a contract binding on themselves. Further, they cannot obtain an overdraft from a bank. I consider that it would be wrong, therefore, to allow an unmarried person under the age of 18 to make a will unless all the laws relating to youth were also altered; in other words, unless the legal thinking was changed from the age of 21 years to the age of 18 years.

The Hon. Sir Arthur Rymill: You mean that they are detaching this consideration from all others and just dealing with a part?

The Hon. R. A. GEDDES: Yes. This is but a small piece of the jigsaw puzzle and the puzzle cannot be solved unless the whole is brought into it. From a research into why the age of 21 years became the accepted norm for drawing the line between the age of youth and the age of manhood, I discovered some interesting points. Apparently, under Roman law the age of 25 was accepted as the age when manhood began.

The Hon. Sir Arthur Rymill: Was that the age of *cura minorum*?

The Hon. R. A. GEDDES: I will refer to that later. In British law I cannot find any direct reference to why the age of 21 came in, although there is one reference that I found last night that I think is of interest. It was considered that at the age of seven years marriage was lawful.

The Hon. D. H. L. Banfield: Thank goodness it does not apply now!

The Hon. R. A. GEDDES: It was accepted also that 14 years was the age of puberty and 21 was recognized as the full age. The formula apparently used was the addition of 7 and 14 to make 21 and this has been the figure used since Anglo-Saxon days. When a man attained the age of 21 years he became a man, and this has apparently been the practice under British law for 900 years.

The Hon. F. J. Potter: Not only under British law.

The Hon. R. A. GEDDES: No, but I referred to British law because alterations had to be made to conform to the Constitution of Britain in order to ratify the Hague Convention. However, there are complications in referring to the position in other lands, such as Switzerland, where the age of 20 years is recognized, and other countries have other ages. I consider that those differences can only confuse the issue.

The Hon. Sir Arthur Rymill: Is there any modern scientific or biological reason for recognizing the age of 21?

The Hon. R. A. GEDDES: The only information I was able to get was from an encyclopaedia, and the quotation is:

> In our more mature legal systems the child remains a minor until a fairly advanced age after physical maturity in order to protect him from the consequences of his intellectual immaturity.

In other words, the child has grown up, but—and I want to develop this theme later—the question of intellectual immaturity is important. My research revealed that in the 11th and 12th centuries, as trade became the common denominator for Britain as a whole, the burgher's son was considered of age when he could count pence and measure cloth. That was at a younger age than 21, but at the same time, because of the problems of war, the knight's son was considered of age only at 21. I presume this was because of his physical strength. Therefore, without being able to find anything definite or without being able to offer any positive reasoning, I find that these are the traditions of British law and heritage. I cannot find any other reason why 21 is the age set down, but it has certainly been accepted for a long time.

The important part that must be decided in relation to this Bill is whether the right of an 18-year-old person to make a will should be acceptable in this modern age. I remind honourable members again of the legal interpretation that a contract made by a person under 21 years of age generally has no legal effect. As I said earlier, unless all other laws in relation to this question are brought into conformity it must create grave problems for many people. For a married person of 18 years or older I concur wholeheartedly with this Bill.

The Hon. D. H. L. Banfield: Do you think there should be a limit on people marrying under the age of 15?

The Hon. R. A. GEDDES: That is one of the problems of marriage. I believe that many of these marriages of very young people produce children early in their married life. It is one way of overcoming certain other problems by marrying, even though they may be below the age of consent.

The Hon. F. J. Potter: That is frowned upon under the new Marriage Act.

The Hon. R. A. GEDDES: It is frowned upon, yes, but if one of the parties should die intestate the widow and young children

are left with greater hardships than would have been the case if a will had been made. The Hon. Mr. Potter has clearly indicated the problems relating to 18-year-olds. It seems clear that when a person is married and has a family a definition of how his estate is to be handled should be allowed. I cannot claim to be able to read the teenage mind. I am associated with the Mount Remarkable Rural Youth Club at Melrose and there I meet 25 to 30-year-olds with great frequency. As a member of Legacy I have had the problem of trying to look after children of deceased ex-servicemen, and such children need guidance the same as any other child. My eldest child is 18 years of age and therefore I have some knowledge of the age group from 16 to 20 years. It is my opinion that they do lack intellectual maturity.

The Hon. D. H. L. Banfield: Have you told them?

The Hon. R. A. GEDDES: My eldest child, yes.

The Hon. D. H. L. Banfield: What about the group that you mentioned?

The Hon. R. A. GEDDES: It is an interesting group and if you wish me to talk about them I shall do so. The rural youth ask many questions from a desire for knowledge and their enthusiasm for life. On occasions I do tell them, in a way, that they lack intellectual maturity. The expression could possibly be, "Pull your head in", but they do get told.

However, we are now dealing with the serious things in life—the disposal of estates—and I point out that at one moment these people are Beatle fans and the next moment Peter Paul and Mary enthusiasts. Is it right that they should be able to decide such things as disposing of their estate when the affairs of the heart on Saturday night are concerned with one person but on the following Monday that person is considered horrid and somebody else is in favour? Yesterday the Hon. Mr. Story made a fleeting reference to the youth of the armed services who makes his will below the age of 21 years. I have vivid recollections of the days in 1941 when I was marched with a group of other men into a mess hut to make a will. It was a red-faced, loud-mouthed sergeant-major with a blackboard and a piece of chalk who confronted us, and he ordered the men in his charge to sit down. He then wrote on the blackboard the words "Next of kin" and after that the words "Mother, Father, Sister or Brother". There was no reference to the bit of skirt down the street. Pieces of paper with printing on them were issued to all the troops. I think we were even issued with pen and ink, which was really something for the army in those days. We were then told to write our number, rank and name and to indicate to whom we were going to leave our estate, which of course consisted of army boots, uniform and so on, with hardly anything of our own, as our kits had been sent home and the moths were starting to eat into them. We were told to indicate to whom we would leave our mortal remains or memories. That loud-mouthed irritable sergeant-major who initiated me into the mysteries of making wills was Squadron Sergeant-Major Story, who I am glad to see is still with us. The honourable member mentioned the question of making it compulsory to make a will. As a member of Legacy, I have come up against this matter on more than one occasion, as I know other honourable members of this Council have done.

The Hon. Sir Arthur Rymill: Have you become emancipated from this sergeant-major yet? They are pretty solid characters, aren't they?

The Hon. R. A. GEDDES: I think I have reached a little more intellectual maturity, but on occasions I wonder. The problem of men dying and leaving their families and children without having first made wills is not only embarrassing to those left behind but is a big job for those who try to help. It doubles the job that Legacy tries to do.

The Hon. S. C. Bevan: Do you suggest that it should be compulsory to make a will?

The Hon. R. A. GEDDES: I am not saying it should be compulsory, but I am suggesting that what Mr. Story said was constructive and that possibly we could carry it a stage further.

The Hon. S. C. Bevan: He mentioned compulsion.

The Hon. R. A. GEDDES: Yes, and I consider his suggestion is constructive.

The Hon. Sir Arthur Rymill: I think you should ask the Minister to refer it to the Attorney-General.

The Hon. S. C. Bevan: I am wondering how it could be policed.

The Hon. R. A. GEDDES: Mr. Story gave some explanations yesterday of how he thought it could be policed. After all, if a person has not registered his car the police seem to find out.

The Hon. C. R. Story: They find out if people do not register births.

The Hon. R. A. GEDDES: Yes.

The Hon. A. J. Shard: Sometimes they do not.

The Hon. R. A. GEDDES: If we do not obtain a dog licence or a television licence, the police seem to find out. I believe it is unwise that any 18-year-old should be allowed to make a will, but I think it is very just that a married 18-year-old should be allowed to preserve for his family what assets he has should death occur. I support the Bill.

The Hon. Sir ARTHUR RYMILL secured the adjournment of the debate.

JURIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 1671.)

The Hon. H. K. KEMP (Southern): I do not want to speak at length on this measure but I think that in view of all the professional opinions that have been put forward on this subject there is room to express the attitude of the common people of this State, who I find have very strong feelings on this subject. There are really two parts to this Bill, and I propose to deal with them separately. The first relates to women's service on juries. I have mentioned the subject widely in my district, and in every case I have found that when the question is put to a woman who has the responsibility of a property whether she wishes to serve on juries the answer is "No". Many of them actually physically fear the necessity of serving on juries. It has to be more or less drawn from them that they do not wish to have this responsibility, which they would accept if it were forced on them. I am afraid the matter of forcing it on them comes into this question, because again and again I have found that a woman, when she has said this, has also said, "I cannot imagine myself sitting on a jury. I do not want to sit on a jury. It will be only duty that will make me serve."

I believe fundamentally that we need women on juries today. I believe we shall have a much better judgment of the problems we are up against today, particularly in social crime, if women have their say in jury service. However, if it is left completely and utterly as a voluntary thing, the great majority of people who will be called for jury service will turn it down—of that I am sure. This is not a personal opinion; it is the observation of so many people I have questioned on this subject.

I do not know whether honourable members appreciate just how isolated a woman becomes in her contacts outside her family set-up, particularly in country districts. Social contacts are often almost strange to a mature woman. Honourable members will find that many housewives, who are very responsible people and who have been doing such an excellent job in bringing up youngsters, have utterly no business contacts whatever, and they put jury service more or less in the same category as business contacts. Other members have probably had personal contacts with women who have to be really driven before they will even sign a cheque or take out a licence, and for a woman to have the privilege of serving on a jury is much more strange and disturbing than any normal contacts. This must be realized, I think.

We need women on juries, but if there is too easy an escape clause it is only the really tough customers among women—and we must admit we have them—who will accept that service. I am sure that we must give women with family responsibilities the responsibility that is terribly important to the State, but if there is a real need she should not have to serve. If it is completely voluntary whether a woman serves or not, I am afraid it will not work. I think my duty is quite clear; I must do everything possible to bring in women on the jury lists, but I think it should be made much more compulsory than in the Bill. There must be an easy escape where there is a real need because of family responsibilities or for psychological reasons or unsuitability. However, I think this can be covered easily by making the very fact that a woman who has a young family to look after a qualification for escaping, and on the other hand by providing that a simple medical certificate by a practitioner looking after a woman and knowing her psychological state or day-to-day condition will be an excuse.

The Hon. R. C. DeGaris: A woman should not be able to withdraw just because she is a woman?

The Hon. H. K. KEMP: I say a woman cannot take on the responsibility of being a juror and then escape it because she is a woman. If we are to have women on juries, they must be able to serve. We do not want them to be able to escape service unreasonably. Many of them faced with the necessity of serving on a jury will try to do that. The second side of this Bill deals with the changeover from the Legislative Council roll to the House of Assembly roll. The question asked by the common man in the Southern District is simply, "Is this really necessary?"

It is surprising that the average man of responsibility is proud that he lives in South Australia; he is proud of South Australia's institutions and realizes that jury service is one of the foundation stones upon which our whole civic system is built.

Of course, this goes back deep into British history. It has come to us evolved not over a few years but over nearly 1,000 years. It has gradually been evolved into its present form by long usage. The fact that we have juries in South Australia working better than anywhere else in the world (and I say that without any fear of contradiction) is more generally known and appreciated than honourable members in this Chamber perhaps realize. Why should this be interfered with? It has been time-tested and is effective. If honourable members have followed the press recently, they will know that South Australian juries are undoubtedly better than those in other States. In fact, in the *Advertiser* of September 1 there was a paragraph that really surprised me. It referred to the working of juries in New South Wales. The report was that under their system operating in New South Wales juries could not be trusted to handle any of the cases that came before the courts dealing with libel actions between newspapers and individuals.

The Hon. D. H. L. Banfield: Apparently, they cannot here because they do not sit on that kind of case.

The Hon. H. K. KEMP: No, because we have no juries for civil actions in South Australia. But this is typical of the uncertainty that faces the legal profession before a New South Wales jury. I am only a layman but I cannot remember one instance in South Australia where the decision of a jury has been questioned. I have no doubt that Sir Arthur Rymill, Mr. Potter and Mr. Rowe could give instances of miscarriage of justice through bad jury decisions, but I have no recollection of one of sufficient importance to come to the attention of a private individual. This is remarkable when we consider that a news item in New South Wales indicates the unreliability of juries there in such a simple matter as deciding who is the guilty party in a libel action.

The Hon. Sir Arthur Rymill: That does not apply only to civil cases, either.

The Hon. H. K. KEMP: That is my point. Mr. Banfield made the point that this was a civil matter and juries act in civil matters in New South Wales. Here, they are confined to criminal cases only.

The Hon. Sir Arthur Rymill: There has been a reluctance to convict in New South Wales; that has been noticeable.

The Hon. H. K. KEMP: The reason I am talking about New South Wales is that it has a wide franchise for jury service, going back in time much further than in any other State; yet it is the State where a jury decision is least to be trusted. It is curious to note that the States that have widened their franchise are finding this growing rot of uncertainty in jury decisions increasing the longer the wider franchise operates. I ask the legal members of this Chamber whether they can confirm that. It is a strong impression I have got from trying to find out as much as I could on this subject. I do not speak as an expert but I find that this is a widely-held view among responsible people. We have here something fundamentally affecting the way in which our community works, something that should never be allowed to become a matter of Party politics. The question is asked, "Why should it be altered?" There is no need to alter it on the ground of the reliability or otherwise of its working.

It has been said from time to time that it is hard to find juries in some districts. This is complete eyewash: there is no difficulty in empanelling a jury in any of our districts except in rare circumstances where a man is called for jury service that he feels he should not undertake, in some of our more remote areas. In the city area it is remarkable how few individuals have served on a jury. In the districts of Port Augusta and Mount Gambier it is not uncommon to find a person who has served twice on a jury in the course of his life, but in Adelaide it is hard to find anyone who has served even once. So I do not think there can be any valid reason for our not having enough jurors on the list. If, as I hope, we end the consideration of this Bill by adding women to the jury lists, that will certainly overcome any shortages of jurors. The real reason for this Bill is, I think, found in the second reading explanation given in another place. A significant remark was made there, deserving deep consideration by every honourable member of this Chamber.

The PRESIDENT: I do not think the honourable member had better quote it.

The Hon. H. K. KEMP: No. This is not a quotation from *Hansard*—it is a press statement.

The Hon. D. H. L. Banfield: What date?

The Hon. F. J. Potter: Would not the same remark be found in the second reading explanation given in this Chamber?

The Hon. H. K. KEMP: No.

The Hon. Sir Arthur Rymill: It was probably more palatable in the press.

The Hon. H. K. KEMP: It may have been. The implication is that at present jury service is confined to a certain privileged class of people. That is not true. There is no class involved in relation to the Legislative Council franchise, unless, perhaps, in the case of the man or woman who has served Her Majesty overseas. The only qualification for enrolment on the Legislative Council roll is an extremely low property qualification, so low that I do not think a rental value of £35 can be attached to anything greater in stature than a beach shack.

The Hon. Sir Arthur Rymill: The franchise applies to every owner and every occupier of every house in South Australia.

The Hon. H. K. KEMP: This means that the responsibility for serving on a jury attaches to everybody who rents or owns the smallest amount of property. If a man really wanted to become eligible to vote at a Legislative Council election he would be eligible as soon as he took out a 5s. miner's right, drove a peg and applied for the lease. Anybody who has to pay anything more than, I think, about 12s. 6d. a week—

The Hon. Sir Arthur Rymill: Eight shillings and sixpence a week; £20 a year.

The Hon. H. K. KEMP: Anybody who occupies a house of that rental value or of equivalent capital value is eligible to vote for the election of representatives in this Chamber.

The Hon. A. F. Kneebone: It is only the actual occupier who pays the rent.

The Hon. H. K. KEMP: The occupier who pays the rent, or the wife if she pays the rent.

The Hon. Sir Arthur Rymill: If Labor had not rejected the proposal in the other place last year wives would have been eligible as well.

The Hon. H. K. KEMP: Not only is there this low property qualification, but a person must seek the responsibility voluntarily and personally, and I think that is probably why the Government introduced this Bill. We know that many people have refused to accept Legislative Council enrolment because they fear jury service and if the purpose of this Bill is to force those people to serve on juries I think we have deeply damaged the status of this service.

I think the real reason for interfering with jury service is wholly and solely political. That is definitely brought into the open by the untruth with which this Bill was presented in another place, and that must be kept in mind. Do not forget that that untruth was promulgated by a man who has more personal responsibility in maintaining our institutions attached to the law than any other individual in the State, and there must have been a powerful and political drive, surely, for him to do that. We must not interfere with an old and tried fundamental institution in our community. I am sure that this matter should never be one of Party politics.

The Hon. D. H. L. BANFIELD (Central No. 1): As I see it, two major amendments to the Juries Act are proposed. The first is the substitution of the House of Assembly roll for the Legislative Council roll for the selection of jurors. I consider that, with few exceptions, it is the duty of every adult citizen in South Australia to be available for jury service. I do not agree with the contention that because a person is enrolled on the Legislative Council roll he or she is any more responsible than a person who is not enrolled. If a person is responsible enough to assist in the selection of a Government he is responsible enough to serve on a jury. The Hon. Mrs. Cooper, when speaking in a tongue that I could understand, expressed the opinion that it would be more difficult to serve summonses on people called up for jury service if the names were taken from the House of Assembly roll. I do not agree with that, and the people who have the job of serving the summonses do not agree with it, because the House of Assembly roll is kept up to date more than is the Legislative Council roll.

It is compulsory for those enrolled on the House of Assembly roll to notify the Electoral Office of changes of address, but it is not compulsory to do so in relation to the Legislative Council roll. At present about 20 per cent of the people called up for jury service have changed their addresses or occupations since they were enrolled on the Legislative Council roll. This would not be the case if jurors were called up from the Assembly roll, because of the necessity to notify change of address. When the police are unable to locate a person called for service they consult the House of Assembly roll and the result is that less than 1 per cent of summonses are not served, whereas 20 per cent of those called have not changed their addresses or occupations on the Legislative Council roll. Further, because there are fewer enrolled on the Legislative Council roll some people are called

on to serve on juries more than once in three years, and this creates a hardship that would not happen if the Assembly roll were used, because of the larger numbers on that roll.

The Hon. L. R. Hart: That could happen.

The Hon. D. H. L. BANFIELD: It could happen, but it is not likely that they would be called up with the frequency that is the case now. Sir Arthur Rymill was worried about the possibility of too many young people serving on juries. However, the possibility of this happening is slim and, in any case, those who have the right to challenge a juror will overcome that difficulty. However, even if the young people do serve, who can say that they are not responsible? I suggest that anybody who thinks that should look at the number of young people holding responsible executive positions today. Young people are called upon to defend our country in time of war.

The Hon. L. R. Hart: They can serve on juries.

The Hon. D. H. L. BANFIELD: Yes, but only after they have defended their country have they the right to serve on a jury. They are accepted to serve their country long before they have the right to serve on a jury.

The Hon. Sir Arthur Rymill: That is not much of an argument.

The Hon. D. H. L. BANFIELD: I think it is. The honourable member is talking about a person not being responsible enough to serve on a jury. Surely, if a young person is responsible enough to defend the honourable member he is responsible enough to look after the honourable member if he gets into trouble.

The Hon. Sir Arthur Rymill: I do not think that is a very responsible argument.

The Hon. D. H. L. BANFIELD: It is a matter for the honourable member to decide; I am only saying that I think that if a man is responsible enough to help elect a Government he is also responsible enough to serve on a jury. The Government seems to be quite happy to allow the youth to be responsible for the protection of the country. Personally, I would trust a young person of today to carry out the responsibility of jury service as well as I would trust an older person in the community.

The Hon. Sir Arthur Rymill: It is only a question of the numbers who are serving, not the individuals.

The Hon. D. H. L. BANFIELD: That is fair enough, but if placed on a jury they can be challenged. If a younger person is not wanted he can be challenged.

The Hon. Sir Arthur Rymill: From experience, I would say that the numbers available for jury service would run out.

The Hon. D. H. L. BANFIELD: Perhaps the defendant could be asked who should serve on the jury, and he would go on challenging until he ran out of jurors. From the way honourable members in this Chamber speak so placidly and righteously it seems that they would not challenge a senior or junior member of a jury. The Hon. Mr. Rowe said that there had been little criticism of juries in South Australia compared with some other States. I know that juries here do a good job but that may not be entirely because of the jury selected; perhaps it can be put down to the possibility that judges do a better job of summing up in this State than do their counterparts in other States. It is only a possibility. I do know from practical experience that a jury thoroughly considers the summing up of a judge and, as members of the legal profession know, on a number of occasions a jury has returned to the court to ask the judge to explain further some of the points made in his summing up. I believe it is the responsibility of every adult person to serve on a jury, and I support that clause.

Before proceeding with the second major amendment allowing women to serve on a jury, I wish to take this opportunity of congratulating Miss Roma Mitchell, Q.C., on being the first woman to be appointed a judge of the South Australian Supreme Court. Miss Mitchell has had a distinguished career at the bar and was the first woman Q.C. in Australia when appointed in 1962. I also congratulate the Government on recognizing the value of having a woman on the bench. I think Miss Roma Mitchell will do an excellent job as a judge. I am pleased that the appointment coincides with the amendment in this Bill allowing women to serve on a jury. It is just 70 years since this State conferred on women the right to vote, or to be elected as members of either House of Parliament subject to the same qualifications and in the same manner as men. Nobody can say that this resulted in any deterioration in the type of person elected to Parliament. I believe that where rights for women exist all things improve.

The Hon. F. J. Potter: Women really demanded the right to vote.

The Hon. D. H. L. BANFIELD: If they had left it to men they would never have got that right. We speak of equality of the sexes,

but too often that is as far as it goes. It is not many years since it was said that women were not suitable to work in industry. What a fallacy that proved to be! Even today, in spite of the fact that women have proved themselves to be just as competent and capable as men in industry, we find that men continue to assess the value of women at a lower rate than for men. By the very judgments handed down by arbitration court judges women are made to feel inferior to men, when in fact in some instances they are far superior. Many things have been said about women having the right to cancel their liability to serve on a jury.

I have never known a woman to refuse to accept her responsibility or duty and I do not imagine that any woman would attempt to do so now without some good reason. It amazes me to hear it said that women should not be given the right to cancel a liability to serve, when for years, by the very nature of the Act, women were given to understand that they were not competent or capable to serve on a jury. Having shaken women's confidence in themselves for so long, we now say that they have not only the right to serve on a jury but that they should not have the right to escape from that service. I am confident that after a short period of having women serve on a jury there will not be many women seeking to cancel their right to serve. I believe that by the inclusion of women on a jury we will have a more balanced one than we have had in the past.

Another matter I wish to mention is clause 37, which repeals the Eighth Schedule of the Act. This schedule sets out the payment to be made to members of a jury, but as the Governor has power under section 77 of the Act to make a proclamation fixing the amount to be paid to jurors clause 37 is in order. I merely refer to this clause so that the attention of the Governor can be called to the fact that no alteration has been made to the payment of jurors since August, 1961.

The Hon. L. R. Hart: Do you agree that women should get the same payment as men?

The Hon. D. H. L. BANFIELD: I think they should get equal pay for equal work. I object to a statement made by the Hon. Mr. Kemp, who spoke about the untruth with which the Bill was introduced in the Assembly.

The Hon. R. C. DeGaris: But he was referring to one statement.

The Hon. D. H. L. BANFIELD: Perhaps he was, but he mentioned the untruth with which the Bill was introduced in another place, and I take exception to that. If honourable members look at the second reading they will see that everything was fair and above board. It was unparliamentary and ungentlemanly of the honourable member to refer to the way in which the Bill was introduced, especially when the person concerned is unable to be here to defend himself.

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

ADJOURNMENT.

At 5.17 p.m. the Council adjourned until Tuesday, September 28, at 2.15 p.m.