LEGISLATIVE COUNCIL

Tuesday, September 26, 1967

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

PARLIAMENTARY SALARIES

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

Leave granted.

The Hon. R. C. DeGARIS: In the second reading explanation of the Parliamentary Salaries and Allowances Act Amendment Bill in 1965 the Chief Secretary said:

Honourable members will be aware that when in the past any question of revision of Ministerial or members' salaries has arisen it has been found necessary to appoint *ad hoc* committees to determine from time to time whether increases in remuneration were justified or not. . . . Clause 5 is an important provision, since it lays down the general powers and functions of the tribunal, which are to make such determinations and submit to the Treasurer such recommendations as it is authorized to make . . . . Clause 6 provides for the Treasurer to call the tribunal together to commence an inquiry.

Page 4 of the Report and Recommendation of the Parliamentary Salaries Tribunal, 1966, states:

The intendment of the Act is that the tribunal is a permanent body, which may be called together at any time by the Treasurer, or may decide on its own motion to sit again at any time.

If one follows this through one can see the inference that the tribunal did not complete its work. The report continues:

We determine, as a temporary measure and in default of evidence upon which we could make any proper determination, that the electorate allowance shall continue as at present until this tribunal shall further order. It is our request to each member that he keep from July 1, 1966, to June 30, 1967, a summary of his expenses in terms of the schedule hereto. It is requested that forthwith after July 30, 1967, each member shall forward that summary to the Secretary of the tribunal and the tribunal will sit again in about August, 1967.

The *News* of September 21 states:

Mr. Justice Travers, chairman of the Parliamentary Salaries Tribunal which last year granted big pay increases to members of Parliament, has been told by the Premier, Mr. Dunstan, the Government does not want the tribunal to sit again until next May.

The report continues:

Today Mr. Justice Travers said: "Because we have been told we could not sit until May, members of Cabinet—whose allowances we adjusted—have had the benefits of a review while private members have had nothing."

In view of the facts that I have read out, it is obvious that the tribunal did not complete its findings. Can the Chief Secretary inform the Council why the Premier does not want the tribunal to complete the work it was originally intended to perform?

The Hon. A. J. SHARD: I shall be happy to refer the question to the Premier and obtain a reply.

DROUGHT ASSISTANCE

The Hon. H. K. KEMP: I seek leave to make a short statement prior to asking a question of the Minister of Local Government representing the Minister of Agriculture.

Leave granted.

The Hon. H. K. KEMP: Yesterday morning crops on the Murray Plains resown after rain a few weeks ago were again blown out. On an estimate made this morning in the area affected east of the Palmer Hills face to well beyond the Murray River, less than 5 per cent of the land under crop is unaffected, and big areas have reverted to drift. These farmers are now in desperate straits. In some instances their last resources went into reseeding after the rain some weeks ago and they have lost the lot. The district is devoid of feed, and those men who have spent heavily in maintaining a nucleus flock in the hope of the season improving now must sell at fractional values or let stock die. All these men have in good faith forwarded forms detailing their needs to the Drought Relief Committee set up by the Minister of Agriculture. They have had no direct reply whatsoever but merely the vague press statement of possible help being obtained from the Commonwealth Government and some money being available for borrowing at bank interest. Their need is immediate and very urgent indeed if at least some of them are to carry on at all. Will the Minister make a clear and definite statement on where these farmers must apply for aid; what help can be obtained and under what terms; and how long it will be before tangible help can be expected?

The Hon. S. C. BEVAN: I shall refer the honourable member's questions to my collegue and obtain a reply as soon as possible.

The Hon. C. R. STORY: Has the Chief Secretary a reply to the question I asked last week regarding drought relief?

The Hon. A. J. SHARD: No, but I shall see whether I can get it for the honourable member.

NOXIOUS WEEDS

The Hon. G. J. GILFILLAN: I seek leave to make a short statement prior to asking a question of the Minister of Transport.

Leave granted.

The Hon. G. J. GILFILLAN: In this drought year we are experiencing it has become obvious that the movement of stock to Western Australia has been of tremendous benefit to this State. From all informed sources, it appears that this demand for stock from South Australia will continue for some years to come, owing to the development in Western Australia. Because of the desire to prevent noxious weeds from South Australia entering Western Australia, very rigid regulations regarding inspections are in force in Western Australia. The main point of trucking sheep by rail in South Australia is the Commonwealth railway yards in Port Pirie. One of the widespread complaints both in South Australia and in Western Australia concerns the prevalence at certain periods of the year of noxious weeds in the vicinity of trucking yards used for loading these sheep, and with the introduction of the standard gauge line from Broken Hill to Port Pirie there will be more trucking points where these sheep can be loaded. In answer to various complaints in the past, inspections have been made, but as these weeds are only annual weeds the yards could well be clear at the time the inspection was made. Will the Minister take up this matter with both the South Australian Railways and the Commonwealth Railways and perhaps with the district councils in the areas concerned to see whether the trucking yards and the areas in their vicinity can be kept free of noxious weeds, as any infestation can involve an extra shearing in South Australia and another one at Parkeston in Western Australia, where the final inspection takes place?

The Hon. A. F. KNEEBONE: I will check this matter with the Railways Department and see what can be done.

PARLIAMENT HOUSE ACCOMMODATION

The Hon. Sir NORMAN JUDE: Has the Minister of Labour and Industry, representing the Minister of Works, a reply to my question of September 14 about accommodation in Parliament House?

The Hon. A. F. KNEEBONE: Yes. The Minister of Works has advised me that the question of accommodation at Parliament House was examined in February, 1966, by the then President of the Legislative Council (Hon. L. H. Densley) and Mr. Speaker, in conjunction with officers of the House, and by the Public Buildings Department. At that time the President felt "that, if the five House of Assembly members were to vacate the room occupied by them in the Legislative Council basement, this would provide sufficient additional space to enable members of the Legislative Council to be reasonably accommodated on the Legislative Council side of the building". This room has just recently been vacated by the House of Assembly members and it is understood that its use by the Legislative Council is now under consideration.

GAWLER LAND

The Hon. M. B. DAWKINS. I seek leave to make a short statement prior to asking a question of the Chief Secretary, representing the Minister of Housing.

Leave granted.

The Hon. M. B. DAWKINS: Some time ago the Housing Trust purchased a large block of land in the Gawler area and the district council area adjoining the town. I was given to understand that it would be commencing construction of many houses on that land in the present financial year. Will the Chief Secretary ascertain from his colleague whether this is still to be the case?

The Hon. A. J. SHARD: I shall refer the honourable member's question to the Minister of Housing and bring back a report as soon as possible.

HAIRDRESSING

The Hon. C. R. STORY: I ask leave to make a short statement with a view to asking a question of the Minister of Labour and Industry.

Leave granted.

The Hon. C. R. STORY: It has come to my notice that some young women are interested in taking courses in hairdressing. I understand they can do a course at several colleges in Victoria but that those courses would not be fully recognized in South Australia. We do not appear to have sufficient master hairdressers prepared to take on apprentices; consequently, there is in some parts of South Australia a dearth of female hairdressers. Will the Minister make a statement on this or check with his department whether those people trained in Victoria have complete reciprocal rights in South Australia, whether facilities are available in South Australia for training young apprentices and whether complete and sufficient facilities are available for all those young women desiring to be trained to get a diploma?

The Hon. A. F. KNEEBONE: The area covered by the honourable member's question

is considerable: it embraces the likelihood of employment, the availability of training facilities, a comparison of the training given in this State with that given in others and whether people from other States can operate here with the qualifications they have gained there. This is a lengthy question and, in order to give a considered reply, I shall obtain a report and inform the honourable member as soon as possible.

IRRIGATION

The Hon. C. R. STORY: Has the Minister of Labour and Industry obtained from the Minister of Works a reply to my question of September 19 concerning the suggested reconstitution of the committee to hear appeals by people who are still in doubt regarding water licences?

The Hon. A. F. KNEEBONE: My colleague reports:

Referring to the second question first, the committee interviewed on Thursday last the final applicant of those people with land holdings above Mannum who had in the past been given an assurance on the availability of water. The committee's recommendations are expected to be available within a few days.

As regards those people who have installed pumping plant and pipelines without previously obtaining an assurance as to a licence, no consideration can be given to this problem until a full survey of existing planting both above and below Mannum is finished and the actual commitments as regards water diversion are accurately known. A list of applicants and inquirers has been kept since March when the issue of new licences was suspended, and this list will be given due consideration on the basis of available water.

ASSESSMENT OF DAMAGES

The Hon. R. C. DeGARIS: Has the Chief Secretary obtained from the Attorney-General a reply to my question of September 14 regarding declaratory judgments?

The Hon. A. J. SHARD: My colleague reports:

A number of writs have been issued in matters where declaratory judgments will be sought. While no such judgments have as yet been given, the Master points out that any delay in the coming into force of the legislation caused hardship to the people for whose immediate and prospective benefit it was passed.

MANNUM STRIKE

The Hon. H. K. KEMP: I ask leave to make a short statement prior to asking a question of the Minister of Labour and Industry.

Leave granted.

The Hon. H. K. KEMP: A strike occurred this morning at the premises of David Shearer Limited at Mannum because four men who are not members of the appropriate union were employed there. It is believed that a very small number of men attended the stop-work meeting: that the great majority did not attend it. Will the Minister make a statement indicating that the Government supports the principle of arbitration and that the appropriate award must be observed?

The Hon. A. F. KNEEBONE: I do not know what it has to do with events on the Murray River, but the Government's policy on conciliation and arbitration in this State is well known. It would be foolish for anybody to say that the Government did not support the carrying out of awards. The Government carries out awards binding it, and its policy is to support conciliation and arbitration.

GUNS

The Hon. Sir NORMAN JUDE (on notice):

1. How may shotguns are registered in this State?

2. How many gun licences were issued in the following years:

(*a*) 1960;
(*b*) 1962;
(*c*) 1964;
(*d*) 1966;
(*e*) 1967 to date?

3. How many rifles are registered in this State, excluding .303 calibre rifles?

4. How many small-arms are registered in this State?

5. How many permits are issued annually for these small-arms?

The Hon. A. J. SHARD: The answers are:

1. This would necessitate a physical check of thousands of cards. From a quick examination of these cards, it would appear that there are more than 50,000 shotguns registered in this State, and more than 110,000 rifles.

2. The number of gun licences issued during these years was:

	Year	Number issued
(*a*)	1960	26,506
(*b*)	1962	19,432
(*c*)	1964	21,270
(*d*)	1966	23,476
(*e*)*	1967	16,629

*The figure for 1967 is for the months of January to June, inclusive. All returns from police stations for July and August have not yet been received.

3. *Vide* number 1.

4 and 5. If the honourable member is referring to pistols, the number of licences issued under the Pistol Licence Act this year is 7,610. Pistol licences have to be renewed on January 1 each year.

MILLICENT SEWERAGE SYSTEM

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Millicent Sewerage System.

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from September 21. Page 2102.)

The Hon. JESSIE COOPER (Central No. 2): I have much pleasure in supporting this Bill and I appreciate greatly that the Minister has made a valid effort to overcome certain criticisms concerning the running of psychiatric rehabilitation hostels brought to my notice some months ago and subsequently reported by me to Parliament.

This Bill will be received by many people as desirable legislation in South Australia. I can assure this Council of this, because I was surprised at the number of people who took the trouble to contact me by letter or by telephone, even visiting me at Parliament House, when the matter was previously under discussion. They were all people who had a personal interest in the subject with which we are dealing. The thickness of the file I have accumulated demonstrates just how many people were prepared to provide evidence of what they considered most unsatisfactory conditions in these hospitals.

Turning to the Bill, honourable members can see that it deals principally with providing suitable accommodation for persons who are on leave from mental health establishments but are still under the control of the Minister and of the Director of Health: that is, those who are patients within the meaning of the Mental Health Act. It is clear that where the State is responsible for the welfare of any of these citizens in all respects, as is the case with patients under the Mental Health Act, it is responsible also for providing good, modern, standard accommodation as well as proper conditions of comfort. If for any reason these patients should no longer be accommodated in the State-owned institutions, either because of overcrowding or, as is more common, because this type of leave is currently considered to be an aid in treatment and recovery, then clearly the State is responsible to see that the proper type of accommodation is still provided in this changed environment; otherwise, it seems to me that the hoped-for recovery will be delayed or may not even eventuate. The provisions in the Bill may be all that is necessary to ensure that the State's responsibility will be properly discharged in this matter and that the Minister and the Director of Mental Health will be given the powers necessary to see that the patients under the Act receive the proper conditions under which they are entitled to live.

The licensing of psychiatric rehabilitation hostels under a system of requirements and conditions provided for under new section 87 (3) should have an immediate effect in raising the standard of such hostels. I have no doubt that, over the next few years, an insistence on the proper conditions being observed will give South Australia a range of hostels of which we can all be properly proud. Subsection (3) gives the Minister and his Director of Mental Health the power to control the fields in which criticism has been received. They cover such items as the qualifications of staff, the number of staff, the type of standard accommodation, the standard of diet, and the question of their being open for inspection. Paragraph (*i*) of that subsection, which I consider most important, gives the Director power to issue directions in relation to the operation of these psychiatric hostels and the care of persons in them. If, as those who are experts in this specialized medical field assert, namely, that this type of accommodation away from the more austere establishments is really helpful to the patients, then hostels established under such conditions as envisaged in the Bill should be much more effective and advantageous to the patients than many of those that have existed in the past. So, I strongly support the Bill.

The Hon. C. M. HILL (Central No. 2): I welcome the action by the Government in introducing legislation of this kind and I commend the Hon. Mrs. Cooper for raising the whole question in this Council some little time ago. I consider that, as a result of her bringing this matter very strongly to the Government's notice, we have this measure before us a little sooner than we might otherwise have had it. As Mrs. Cooper has said, it is a measure in which the new system of trial leave is to be employed, so that those people who are under the control of the mental health authorities will be given the opportunity to rehabilitate themselves when they leave the particular institution in which they have received treatment and will be able to be accommodated in these new psychiatric rehabilitation hostels.

There are, however, some points in the Bill that worry me. The most important of these

relates to the control that local government has always exercised over establishments such as private hospitals, rest homes, maternity homes and institutions of that kind. In the Bill establishments are mentioned which, I think, can be compared with the institutions I have just referred to. Yet, as I read the measure, they do not come under the control of local government, for their licensing is left entirely in the hands and at the discretion of the Minister.

I consider that people who live in the suburbs ought to be given some opportunity to object to or, indeed, to approve of hostels of this kind if they are to be established in their near vicinity. They may not only be established in the metropolitan area, for I envisage that they will be established in the larger country towns. A traditional right has been written into the Local Government Act that residents know when the institutions, such as I have mentioned, are to be established in their vicinity, and I see no reason why they should not have the opportunity to express their opinions regarding these new hostels, particularly those in which a considerable number of people is to be accommodated.

In his explanation of the Bill the Minister said that the ideal place for these people when they leave hospital is in private homes with relatives, but due to various circumstances that is not always possible. I think the next best place for them to live is in other private homes. I do not think that this particular category, where perhaps one or two might reside in private homes but not with relatives, ought to come in the category of hostels.

Then we move to the entirely different category of persons who might have been conducting a rest home or an accommodation or boarding house and who might want to change their particular business operation and seek a licence for the property to become a psychiatric rehabilitation hostel. It is this category of large commercial undertakings in which I think that local government should have some say. I draw honourable members' attention to section 550 of the Local Government Act which deals with the provisions that apply when a person seeks the right to establish a private hospital or a rest home. It reads as follows:

(1) Notwithstanding anything contained in section 146 of the Health Act, 1935, no person shall establish a private hospital or maternity home (not being a "hospital" within the meaning of section 541 of this Act) at any place within a municipality until after the expiration of three months from his giving to the council of the municipality a notice in writing stating—

(*a*) the intention to establish the private hospital or home:

(*b*) the proposed site thereof:

(*c*) the purpose for which the private hospital or home is to be used:

(*d*) the name and address for service of the person intending to establish the private hospital or home.

(2) The notice shall be accompanied by a plan which shall show the distance of the said private hospital or home from the nearest building on every side thereof.

(3) The person intending to establish the private hospital or home shall, for six weeks immediately after giving the said notice, cause a copy of the notice to be affixed and kept affixed on a board or prominent position on the site of the said proposed private hospital or home in such a position that it can be read by persons passing along the footway in front of the proposed private hospital or home.

(4) Within six weeks after the receipt of the notice mentioned in subsection (1) hereof any owner or occupier of ratable property in the neighbourhood of the said proposed private hospital or home may present a petition to the council praying that the proposed hospital or home may be prohibited.

(5) Within three months after the receipt of the notice mentioned in subsection (1) the council may (whether a petition has been presented under subsection (4) or not) if it is of opinion that the proposed private hospital or home is unsuitable, or that its existence would be likely to be injurious or detrimental to the health, welfare, or comfort of the inhabitants in the neighbourhood of the proposed private hospital or home, by notice under the hand of the town clerk served on the person named in the notice under subsection (1), prohibit the establishment of the said private hospital or home. The notice by the council shall be deemed to be duly served if served on the said person personally or left at the address for service stated in the notice under subsection (1) hereof.

Then there is a further subsection dealing with penalties. I think the provisions that apply in that section should apply also regarding the hostels that are to be covered by the Bill before us.

It is not all one way when we consider the reasons for and against the matter, because it might well be that if hostels of this kind were established in certain suburbs and people did object to their establishment they might well shun the occupants of the hostels and treat them in such a way that it would not be conducive to the patients getting better in health and getting back to complete normality. On the other hand, if the residents nearby knew that a hostel was to be established in their vicinity and they did not object, I think the relationships of all concerned in the particular street or suburb would be far better.

It would seem to me that an application to the local government authority could be complementary to the application to the Minister that must be made under the Bill before us. In that manner, all the investigations that the Minister or the department would make, and the provisions that are included in the Bill as to the aspects that the department must look into before it grants a licence, would not be affected in any way at all. At the same time, as I have said, the people who live in the vicinity would also have the opportunity, through local government, to make their view known.

I repeat that I am not referring to the private homes which the Minister has mentioned and into which it is hoped many of these people will be taken: I am referring only to the commercial establishments that will be set up as hostels to take numbers of these people. I intend to include an amendment in this Bill to try to cover that situation.

I ask the Minister whether he could explain the position that would occur if a change as I have just suggested were not made and his granting of a licence to an establishment conflicted with the zoning by-laws of any local government authority or the zoning regulations that will shortly be implemented through the Planning and Development Act. It would seem that this ought to be made clear at this stage, because otherwise a person might be granted a licence to establish a hostel at a particular address and the zoning regulations or by-laws might prohibit that use of the property in that locality. I think the position concerning zoning ought to be looked into very carefully while we are considering the Bill.

The third point I have in mind deals with the penalty on people who, when they are not licensed, undertake to accommodate patients. New section 88 (1) states:

A person not being the holder of a licence granted under subsection (1) of section 87 of this Act shall not for or in the expectation of a fee or reward undertake or offer to undertake the accommodation of patients permitted under section 86 of this Act to reside in a psychiatric rehabilitation hostel. Penalty: Five hundred dollars.

As I read it, the problem could occur that a person who has been living in a hostel and who simply leaves it might apply elsewhere for board and lodging. He might well answer an advertisement of a person who wished to give this form of accommodation simply to supplement his income. Many families in the metropolitan area take in boarders simply to supplement their incomes. I should like to know whether there is to be an onus on people of that kind who simply interview a prospective boarder at their front door. Is the onus going to be on them to make some form of check whether or not a person is a patient in this category?

If a widow took in as a boarder a person who had been treated and had simply left one of these hostels she might well be subjecting herself to the possibility of a fine of $500, and that would be grossly unfair. I could well understand that registered boarding house proprietors might be given the responsibility to make such a check. However, for a private citizen to be placed in this predicament I think is very unfair indeed. I would think that the hostels themselves ought to keep a very close check on the names of the people who are in their care. The Health Department, too, ought to keep a very close record of where all these people enjoying trial leave are residing.

As I read new section 88 (1), it seems that if someone quite innocently accommodated or even offered to take in a person and to give him board or residence or accommodation and that person was on trial leave, the person so offering accommodation could well be in very serious trouble. This point should be made clear at this stage.

However, the legislation puts into effect a very worthy form of treatment and is another step in the considerable progress that has been made in recent times regarding the treatment of people who suffer in their mental health. I think that further consideration is necessary in respect of the points I have raised.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from September 21. Page 2110).

Clause 6—"Enactment of sections 47a to 47h of principal Act."

The Hon. R. C. DeGARIS: On behalf of the Hon. Mr. Potter, I move:

In subclause (2) after "unless" to insert "the court before which the person is charged is satisfied to".

This matter was debated last week. Legal opinions given were to the effect that these words would not make much difference to the clause. It will at least satisfy the view of the laymen in this Committee that there is no onus on the defendant to prove that he

has not consumed alcohol since the accident occurred.

The Hon. S. C. BEVAN (Minister of Roads): I am not altogether happy with this clause which, as the honourable member has just implied, has already been debated at some length. The onus is on the court: it must be satisfied to the contrary. That still stands. As the honourable member has caught me in a generous mood this afternoon, I do not oppose the amendment.

The Hon. Sir ARTHUR RYMILL: I am not altogether satisfied with this amendment because I am not certain it does not make the position worse instead of better. The Hon. Mr. Potter has satisfied me that, the presumption having shifted, the onus of proof would be discharged "on the balance of probabilities" and not "beyond reasonable doubt". The acceptance of this amendment would mean that the subclause would read "it shall be presumed, unless the court before which the person is charged is satisfied to the contrary"—but on what basis, "on the balance of probabilities" or "beyond reasonable doubt"? Does it make any difference at all? I always thought it would be better if we had done something more along the lines of what the Hon. Mr. DeGaris suggested the other day—"it shall be presumed, unless a reasonable doubt is proved, that there was present", etc. That would get us somewhere near the meaning that I would like to see the clause have.

Where the onus of proof has altered, the onus is on the defendant to disprove by whatever standard he may have at his disposal to disprove. If the matter is fifty-fifty, the doubt is no longer in favour of the defendant, which is a normal and fundamental principle of British law. If, instead of this, we inserted "it shall be presumed, unless a reasonable doubt is proved", etc., we would be getting the clause somewhere near what I would like it to be.

The Hon. V. G. Springett: What is the difference between "unless the contrary is proved" and "beyond a reasonable doubt"?

The Hon. Sir ARTHUR RYMILL: To prove the contrary, the evidence has to be of more than a 50 per cent standard. In other words, one has to prove that it is more likely than not that the circumstance one is trying to prove was true; whereas, if one has to prove that a reasonable doubt exists, if the court does not know whether to accept one version or the other, it will say, "A reasonable doubt exists". For a defendant "to prove the contrary", the court has to say, "Your version is better than the other; the defendant's version is better than the prosecutor's version"; whereas, if we use the wording "unless a reasonable doubt exists", and the court cannot make up its mind between the two versions (which is often the case) the defendant is given the benefit of the doubt, which I think he should have.

The Hon. R. C. DeGARIS: I appreciate the views put forward by the Hon. Sir Arthur Rymill and I think the words he mentioned were what I originally wanted inserted in this clause, although they were never moved. Then, after discussions with the legal people in this Chamber, it was thought that the amendment of the Hon. Mr. Potter on the file covered the position. The honourable member assured me that it meant exactly the same as the words "beyond a reasonable doubt". I am not an expert in law but the direction in which I want to go is that outlined by the Hon. Sir Arthur Rymill—that there is no direct onus on the defendant to prove the fact that there was present in his blood the prescribed concentration of alcohol at the time the alleged offence was committed. I want that onus of proof clearly removed from the legislation. Like Sir Arthur, I should like the opinions of other honourable members on this point.

The Hon. Sir ARTHUR RYMILL: Mr. Chairman, on a point of order, I wish to move that the words "to the contrary" be struck out and the words "or a reasonable doubt" be inserted in lieu thereof. Do I have to give notice now, does the present amendment have to be defeated, or what is the position?

The CHAIRMAN: The amendment moved by the Hon. Mr. DeGaris comes first. It will be for the Committee to decide whether it accepts it or not.

The Hon. Sir ARTHUR RYMILL: If the Hon. Mr. DeGaris's amendment is carried, will I be prevented from moving a further amendment, Sir?

The CHAIRMAN: No. The honourable member can move any amendment, following the Committee's vote.

The Hon. R. C. DeGARIS: I think it may be better if I withdraw my amendment and allow the Hon. Sir Arthur Rymill to move his amendment. This would suit my feeling and solve the problem.

The Hon. Sir ARTHUR RYMILL: My amendment needs consideration. Perhaps the Minister will report progress.

Progress reported; Committee to sit again.

Later:

The Hon. R. C. DeGARIS: I believe that the amendment of the Hon. Sir Arthur Rymill will cover my original intention. I ask leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. Sir ARTHUR RYMILL: I move:

In new section 47e (3) to strike out all words after "Penalty" and insert:

(i) for a first offence, not more than one hundred dollars and, in addition to that penalty, the court may by order disqualify the person convicted of the offence from holding and obtaining a driver's licence for a period not exceeding twelve months; or

(ii) for a second or subsequent offence, not more than two hundred and fifty dollars or not more than six months' imprisonment and, in addition to either penalty, the court may by order disqualify the person convicted of the offence from holding and obtaining a driver's licence for a period not exceeding two years.

This amendment should be very satisfactory. Whilst not destroying the motive of the clause in any way, it leaves the onus of proof more or less in accordance with what is normally the law. That is a satisfactory way of overcoming the difficulties I have mentioned, and I am confident it would not interfere with the intention of the clause but would make it fairer.

The Hon. S. C. BEVAN: I appreciate the Hon. Sir Arthur Rymill's intention, as expressed during the second reading debate. However, the amendment would make it comparatively easy for a person to "get out from under". This provision is to deal with the driver who disappears from the scene of an accident but who is apprehended later. It could be a hit-and-run accident, with the driver stopping, then realizing the position, and moving away from the scene. I do not think many people have sympathy for that type of person.

The Hon. R. C. DeGaris: Such a person would not be able to get out of a charge of not stopping after an accident.

The Hon. S. C. BEVAN: But perhaps such a driver should face the more serious charge of driving under the influence of alcoholic liquor, as he might have a level of alcohol far greater than that allowed under the Bill. The clause as drafted places the onus of proof on such a person to show that he was not in this condition, and it is upon the defendant that the onus should be placed. That is the position in other States and in certain oversea countries, where the legislation is not as liberal as this Bill provides. Sir Arthur Rymill's intention is to place the onus of proof on the prosecution, and I appreciate his objection as a matter of principle. The amendment provides that if any doubt exists the benefit is to be given to the defendant. However, because it would make it easier for a guilty person to escape prosecution in the circumstances I have mentioned, I oppose the amendment.

Amendment carried.

The Hon. Sir ARTHUR RYMILL: I move:

In new section 47e (3) to strike out all words after "Penalty" and insert:

(i) for a first offence, not more than one hundred dollars and, in addition to that penalty, the court may by order disqualify the person convicted of the offence from holding and obtaining a driver's licence for a period not exceeding twelve months; or

(ii) for a second or subsequent offence, not more than two hundred and fifty dollars or not more than six months' imprisonment and, in addition to either penalty, the court may by order disqualify the person convicted of the offence from holding and obtaining a driver's licence for a period not exceeding two years.

Legislation in Victoria, Western Australia and Tasmania differs in many respects. However, I believe that the proposed penalties in this State are considerably more severe than penalties for similar offences in other States. In Western Australia the alcoholic level in itself is not an offence, but it is an offence in Victoria and Tasmania. In Western Australia it is only *prima facie* evidence of a certain alcoholic condition relating to the capability of a driver.

I do not propose to interfere with penalties for subsequent offences, although they may be excessive. However, the court has considerable discretion and I am prepared to leave it that way, but for refusing a test I think the penalty is too severe. I do not mean that a person should be able to refuse a test, but the penalty for so refusing is the same for a first, second, or a third offence. For a first offence, however, the penalty is considerably more than if the person concerned took a test and was fined the maximum amount for having a level of alcohol heavily in excess of the prescribed level. It does not add up to my sense of justice that a person refusing a test could be fined two and a half times more than, and have his licence suspended for longer than, if he had taken the test and was found guilty.

Therefore, in my amendment I have not altered the penalty for second and subsequent offences, but I propose the same penalty for

a first offence as for a person apprehended and found guilty. Why, if the test is not taken, should a person be fined more than if he would be fined if he took a test and was found guilty?

It has been said that the penalty in Victoria is too light and that people consistently refuse to take the test. That may be so, because there the maximum penalty for a first or subsequent offence is only $40, with no licence suspension. I think the Victorian legislation is too considerate, and I do not put it to the Council as a criterion.

The Hon. C. R. Story: I think that is about to be altered.

The Hon. Sir ARTHUR RYMILL: I think so. In Western Australia the penalty is less than is envisaged in our legislation, and I think the same applies to Tasmania. This provision was taken from the Tasmanian Act but in that State imprisonment is not involved. I base my argument not on the Statutes of other States but on what I think is a fair thing. If the penalty for a first offence were not more than $100, that would be satisfactory. I do not think anyone could say it was inadequate. The second part of the amendment repeats the present penalty but relates it to the second and subsequent offences only. The words "or both" have been omitted: they do not appear elsewhere in the Bill. They may have been taken from some other Act, but I do not think they should be in this Bill.

The Hon. S. C. BEVAN: I move to amend the amendment as follows:

In paragraph (*i*) after "dollars" to insert "or three months' imprisonment".

Paragraph (*ii*) of the Hon. Sir Arthur Rymill's amendment is the same as the Bill provides at present, but I object to paragraph (*i*). The amendment reduces the penalty for a first offence to $100 and the period of disqualification to twelve months. The penalty in Western Australia for refusing to take a test is $40.

The Hon. Sir Arthur Rymill: That is Victoria.

The Hon. S. C. BEVAN: I stand to be corrected, but the information I have been given is that in Western Australia people pay the fine for refusing to take the test so that a conviction for a more serious offence cannot be recorded against them. It pays them to do that. This penalty was deliberately put in the Bill as a deterrent to the person who refuses to take the test. In Victoria the permitted alcohol level is only .05 per cent and a driver would be liable for a conviction much more easily there than in this State, but because of the continuing increase in accidents the Victorian Government has decided to strengthen its legislation. The easier it is made for a first offender to refuse to take a blood test the more likely he will be to refuse to take the test. Under the amendment, the fine and the period of disqualification are less than are necessary for such a serious offence. Paragraph (*i*) takes away the court's discretion to impose a gaol sentence for a first offence.

The Hon. Sir Arthur Rymill: If he is guilty of a first offence, there is no power under the Bill to order imprisonment.

The Hon. S. C. BEVAN: I agree.

The Hon. Sir Arthur Rymill: If he takes the test and is found guilty, he cannot be imprisoned for a first offence.

The Hon. S. C. BEVAN: When a person refuses point blank to submit to a breathalyser test, surely the court should have the right to impose imprisonment when it considers that penalty to be appropriate. I agree with the deletion of the words "or both", but I think the court should have a discretion to impose a prison sentence when it considers that appropriate.

The Hon. R. C. DeGaris: Does any other provision of the Road Traffic Act give the court power to order imprisonment for a first offence?

The Hon. S. C. BEVAN: Yes, the court is given discretionary powers regarding penalties for driving under the influence of liquor. I ask the Committee to accept my amendment.

The Hon. C. M. HILL: Can the Hon. Sir Arthur Rymill assure me that there is no need for the words "on any subsequent date" to be added in the second paragraph of his amendment? The offence we are dealing with concerns a refusal to take the test. Would it be possible for a person to be asked twice to take the test and to be charged twice within the two-hour period after the one accident?

The Hon. Sir ARTHUR RYMILL: The honourable member has raised a very good point. However, I think a second offence would have to be a refusal in relation to another incident. There could be a slight ambiguity, but I would think it was safe to pass the amendment in this form. If it were held to mean what the honourable member thought it might mean, I do not think the court would convict twice. If it did, it would undoubtedly convict on the second occasion without a penalty.

The Hon. S. C. Bevan's amendment negatived; the Hon. Sir Arthur Rymill's amendment carried.

The Hon. Sir ARTHUR RYMILL: I move:

In new section 47e to insert the following new subsection:

(5) In determining whether an offence is a first, second or subsequent offence for the purposes of subsection (3) of this section regard shall be paid only to such convictions of offences under that subsection as occurred within the period of five years immediately preceding the conviction of that offence.

This was suggested to me by the Parliamentary Draftsman as being probably an omission. It is a provision that applies to the offence itself, but that has been omitted in relation to this offence of refusing to take a test. I do not think there should be any objection to its being included.

The Hon. S. C. BEVAN: As it is in accordance with the principle of the Bill, I do not oppose it.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 11) and title passed.

Bill reported with amendments. Committee's report adopted.

CONTROL OF WATERS ACT

Adjourned debate on the resolution of the House of Assembly.

(For wording of resolution, see page 2041.)

(Continued from September 21. Page 2112.)

The Hon. C. R. STORY (Midland): As honourable members will remember, I asked the Minister to produce a map or plan of the areas affected by this resolution. I am grateful to him for providing such a plan; he must have spent many hours during the weekend getting it in order. The plan indicates that the main stream of the Murray, until it enters the lakes, is affected. It indicates that small portions of any of the waterways mentioned in the proclamation are affected.

I suggested earlier that honourable members should look at the Act to see how this resolution would affect people in the lower reaches of the Murray. At that time I ventured the statement that the effect would be startling for some of them. We have recently had tabled a report of an *ad hoc* committee set up by the Government, comprising representatives of the Lands Department, the Engineering and Water Supply Department and the Agriculture Department. I was interested to read the report and I shall give the Council some details of the committee's findings, because they are important. The committee states:

In view of the advice of the Director and Engineer-in-Chief that irrigation diversions at present should be limited to 360,000 acre feet per annum the following recommendations are submitted:

(1) On the information presently available the acreage under irrigation over the full length of the Murray River in South Australia should preferably not exceed 97,250 acres. This figure is based upon a water usage of 3.7 feet an acre per annum, which is the average quantity supplied in Government controlled areas, which are the only ones from which reliable water usage statistics are available. However, arrangements already entered into or implied may and almost certainly will cause the above acreage to be exceeded. This position must be taken into account when future usage and supplies are being considered.

The committee recommended that the Control of Waters Act be extended to cover the entire river in South Australia and that all diversions below Mannum should be fully known. This is currently being done, in order to ascertain the amount of water that is actually used from the lakes. This position is critical in that no diversions have been made in the Upper Murray since the edict of February 18. This has created a very difficult situation for many settlers in the Upper Murray, and many have consequently missed a whole planting season. Many nurserymen have been inconvenienced because people have not been able to take the trees they have had on order. Some growers have been hand-watering to establish their trees in anticipation of applying for licences this year but unfortunately when they applied at the normal time such licences were unavailable. This has caused problems not only to the irrigator but also to the whole economy of South Australia. The manufacturers of both polythene and solid pipes, who depend for their livelihood largely upon much irrigation work, have been inconvenienced. The installers of such piping have also been inconvenienced, and the sooner this matter is cleared up the better it will be for the State.

In case anybody suggests that I have introduced politics into the subject of Murray water, I stress that my comments today will be in reply to statements made, especially those designed to soften the blow and the responsibility on certain people. The spotlight, so to speak, has shifted from the villain of the play to the supporting cast in this great melodrama (and it is a great melodrama as it is turning out): the case of the missing dam;

written, produced, and directed, I believe, by that well-known dramatic actor, the Premier.

The Hon. A. F. Kneebone: Surely you are not blaming him for the delay of the dam, are you?

The Hon. C. R. STORY: I am blaming him for certain erroneous statements and certain opportunities he has taken to move about the country, particularly in the Upper Murray areas, to whip up fears in the minds of people that I do not think really exist; fears which, in the long run, will cause hurt to various people.

If we trace the history of the problem of the Control of Waters Act, we find that the position relating to the Chowilla dam had nothing to do with the reason why the brake was put on planting in the Upper Murray, because when the brake was put on no suggestion had been made that the dam would not go ahead as planned. That goes back to early February of this year. I have access to letters written by the Premier's Department in the middle of December inviting American interests to invest money and carry out plantings on the irrigation area. If necessary, that correspondence can be produced.

The position was clearly defined in a letter signed by the Premier and supported by the Minister of Agriculture, and the persons concerned were offered the assistance of the Agriculture Department together with any other good offices that could be provided by the Premier's Department. I am further fortified in this by reading a column written by a Mrs. Molly Byrne, who I understand is a member of Parliament for the District of Barossa. I notice that in this column a claim was made concerning the great assistance that had been given by the Premier's Department to certain organizations that had applied for assistance. One such organization was the firm of Tolley, Scott & Tolley Limited, brandy makers. This firm, in conjunction with a large Scottish firm, has acquired a 1,000 acres of land in the Waikerie area. The announcement was made by the then Premier that this was a $1,000,000 scheme and that the firm would receive every possible assistance. That was as recently as three or four weeks ago, and it was one of the matters that the Government claimed that it had assisted. The firm was given an assurance that it would be granted a water licence, and it was also told that it would be welcomed because it would be an exporter of brandy.

I read that assistance was also given an organization known as Narrung Fodders Proprietary Limited, of which I understand Sir Barton Pope is the chief director, and that Sir Barton had thanked the Government for assistance given. That happened recently. I do not blame people for thanking the Government for what is done for them, but what I do object to is that in December the Chowilla dam project was in full swing and everybody was geared up ready to go. We thought that was the turn of the tide but, just when this State was on the move, the brake was applied and everything came to a standstill. The Americans have been before the appeal committee to which I have referred but their position has still not been clarified.

The Hon. A. F. Kneebone: I take it the honourable member is supporting an open slather.

The Hon. C. R. STORY: No, but it was most fortuitous that when the Premier made his announcement about the 1,000 acres of land for Tolley Scott & Tolley Limited the President of the Upper Murray branch of the Wine Grapegrowers Association forwarded a complaint to the Minister of Agriculture that there should be a curtailment of plantings because there was likely to be over-production in the wine grape industry. Just prior to that announcement by this gentleman a Royal Commission (paid for by the State) was appointed to inquire into the production of wine grapes, and this Council took a prominent part by amending the terms of reference in order to cover sections of the wine industry. One of the fundamental conclusions that committee reached was that it would be futile to curtail plantings of grapes in this State and so force growers to go to New South Wales and Victoria where water is available and where there is no steadying down on the planting of grapevines.

We hold a principal part in the wine industry, and I wish to see that we continue to be the principal wine-producing State of the Commonwealth, but other States will continue to plant without restriction, as the Royal Commission found. The complaint of the Wine Grapegrowers' Association in regard to over-production is legitimate, because there had been over-production in South Australia.

Extensive use had been made of the sultana grape in the wine industry. The sultana is mainly a drying grape, but it had displaced some varieties of legitimate wine grapes. The Prices Commissioner was brought into this, as

both Houses of Parliament passed legislation to enable a minimum price to be fixed for grapes. In his wisdom the Prices Commissioner fixed the price of sultanas higher than the price of some other grapes that would do the same job. As a result, not nearly so many sultanas were taken in last year and we have not experienced the over-production visualized two or three years ago. That is one side of the story.

The other side of the story is that the war service land settlers in the Upper Murray found themselves in difficulties because of low prices in the citrus industry. Prices at that time were extremely low and completely unpayable. Another committee (the Citrus Inquiry Committee) was appointed by the then Minister of Lands, Mr. Quirke. Out of that committee was born the Citrus Organization Committee, set up by this Government after it assumed office. The Lands Department considered it had to do something about the non-payment of commitments by the soldier settlers, which had been brought about as a result of the low citrus prices. So, there was another pressure group that said that planting should be steadied down.

At the same time a chamber of commerce, well known in the Upper Murray, forwarded some information and asked that the Adelaide water supply be curtailed to enable more plantings to be made in the Upper Murray. This is the natural reaction of a chamber of commerce, because it has to make its business out of commerce, and such chambers do not like restrictions. As a consequence, the Government found itself faced with the Premier's Department inviting people to come and advertising that they were coming; another department complaining about over-production; still another department having people unable to meet their commitments through over-production; and another group of people saying that we should restrict the supply in Adelaide in order to allow more production to happen. The Government was in a difficult situation, which I appreciate, and I believe that in about January the matter was taken by the Minister out of the hands of the Engineer-in-Chief, who had always issued water licences.

No doubt the Government was in a predicament. I believe that the Government shelved its responsibilities from February until just before Easter, when its first moves were made and a suggestion was made that a committee of inquiry be set up. We waited patiently. *Hansard* is the best guide to how many questions have been asked on this subject, which is very important to the people. I refer again to the report that has produced similar findings to those of the Royal Commission: this is the report, which was tabled in this Chamber, of the committee set up by the Government. At page 2, the report states:

> It should not be implied that licences should be used to control types of planting and, in fact, the committee considers that diversion licences should not be used for this purpose.

It would take a tremendous amount of time to convince me and my friends in the Upper Murray that this was not a means of controlling plantings, because the Government (and this is what I complain about) is a great weaver. The Premier is the great weaver. Some are weavers of words, some are weavers of yarns, and some are weavers of both, but the Government has shifted the responsibility from the villain to the player.

Water licences had nothing to do with the Chowilla dam at that stage but they can now be woven together and great sympathy can come to the Government for what is being done at present. Why shift the responsibility from the Government on to the "dirty" Legislative Council, the Commonwealth Government, Mr. Beaney, or somebody else? These are things that happen in Government, but the responsibility is being shifted in a terribly scientific way. I have a sheaf of cuttings that goes back to the early history of the Chowilla dam. I shall not weary the Council by reading all of the cuttings but I invite honourable members, particularly members of the Government, to peruse them to see the contradictions that have been made in Ministerial statements and particularly in statements made by the Premier. We get banner headlines from time to time on the little run through the river districts that was supposed to be a goodwill mission by the Premier. I attended a civic reception at which the Premier was present. He could not resist making snide remarks and introducing politics, even at that social function. This was really the opening of his Party's campaign. The *Murray Pioneer* of September 21 quotes the Premier as saying:

> I want to assure you tonight that your Government will not be satisfied until South Australia is given guarantees that its water supply will be maintained at a level which was expected with the completion of Chowilla.

All honourable members will agree with that. This is what the Government has sought.

The Hon. A. F. Kneebone: Then what are you complaining about?

The Hon. C. R. STORY: I am showing how much nonsense is talked on this subject.

The report continues:

"Let me say," he said, "that so unconcerned is the Commonwealth regarding our dilemma that I have not to date received even so much as a satisfactory reply from Mr. Holt."

The Hon. A. F. Kneebone: That is true, too.

The Hon. C. R. STORY: That is not quite right.

The Hon. A. F. Kneebone: He has not received a satisfactory reply yet.

The Hon. C. R. STORY: The Premier will not receive a satisfactory reply.

The Hon. A. F. Kneebone: I don't doubt that.

The Hon. C. R. STORY: He will not, because he can never be satisfied. If he were told that two dams would be built he would say, "They are in the wrong place," or "They leak". One cannot satisfy him. He will weave and turn. The State has its Commissioner on the River Murray Commission and the Act, which has been in operation for many years, is very clear. The Commissioner is the servant of the Crown. Section 8 of the River Murray Waters Act, 1935, provides:

(1) The Governor may, under this Act, appoint a commissioner and a deputy commissioner, who shall respectively be paid such salaries as may be provided by Parliament.

(2) The commissioner and deputy commissioner holding office under the Acts repealed by this Act shall continue in office subject to this Act and all other relevant laws.

The Act clearly defines who has the responsibility, because section 6 (2) provides:

For the purposes of the said Act—

(*a*) the Minister shall be deemed to be the promoter of the undertaking where the particular works are, pursuant to the agreement, to be constructed, maintained, operated or controlled, as the case may be, by the Governor of the State or any other contracting Government or Governments; and

(*b*) this Act shall be deemed to be the special Act.

There is no doubt at all in my mind that it is the Government of the people which is the signatory and which has entered into the agreement under the Act. Surely our Commissioner must know when he goes to the commission meetings what is the policy of the Government. Did Mr. Beaney know when he went to that final fatal meeting what the policy of this Government was? It would appear not, because from my reading I find that he was advised, on telephoning the Premier, to use his good judgment in the matter. That appears in the official record of this Parliament.

We have our rights under the Act. First, the River Murray Commission must be unanimous before a project can proceed. Machinery is set up whereby the Chief Justice of Tasmania is appointed as the arbitrator. We talk now about getting our legal rights, and the Commonwealth Government is lambasted because it will not take action to call a Premiers' Conference, whereas in actual fact, at the instigation of our Premier (after a good deal of consultation, I do not doubt), our Commissioner agreed that this inquiry should go on.

I ask in all sincerity: what is the use of dragging to Canberra people who are in the middle of a session of Parliament when we have not got any information because we have put ourselves in the hands of an expert committee? It is not the River Murray Commission that is making this inquiry: it is consultants who have been called in to do this task. What are we making all the fuss about if we are not doing it to try to draw attention away from what the former Liberal Premier would have done in these circumstances? When Sir Thomas Playford was confronted with exactly the same position regarding the Snowy Mountains situation, when waters under the control of the River Murray Commission were being diverted, did he take a month or six weeks to consult with everybody? He got in touch with the responsible Minister at the top in Canberra, and when he could not get satisfaction he went to the court to try to obtain South Australia's legal rights and succeeded in getting agreement with the Commonwealth Government.

I thought that if we did not get satisfaction within a week or two we would be doing something about enforcing our legal rights. However, this is not the case. In an article appearing in the publication *Farmer and Grazier*, which is in every honourable member's box, the Premier answers a statement made by Mr. Fairbairn, the Commonwealth Minister. I do not let Mr. Fairbairn off the hook, either, because this procrastination does not cut any ice with me. I do not care on whose behalf it is being made. This project cannot wait for a year or 18 months; it is something that we must have, because there is more tied up in this than just the matter of the Chowilla dam. For instance, we are facing this year probably the lowest flow from the Murray River tributaries on record. We are faced with no rain on the horizon in the catchment areas, very little snow, our storages at about half capacity,

and salinity that is very much higher than ever before.

Prior to the Loan Council meeting and the Premiers' Conference I took a deputation to the Premier of this State. We asked the Premier for three things. First, we asked him whether he would take up the matter of extending the provisions of the River Murray Waters Agreement to cover the tributaries. I think that is a very fair thing, in view of the fact that other States are disposing of their effluent into the tributaries and it is finding its way into the main stream. Secondly, we asked him whether he would take up the matter of the Chowilla dam.

The Hon. A. F. Kneebone: You told me earlier that the Premier was completely wrong when he was tying up the Chowilla dam with this matter.

The Hon. C. R. STORY: I would say that I am allowed to couple up my remarks. I am merely saying that the Government has latched on to the situation that has arisen out of the Chowilla dam deferment to exonerate itself from suddenly putting the brake on water licences. This has been most fortuitous for the Premier. I say that this is a serious business. We have many people's livelihoods tied up with the question of whether we can get sufficient good water to carry us through this whole summer. I point out that the winter has only just ended. We have to go through a whole summer, and we have to get sufficient water in the catchments next year to get us through that period. I am not impressed when we say we are going to take legal action and then we find the following words, attributed to the Premier, in the *Farmer and Grazier*:

In the first place, I have made it clear that an immediate meeting was required for the purpose of assuring potential development in this State, and that we are going to get the water which we have previously been assured to this State under the River Murray Waters Agreement. This is not only a matter of a technical report on the Chowilla project. Secondly, at no stage have I said that legal action will start against the Commonwealth immediately. I have said that if we do not get Chowilla, then action will be taken.

In the report of Mr. Fairbairn's remarks earlier it is stated that it will be some time before the committee can bring down its report. In newspaper cuttings that I have there are references to taking immediate action to get our particular problem over. Then the same gentleman (the Premier) is quoted in the *Advertiser* of Monday, August 14, as follows:

"It is obvious that South Australia must have an assured flow of water in dry years," he said. "We will be quite all right for a time without the dam, but if it is not started within 10 years we should be in trouble later."

We are in trouble now, otherwise this matter would not be in front of us. We are certainly in trouble with the very serious salinity problem in the Murray.

The Hon. C. D. Rowe: He said we would be in trouble in 10 years.

The Hon. C. R. STORY: Yes.

The Hon. D. H. L. Banfield: Ten years from when?

The Hon. C. R. STORY: This report is dated August 14, so I take it he meant 10 years from then. I repeat that the Premier stated:

We will be quite all right for a time without the dam but, if it is not started within 10 years, we should be in trouble later.

It is today, not tomorrow, not in 10 years' time. It is with us now; if not, why are we dealing with this Control of Waters Act; why are we worrying about salinity?

The Hon. A. F. Kneebone: You told me earlier that the Chowilla dam had nothing to do with this Bill because the Bill was restricted to water licences. You are out of order talking about the Chowilla dam.

The Hon. C. R. STORY: I am not, because Chowilla is the very thing that will save or make possible the extension of this Act to include the lakes. If the Chowilla dam is not in operation, we may as well kiss them goodbye now because water that leaves the Hume reservoir at a salinity of seven parts in a million reaches Murray Bridge at 800 parts in a million and goes on down into the lakes; with that great salinity, surely this is a problem worthy of real consideration. It is a problem not for tomorrow but for today. I ask the Premier to get on with the job of securing our legal rights—if he has any legal rights after the action he took in allowing his representative on the River Murray Commission to take the action he did in agreeing to a deferment of the Chowilla dam project.

The Hon. Sir Arthur Rymill: How many grains to the gallon is 800 parts to the million?

The Hon. C. R. STORY: You have to divide by 15.

The Hon. Sir Arthur Rymill: Is it about fifty-five grains a gallon?

The Hon. C. R. STORY: Yes, so this is important. I could keep the Council (and particularly the Government) entertained for some time with references to newspaper cuttings I have here, because I have studied this matter. The plain facts of life are these, that

we have 1,250,000 acre feet of water crossing the border into South Australia, as our quota. From that we have to deduct our evaporation losses and maintain sufficient water to keep the river sweet, which reduces it to a net figure of about 700,000 acre feet of water per annum. We have reached the stage where there is an unknown figure. What I criticize the Government for more than anything else is that it has stopped the water licences without having the true facts.

One reason given for the deferment of the Chowilla dam project is that a computer survey has indicated that more water may be coming into the Murray River than was originally thought, and that we may be able to get away with a smaller dam than that originally envisaged. We have had some experience of computers in other directions. We have seen how good they are: it only goes to prove that according to what we feed into them we get the right reply. The quickness of the hand deceives the eye. Computers are all very well, but it is now stated that we may be wrong in our assessment of how much water we are actually getting. On the figures I have just quoted we have 700,000 acre feet of water available to us in a year of minimum flow. However, it is not only the amount of water available to us but also the speed at which it moves down river that matters. That is most important. At times this year we have been forced down to 500 cusecs, which means that one could throw a bottle into the river and one would have to set up a stick to decide whether it went upstream or downstream. The position is not improving.

We need an average flow of 47,000 acre feet of water a month to keep the river sweet. At the moment we are using water consistently for about five to six months of the year; for the remaining part of the year the water runs through the lakes into the sea. We need a dam that will trap the water in the periods when we are not using it, when we get nice little freshets or even major floods down the river, so that we can really control the water within our State for swilling the river and giving the people near the lakes a decent supply of water and freshening it, which is most important. Any procrastination either by the State Government or by the Commonwealth Government I shall not countenance. The Government of South Australia has elected to abide by the decision of the River Murray Commission to defer the project. An eminent Queen's Counsel is advising the Government on this matter.

The Hon. C. D. Rowe: He was wrong in his advice on Eyre Peninsula road transport charges exemptions before the last election.

The Hon. C. R. STORY: Probably; he was not a very good consultant on that, either. However, I should like to hear him explain (and this has not been explained so far) just what legal action we can take. I have read that the Premier has stated that a good fighter never telegraphs his punches. That is so. Of course, I am afraid that this may not prove to be a good fight because I am a little apprehensive that, after the deal he did with Victoria about bending the offshore boundary for oil, he is more prone to compromise than to fight. Had Sir Thomas Playford been dealing with this matter, he and Sir Henry Bolte, a pair of good horse-traders, would have got a *quid pro quo* out of this, and we would have got more for the Chowilla dam project than we have got. We have been at variance with Victoria on a number of occasions, but all this barnstorming around the country in the name of getting South Australia a good deal is nothing but a piece of window-dressing for the forthcoming elections. Of course, it could blow up before the elections, because one other problem is that we have shifted from Chowilla all our work force and pipes. We are spending the money that was allowed for Chowilla in the Loan Estimates on other projects now.

The Hon. R. C. DeGaris: It went to Sedan.

The Hon. C. R. STORY: Yes, and now to Keith. The Government has not proceeded with a water supply for Keith since the last election until now. This move has got the Government off the hook nicely; $2,500,000 will be spent in other directions. If a decision is reached to proceed with Chowilla where will we get our portion of the money from? It will not come from the Budget, as it will have been spent. We have shifted men and materials and spent the money. We need the control of water in the areas mentioned. I shall be supporting the resolution in the long run. I take full advantage of this opportunity to speak. What I have said I must stand by, because it is recorded in *Hansard*. What is put in a newspaper is always subject to that poor unfortunate person, the reporter, who is blamed for mistakes if things do not go right. My remarks are on record in *Hansard*, and I have to live with them. I have done homework on this subject, and, if the Minister wants more material, I have plenty of it.

The report to which I have referred, which applies to the Upper Murray, will apply equally to the Lower Murray when this resolution

comes into operation. I have heard some bitter complaints from people who have entered into firm contracts and committed themselves ahead, but apparently they are not being considered at present. One group of people has been told that it will be considered; these people directly approached the department and the Minister. They are the big producers, the people with 500 to 1,000 acres.

It was never suggested until January of this year that there would be a complete cessation of water licences. The small people, instead of applying for an overall water licence initially for their holdings of, say, 50 acres, have applied for water licences only as they have required them. Many of these people have put in pumps sufficiently big to cope with 50 acres, and they have probably planted 20 acres to date under sprinkler irrigation and perhaps an extra five acres are being hand watered whilst waiting for sufficient money to be made available through Commonwealth Bank loans. But now they cannot get a licence to go ahead, even with those five acres.

The people seeking special consideration are those whom the Government cannot refuse, because the Premier's Department has announced that they have received assistance. This is quite true, and these 18 or 19 people have been before the special committee. I have been recently seeking, through questions, that the small people shall receive the same consideration, so that they can appear before an appeals committee and prove that they entered into financial commitments. The people in the lower reaches of the Murray may be in the same boat; there are both large and small operators.

I recently referred to the problem of their rights when their land was inundated by the barrage works coming into operation. If the landholder has the title deed to the land, he still pays rates and taxes and land tax. I interpret the resolution to mean that the land does not belong to the landholder but forms part of the main stream. Although these people have been dispossessed of some land because water is on their properties, they will have to apply for water licences. Some Crown leaseholders may have been exempted from some obligations. I should like the Minister to give a far more comprehensive explanation of the effect of this resolution on freeholders and also on Crown leaseholders. I think the position in respect of the Crown leaseholders is quite clear: under the Act they are immediately ensnared.

The Hon. Sir Norman Jude: What if they have been freeholded?

The Hon. C. R. STORY: The position appears to be different there. I think other honourable members who represent this district will be consulted by landholders, who will get down to specific matters. If there is any doubt whether these people are properly protected, I suggest that, in the interests of the landholders and of the State, these matters be thoroughly investigated. I believe that this was a matter for a Select Committee in another place, but apparently the other place did not think so, and it is entitled to its opinion.

There is nothing worse than for a landholder to be deprived of the use of water, and this could happen, and quite suddenly, too, to some people. If there is any doubt—and I think there is some doubt—and if I receive this Council's support, I might move that a Select Committee inquire into this matter. I do not wish to delay this matter for one moment more than necessary. My purpose would be to give the Government and the landholders an opportunity to understand this matter fully, because I do not believe the Government knows the full ramifications of this resolution in respect of the people in the area.

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

LICENSING BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1 to 20, 22 to 26, 28 to 45, 48 to 52, 55 to 57, 59 to 70, and 72 to 90; that it had agreed to amendments Nos. 21 and 58 with amendments; that it had disagreed to amendment No. 27 and had amended it; and that it had disagreed to amendments Nos. 46 and 47, 53, 54 and 71.

Consideration in Committee.

Schedule of the amendments made by the House of Assembly to the amendments of the Legislative Council.

Legislative Council's amendment No. 21, page 15, line 23 (clause 22)—Leave out "three years" and insert "one year".

House of Assembly's amendment thereto: leave out the words "one year" and insert "two years".

Legislative Council's amendment No. 58, page 48, lines 1 to 21 (clause 66)—Leave out subclause (1) and insert new subclauses as follows:

> "(1) Any club that was in existence at the date of the commencement of this Act, whether licensed under this Act or not, may, upon application to the court accompanied by the fee prescribed by the rules of court being not less than five

dollars and not more than fifty dollars be granted a permit for the keeping sale and supply of liquor for consumption only by the members of the club or by a visitor in the presence and at the expense of a member on such portion of the club premises as is specified by the court on such days (including Sundays) and during such periods as the court deems proper.

(1a) A permit shall not be granted under subsection (1) of this section unless, in the opinion of the court—

(*a*) there are adequate restrictions upon admission to membership of the club;
and

(*b*) there is adequate reason for the grant of the permit.

(1b) It shall be a condition of a permit granted under subsection (1) of this section, except a permit granted to a club licensed under this Act, that the liquor kept, sold or supplied in pursuance of the permit, shall be purchased—

(*a*) from the holder of a full publican's licence or a retail storekeeper's licence;
or

(*b*) if it is impracticable for the provisions of paragraph (*a*) of this subsection to be complied with, from the holder of a licence under this Act nominated by the court;
or

(*c*) in the case of a club that is a sub-branch of the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia (South Australian Branch) Club, from that club, if the court is satisfied that the sub-branch has, prior to the first day of August, 1967, obtained the liquor purchased by it for its purposes or a substantial part thereof from that club.

(1c) In the case of a permit under this section that authorizes the sale and supply of liquor on a Sunday the club shall not advertise in the press, by handbills or by radio or television, that it has a permit authorizing it to sell or supply liquor on a Sunday or that entertainment is provided on the premises of the club on a Sunday."

House of Assembly's amendment thereto:

(*a*) Leave out "a visitor in the presence and at the expense of a member" in subclause (1). Insert "visitors under and in accordance with subsection (1a1) of this section".

(*b*) After subclause (1a) insert the following subclause:

"(1a1) A permit under this section shall be granted upon condition that liquor shall not be supplied to a visitor except in the presence and at the expense of a member and that a member shall not introduce more than one visitor to the club on any one day during the period within which liquor may be supplied under the permit."

(*c*) Insert after "storekeeper's licence" in paragraph (*a*) of subclause (1b) "licensed in respect of premises in the vicinity of the club premises".

(*d*) Insert after paragraph (*a*) of subclause (1b) a new paragraph as follows:—

"or

(*a*1) from the holder of a full publican's licence or a retail storekeeper's licence, if the club has purchased supplies of liquor from that person prior to the first day of August, 1967;".

(*e*) After paragraph (*a*) in paragraph (*b*) of subclause (1b) insert "or (*a*1)" and after "complied with", the passage "or if the limitation of the permit pursuant to paragraphs (*a*) and (*a*1) of this subsection would prevent a reasonable choice of licensee from whom to make purchases."

Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed.

No. 46. Page 31, line 5 (clause 47)—After "hospital" insert "recognized youth centre".

No. 47. Page 31, line 8 (clause 47)—After "hospital" insert "centre".

No. 53. Page 39, line 13 (clause 56)—After "hospital" insert "recognized youth centre".

No. 54. Page 39, line 16 (clause 56)—After "hospital" insert "centre".

No. 71. Page 58, line 34 (clause 87)—Leave out "a member" and insert "to full membership".

Schedule of the amendment of the Legislative Council to which the House of Assembly has disagreed, and of the amendment made by the House of Assembly to the Bill in the words reinstated by such disagreement.

Legislative Council's amendment No. 27. Page 19, lines 17 and 18 (clause 27)—After "licence" leave out "in respect of premises in the vicinity of the club premises".

House of Assembly's amendment to clause 27: At the end of the words reinstated by disagreement, add the words "or whose trade in pursuance of the licence could be adversely affected by the granting of the licence."

The Hon. A. J. SHARD (Chief Secretary): I move:

That the House of Assembly's amendment to amendment No. 21 be agreed to.

The House of Assembly has been prepared to compromise on this matter. The purpose of the clause is to hold the *status quo* for a time while conditions under the new Act become settled. If there is no restraint on the issue of retail storekeepers' licences, then supermarkets and all kinds of retailers will be able to obtain these licences. This will cause havoc in the present liquor industry, unless adequate time is given for it to adjust to the new conditions. For example, many publicans have recently spent large sums of money on drive-in bottle departments. If retail stores are to be

licensed, then this kind of facility could very quickly become a "white elephant". There must be an adequate period during which this kind of expenditure can be absorbed.

The Hon. C. R. STORY: We have been dealing with a series of Bills that have been under discussion over a period and I am not sure to which Bill the Chief Secretary is moving this amendment. Is it Bill No. 15b or 15a?

The CHAIRMAN: It is Bill No. 15.

The Hon. C. R. STORY: I am a little bewildered at the moment because there are four Bills before the Committee and I should be grateful if the Chief Secretary were to give honourable members an opportunity to study the amendments and fit them into the respective Bills.

The Hon. A. J. SHARD: I think the House of Assembly's amendment to amendment No. 21 is a simple one and could be dealt with forthwith. It is a compromise. The period was originally three years, but the Council made it one year. The amendment stipulates two years.

The Hon. R. C. DeGARIS: The amendments before us are rather complex when there are four Bills to study. However, amendment No. 21 is a reasonably simple one. It concerns the retail storekeeper's licence, which could not be applied for until three years had elapsed. The Council considered that one year was sufficient but in another place it has been altered to two years. I still consider that one year is sufficient but I am prepared to accept the compromise that it be two years.

Motion carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 5.50 to 7.45 p.m.*]

The Hon A. J. SHARD: I move:

That the amendments made by the House of Assembly to the Legislative Council's amendment No. 58 be agreed to.

The amendment made to this clause left the door wide open to Sunday trading by clubs. It clearly gave a club an unfair advantage in trade over other licensed persons in Sunday trading. Of course, a club does already have an advantage over a publican in that liquor can be sold to a member of the club on a Sunday. The amendment to the amendment by the House of Assembly restores a proper proportion to Sunday trading by clubs. On the one hand it concedes something to honourable members of this Council who did not want to see a club excluded completely from supplying visitors on Sunday. On the other hand, it prevents wholesale supply of liquor to non-members on a Sunday. The amendment to the amendment prevents a member of the club from supplying liquor to more than one visitor. It achieves this in the only way that this can be effectively policed, that is, by preventing a member from introducing more than one visitor during the period within which liqour may be supplied under the permit.

The second thing that the amendment to the amendment achieves is that it restores the reference "in the vicinity of the club premises" to the clause which requires a club to purchase its liquor from a publican or a retail storekeeper. This is absolutely necessary if the legislation is to function effectively. If a club is not restrained from "shopping around" for the liquor that it requires, then the objections of local publicans to the grant of licences and permits will be insurmountable. The House of Assembly's amendment does, however, make an important concession. Where a club under section 66 does not have a reasonable choice of licensee from whom to purchase liquor, the court may enlarge its choice by nominating further sources of supply.

The Hon. G. J. GILFILLAN: Two different subjects are involved in the amendments that we have before us. The first one concerns the consumption of liquor by visitors in a club. The intention of the amendments inserted in another place is quite plain. However, I query the wording in suggested new subclause (1a1), which states:

A permit under this section shall be granted upon condition that liquor shall not be supplied to a visitor except in the presence and at the expense of a member and that a member shall not introduce more than one visitor to the club on any one day during the period in which liquor may be supplied under the permit.

I appreciate that the intention is to confine the number of people a member may entertain with liquor at the bar, but this amendment specifically says that a member shall not introduce more than one visitor to a club on any one day. On checking through the clause to which this amendment applies I still cannot get any other meaning than that this restricts not only the number of visitors who may drink at a club but also the number of visitors who can be introduced into a club.

Regarding the other amendments, I still have some doubts about the desirability of including the words "in the vicinity". I am also surprised to find that these amendments, applying to clause 66 which refers to permitted clubs, appear to be more generous than those included in clause 27 dealing with conditionally licensed clubs. I believe that the House of Assembly

has to some extent met some of the objections raised in this Chamber. However, I still do not like this matter of forcing the clubs into what could be a form of restrictive trading in the purchase of liquor by retail.

Furthermore, clause 187 as it passed this Chamber was designed to help to protect hotel keepers from price cutting. One of the reasons given for this was that the words "in the vicinity" had been excluded. It was thought that the hotel keeper should have some protection against price cutting. Therefore, I think that if the words "in the vicinity" are put back in these clauses, even perhaps on a more liberal scale than originally, there should be some obligation also written into it that if the clubs are forced to buy from a particular hotel that hotel in turn should be forced to give a discount.

In clause 187 that discount is left to the discretion of the hotel, whereas when the choice of trading is with a club it does perhaps have some bargaining power in asking for a 10 per cent discount. I consider that where it is forced to trade with a particular hotel that hotel in turn should be under an obligation to give the discount. With those remarks, I record my disagreement with the clauses as they now stand.

The Hon. R. C. DeGARIS: The amendment before us deals with two matters. The first concerns the right of a member of a permitted club to entertain a visitor at that club. That topic was canvassed at length throughout the debate on this matter. Many amendments moved in this place concerning class A, B and C licences were directed primarily to this end —that a permitted club would have the same rights as regards visitors as would a licensed club. The Chief Secretary has given some views on the matter and suggested that the permitted club would have the same rights as the licensed club. The Hon. Mr. Gilfillan's amendment to clause 66 was along those lines, to put into the legislation exactly what the Government proposed. In the first place, his amendment mentioned a visitor, and I understood it to mean exactly what this redraft means, that a member of a permitted club would be allowed to entertain a visitor at the club. I am happy to accept what I feel is a redraft of the amendment moved in this Chamber.

The second point of the amendment is reinstating in the Bill the provision that a permitted club must purchase its liquor supplies from a licensee in the vicinity of the club premises, but with two added provisos: (1) that, if a club has purchased liquor from a certain licensee prior to August 1 of this year, it shall have the right to deal with that licensee; and (2) that a guarantee is given that a permitted club will have a choice of licensee. I entirely agree with what the Hon. Mr. Gilfillan says about the redraft of clause 187. We have in this Bill minimum prices with a set discount from a licensee to the clubs, but there is little justification for insisting that a club purchase from a certain licensee or a licensee within the vicinity. The amendment from another place widens those categories. I can see difficulties on the horizon with this legislation. Many clubs will object to being forced to buy from a licensee within the vicinity although in 99 cases out of 100 they probably would do so, anyway. However, if clubs are to be told that they must deal with a licensee in the vicinity, there will be a certain reaction. It would have been better in the long run to allow those clubs the right of choice rather than instruct them from whom they should purchase their supplies. Difficulties will be created, particularly when there is a change of licensee and a different approach is involved. However, I do not intend to object to the amendments from another place. They go a long way towards solving the problems that this Committee tried to solve by its amendments. Therefore, I am prepared to support the amendments of another place.

The Hon. C. R. STORY: The Hon. Mr. Gilfillan has raised a point on which we need some assurance from the Chief Secretary. Clause 187 was considered fully by this Committee, which reached a compromise not easy to achieve in the early stages. I draw the Chief Secretary's attention to new section 22f (7) and (8), and then to subsection (3) of this new section. As it was the Legislative Council that inserted these provisions in the Bill, we want an assurance that this discount is actually an obligation, that it will be paid and that a person will not be able to escape his responsibility by the words "Any association so approved may . . . ". We must clear up this matter because, if we do not, it will mean that we have passed clause 187, which was objectionable to some honourable members in its original form. Then we reached a compromise and this clause has now been "sold" to this place and another place.

The Hon. G. J. GILFILLAN: Perhaps I did not make my point clear on clause 187. New section 22f (8) states, "Any association so approved may, with the consent of the Minister . . . fix the rate or rates at

which discounts" may be granted. Subsection (3) makes it clear that the hotel from which a club buys is not compelled to give that discount. The fact that the words "in the vicinity" have been reinserted suggests that something more direct in the way of an instruction is required for hotels that have a monopoly.

The Hon. C. M. HILL: I also express my concern that the other place has reinserted both these words and also the principle that there is a need for a club under permit to buy from a hotel "in the vicinity". This still seems to me to be a very unsatisfactory condition, which this Committee should remove from the Bill, despite the fact that it has been reinserted by another place. Apart from the aspect of discount and trading terms, what is the position if the publican in the vicinity of the club simply does not give the service that the club expects from him? It seems that the club is tied to that publican.

I cannot understand how this principle measures up to the generally accepted trading practice whereby there is some freedom of choice of the party from whom supplies are purchased. This is a restrictive trade practice, and nothing else. The clubs are to be told that there is a publican in the vicinity and that they must purchase from him.

I cannot understand why the other place did not give the permit holders (the clubs that do not intend becoming licensed) the right to choose the publicans from whom they purchase their supplies. This would not cut across the principle that clubs must deal with publicans under the permit system. They could not go directly to the brewery; the publicans would still get the trade.

A particular publican might sell his business to someone who had no connection with the club, whereas a short distance down the street there might be a publican who was a club member and who would not be able to trade with the club, simply because he was not "in the vicinity".

The Hon. G. J. Gilfillan: It could be a country R.S.L. club.

The Hon. C. M. HILL: Yes. However, I point out that it could not be a country R.S.L. club that had bought supplies from headquarters before August 1. If it had not bought supplies from headquarters prior to that date the situation might occur where one of its members, highly respected and with a long record of good service, would not be permitted to supply liquor under permit to the club, simply because the other place had reinserted these words in the Bill. I strongly object to this reinsertion and I submit that by far the better approach was that adopted by this Committee previously.

The Hon. A. J. SHARD: There is nothing in the provision to say that the hotel keeper is obliged to give the discount. I am informed that the competition will be such that the discount will be generally applied. Secondly, I am informed that the association that controls these things will insist on the regular rebate to clubs.

The Hon. H. K. Kemp: What about country towns?

The Hon. A. J. SHARD: If the publican in a country town does not want the trade, the club will have the right to go somewhere else if it wishes to do so. Surely we must be reasonable and consider the greatest good for the greatest number; the other place has gone a long way along the road to meet us. The position regarding visitors is not difficult. A limit is put on the total number of visitors in that it is not to exceed the membership of the club.

Regarding the phrase "in the vicinity", the other place has made the provision better by means of the proviso, and this Committee would be wise to accept it. This is a very big Bill with wide ramifications and if we stayed here for another 12 months we would not get it word perfect. Irrespective of what happens next year, this Bill will be amended after 12 months' operation and I ask the Committee to accept my motion.

The Hon. R. C. DeGARIS: We are dealing with an amendment to clause 66; as has been mentioned by other honourable members, this is tied in with clause 187. There were difficulties when this clause originally came to this Council. There were several conferences between many people during the redrafting of clause 187 in order to make it satisfactory to all concerned. We accepted the Royal Commissioner's view that it was not in the best interests of the community or the industry that there should be price cutting in the liquor trade. In redrafting clause 187 I freely admit that we had very cordial discussions with representatives of the Liquor Industry Council. In those discussions a guarantee was given that if the association were approved by the Minister (it is done only with the consent of the Minister), a discount would be guaranteed to any club purchasing from a licensee. I think we must accept that as being a reasonable guarantee.

A point that worries me is liquor prices in some country areas. This clause allows for a movement to be made towards equality of prices in country areas. I hope that this will be honoured and that, through the amendments made to clause 187, we can look forward to some reduction in prices in some country areas where the differential is too high. The words "in the vicinity" in clause 187 have come under discussion. I accept the Chief Secretary's motion, but I am not altogether happy with the restriction placed on clubs. In 12 months certain amendments will have to be made to this legislation as a result of pressure from clubs on this matter.

The Hon. C. R. STORY: I support the motion. I was involved in the negotiations on clause 187, and if these provisions do not work out the Council will again consider this matter when it has the opportunity. I have no doubt that the agreement will be honoured, although I am glad that the matter has been placed on record. The introduction of visitors to clubs was well hammered out in this Chamber recently and I think another place has gone a long way toward meeting our wishes. Regarding the amendment to clause 27 (3) (*b*), the added words are difficult to understand but I suppose they have some legal significance as they have been put in by the architects of the Bill, whom we are told are the people on whom we should rely. I understand that this gives the clause a slightly wider application than existed after this Chamber had amended it. I accept this amendment in its present form.

Motion carried.

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

That amendment No. 27 be not insisted on. It is essential that the House of Assembly's amendment be agreed to if the clause is to work effectively. The Bill as it came to the Council acknowledged the fact that there will be objections to the grant of licences by local publicans. It sought to overcome these objections by providing that the court could compel the club to purchase its liquor from a publican in the vicinity of the club premises. The Council, by striking out these words "in the vicinity", opened the whole matter again and made the objections that will be raised to club licences insurmountable. The House of Assembly has not taken a negative attitude on this question and, while it has restored the words "in the vicinity of the club premises", it has added a reference permitting the club to purchase liquor from a publican whose business could otherwise be impaired by the grant of the club licence. The clause is a little wider than it was when it came to this Chamber.

The Hon. R. C. DeGARIS: Although I am not particularly happy with the amendment made by another place, I am prepared to accept it. As I understand it, in the first place a licensee may be required to purchase all liquor for the club from a person holding a full publican's licence in the vicinity or whose trade in the pursuance of a licence could be affected by the granting of a licence. I take it this could be those from whom the club had previously dealt. This enlarges the category slightly from "in the vicinity". This will have some ramifications in relation to the future outlook of a club. The many people associated with clubs to whom I have spoken object to being told that they must purchase their supplies from within a certain vicinity.

The Hon. G. J. GILFILLAN: I should like the Chief Secretary to say why this amendment is phrased differently from clause 66, which deals with permit clubs. This subclause deals with conditional licences and it appears to me that the conditions imposed by this amendment are more restrictive than those in clause 66. When I see such words as are contained in the amendment before us, I think the Bill should be titled the "Liquor Trades Protection Bill".

The Hon. A. J. SHARD: The Parliamentary Draftsman informs me that this clause refers to a full publican's licence only. The amendment is only a different form of drafting.

The Hon. C. M. HILL: I object to the amendment. The reintroduction of the words "in the vicinity" is unsatisfactory. I cannot see how any guidance is given to the court about what priority is to be given to the two parties when the court instructs the licensee where the liquor must be purchased from. I have already mentioned the West Adelaide Football Club, which wishes to purchase its supplies from hotels with which it has been trading for many years. That club moved its oval away from the vicinity of the hotels with which it had been dealing for many years.

The Hon. C. R. Story: Is there any suggestion that this club will not get a full club licence?

The Hon. C. M. HILL: One cannot say. However, it hopes to get a full club licence. When the court comes to decide this question it has two alternatives: it can tell the club that it must buy its supplies from a hotel in the vicinity, or it can tell the club that it may buy its supplies from a hotel with which it has been dealing previously. However, there

is no priority in these alternatives, and I suggest there should be. The court can take the view that the club should buy its supplies in the vicinity and if it takes that view the words added in another place have no significance at all.

It is probably the intention of another place that there should be a priority and that the hotels with which clubs have dealt previously will be given the first chance to trade with those clubs. However, the amendment as it has come back to us does not give that priority. A club may express its desire to trade with a certain hotel or not to deal with a hotel in its vicinity, but that does not mean that the court necessarily must follow a request by an applicant club.

I should think that the court would look at the Act. The court might well say, "The other place has put back the words that the Council deleted", and it has the right to say, "You must deal with the hotel in the vicinity". That is just what the particular club I referred to does not want to do.

This Chamber left the freedom of choice to clubs to deal with the publicans with whom they wished to treat. Now the amendment has come back with the words "in the vicinity" reinstated and with additional words that are meant to be some form of compromise. I think it is a very poor and weak form of compromise. Clubs that expected to have this freedom of choice will not now get it.

The Hon. G. J. GILFILLAN: A "full publican" is mentioned in clause 66. As I read it, this amendment is very much more restrictive in its application than the one agreed to in clause 66. I state my strong objection to the House of Assembly's amendment.

Motion carried.

The Hon. A. J. SHARD moved:

That the amendment made by the House of Assembly to the words re-instated by disagreement be agreed to.

Motion carried.

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

That amendments Nos. 46, 47, 53 and 54 be not insisted on.

These amendments deal with the one matter. There are already extensive grounds of objection to the grant of a licence under the Act. There is simply no reason why a licensed restaurant, for example, should be prevented from carrying on business in the vicinity of a recognized youth centre. There is further difficulty in definition as it is very difficult to know exactly what is a recognized youth centre. I think ample protection is provided, for the court would look at the surroundings and if it thought there was some very sound reason why a licence should not be granted it would refrain from granting it.

Motion carried.

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

That amendment No. 71 be insisted on.

I take this action as a result of further discussion.

Motion carried.

Later, the House of Assembly intimated that it did not insist on its disagreement to amendment No. 71.

ADJOURNMENT

At 9.7 p.m. the Council adjourned until Thursday, September 28, at 2.15 p.m