LEGISLATIVE COUNCIL

Tuesday, October 7, 1969.

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

QUESTIONS

PSYCHOPATHS

The Hon. V. G. SPRINGETT: I seek leave to make a short statement prior to asking a question of the Minister of Local Government representing the Attorney-General.

Leave granted.

The Hon. V. G. SPRINGETT: From that group of people who are psychopathic in nature come a large majority of those who commit vicious and serious crimes. In the light of that background, my question to the Minister, in four parts, is as follows: First, can the Minister say how many psychopaths, diagnosed as such, are held in the penal institutions of this State? Secondly, how many such people are held in mental hospitals? Thirdly, are they all receiving treatment; if not, what proportion are? Fourthly, is any special future care being planned to cater more adequately for this problem group of people?

The Hon. C. M. HILL: I shall refer these questions to the Attorney-General, and perhaps they should also be referred to the Minister of Health before we finally bring back a report.

FLASHING TURN INDICATORS

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. M. B. DAWKINS: Some of my constituents have been seeking information with regard to the provisions for using tractors and farm implements on Government roads, and they have been subjected to a varying degree of oversight. I have discussed the matter with the Minister, particularly with regard to the need for these vehicles to be equipped with flashing lights and also the possible need for the use of mud flaps on tractors when used on roads. I use the word "possible" because at least one of my constituents was questioned in regard to the necessity to use mud flaps. Has the Minister any information on these matters?

The Hon. C. M. HILL: I hope the following information satisfies the honourable member: in regard to flashing turn indicators, all tractors are to be equipped with these lights except:

(1) tractors that are being driven on roads within a 25-mile radius of a farm occupied by the owner of the tractor for purposes of sale or delivery, repairs, the drawing of farm implements or proceeding to a place where farm implements are to be attached, and for drawing a registered trailer between two or more portions of the farm. Where the nearest workshop for repairs is not within the 25-mile radius, the tractor may be driven to the nearest workshop;

(2) tractors that are being driven to transport produce to the nearest railway station or port or to a place for packing, processing, etc., of such goods within a 15-mile radius, and for transporting goods for the consumption or use of a primary producer.

As regards mud flaps, there is no provision in the Road Traffic Act which deals with the fitting of mud flaps as such.

MARION RAILWAY STATION

The Hon. D. H. L. BANFIELD: Has the Minister of Roads and Transport a reply to my recent question about the cost of the overpass at the Marion railway station?

The Hon. C. M. HILL: The estimated total cost of the overpass at the Marion railway station is $33,500.

UNDERGROUND WATER

The Hon. A. M. WHYTE: Has the Minister of Agriculture obtained from the Minister of Works a reply to my recent question about underground water?

The Hon. C. R. STORY: No.

PROPERTY ACQUISITION

The Hon. S. C. BEVAN: I ask leave to make a short statement prior to asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. S. C. BEVAN: Some time ago the Minister was reported in the press as saying that legislation would be introduced for a more equitable system of compensation for compulsory acquisition of properties. During the debate in this Council on the Metropolitan

Adelaide Transportation Study Report the Minister outlined the Government's intention to introduce a Bill to amend the Compulsory Acquisition of Land Act. Can he say when it will be introduced, because I understand that negotiations are currently proceeding for property acquisitions in connection with the M.A.T.S. Report?

The Hon. C. M. HILL: Meetings have been held of the committee set up to investigate the provisions of the Compulsory Acquisition of Land Act. It has already made one interim report to me. When I was discussing the matter this morning with the Solicitor-General, who is the senior member of the committee, I asked him when the committee's investigations would be finalized and when it would report fully to me. I was informed that the committee's work was proceeding satisfactorily and that it would not be very long before I heard from it. So, I must wait on its report.

I assure the Hon. Mr. Bevan that, when I receive the report, the Government will expedite consideration of it. The Government intends as soon as possible to introduce measures to update the provisions concerning compulsory acquisition of land.

NURIOOTPA HIGH SCHOOL

The Hon. M. B. DAWKINS: Has the Minister of Local Government obtained from the Minister of Education a reply to my recent question about the Nuriootpa High School?

The Hon. C. M. HILL: My colleague reports:

The rumours to which the honourable member referred in his question are quite unfounded and cannot in any way have emanated from the Education Department or the Public Buildings Department. The schedule of requirements for major solid construction additions to Nuriootpa High School has not yet been completed and will not be completed for several months. The preliminary step of developing new concepts of secondary school buildings must be completed before the Nuriootpa High School schedule can be written.

CITRUS INDUSTRY ORGANIZATION ACT AMENDMENT BILL

The Hon. C. R. STORY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Citrus Industry Organization Act, 1965-1967. Read a first time.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 2. Page 1926.)

The Hon. M. B. DAWKINS (Midland): I support this Bill, which contains not only a number of necessary amendments to the Motor Vehicles Act but also the proposed arrangements for the points demerit system. Motor vehicles have changed considerably over the years: they now have more power and can travel at ever-increasing speeds, and can be a lethal weapon in the wrong hands and if wrongly used. As a result of such improvements to cars (although one begins to wonder whether all the advances are necessarily improvements), it is necessary that many alterations should be made to the Act from time to time.

I should like to draw attention to a number of clauses, the first of which (clause 3) has some relationship to the question I asked about farm implements earlier this afternoon. That clause seeks to amend section 12 of the principal Act to include field bins which are constructed for the purpose of receiving or storing grain and which can be drawn on the road without having to be registered as a trailer. There have been some misconceptions regarding the various farm implements which can be drawn across roads or from one part of a farm to another. The amendment includes another category in the list of implements which, as long as they are used under limited conditions, are exempted from registration. I commend the Government for bringing in this necessary alteration to the Act, as these bins are being used more and more these days. Clause 4 makes a drafting amendment to section 21 of the principal Act. It is made in the interests of clarity and is self-explanatory.

Clause 8 provides for the determination of the horsepower of new types of motor vehicle. The existing subsection refers to the power-weight of vehicles and the way in which the Registrar can assess this. The insertion of a new subsection provides for the new types of vehicle coming on to our roads today but, while I notice that:

the horsepower of a motor vehicle propelled by an internal combustion engine, other than a piston engine, shall be determined by the Registrar in such manner as he deems just and appropriate,

it does give the Registrar a very wide power. "In such manner as he deems just and appropriate" is more or less an open cheque but,

in the circumstances of these changing types of motor vehicle, it is probably necessarily a wide power. I support that.

Clause 9 amends section 31 of the principal Act by adding those motor vehicles which are owned by councils and used for civil defence purposes to the list of vehicles that can be registered free of cost. As these vehicles are necessary and we seem to be living in a world in which it would be completely foolish to ignore the demands of civil defence, this is a necessary addition to the Act. Section 31 outlines the types of vehicle that shall be registered without fee. As I have said, added to the list now are motor vehicles owned by councils used solely for the purpose of civil defence and, also, motor vehicles similarly owned used solely, or mainly, in connection with the eradication of dangerous and noxious weeds under the Weeds Act. Again, this is a wise provision. I believe we are making some progress in the eradication of weeds under the present Weeds Act. Admittedly, it varies from council to council, depending on the way in which the councils are implementing the Act.

In some areas, the eradication is being done very well whilst in other areas there is considerable neglect. That is the fault not of the Act but rather of the council concerned, or perhaps even the inspector concerned, who may not see as clearly as he might; but this provision that adds motor vehicles used for this purpose is a step in the right direction and is of assistance to councils in their implementation of the Weeds Act. Clause 10 replaces section 38 (2) and (3) of the principal Act. Proposed new subsection (3) reads:

If the registered owner of a motor vehicle that has been registered at a reduced fee in accordance with this section dies, or ceases to be the owner of the vehicle, the registration shall, subject to this Act, continue in force for a period of fourteen days after his death, or the cessation of his ownership, and shall, unless the balance of the registration fee, as defined in section 40 of this Act, is paid, become void upon the expiration of that period.

I believe that is a reasonable provision; it clears up any misunderstanding that may have existed and clearly spells out what perhaps should have been made clear before. Similar provisions are proposed in clause 11 (3). Clause 11 provides for a special reduced registration fee to be charged for certain invalids, and I support that also.

Clause 14 deals with the issue of limited traders' plates. I agree with the Minister that it is anomalous that, although the existing legislation sets out the purpose of traders' plates, no provision exists requiring persons to whom they are issued to use them for that purpose only; I believe this amendment clarifies the matter.

Clause 18 amends section 82 of the principal Act and refers to the power of the Registrar to refuse a licence. Since this section was enacted some 10 or 11 years ago learners' permits have been introduced, and it may be necessary on occasions for the Registrar to refuse to issue such a permit. Because of that, the words "or a learner's permit" are to be inserted after the words "a licence" whereever occurring. That enables the Registrar to refuse both a learner's permit and a licence, if necessary. In clause 20, section 89 of the principal Act is repealed and a new section is enacted and inserted in lieu thereof. This will empower the Registrar to refuse the issue of a licence to a person who has been disqualified in another State from holding a driver's licence. Again, I believe this is a necessary provision.

The main part of the Bill is contained in Part IIIB, which is a new part proposed to be enacted and inserted in the principal Act. It refers to the points demerit scheme that has been explained in some detail by the Minister and, indeed, was announced by him a considerable time ago. The scheme is to some extent, at least, in line with similar schemes operating or in the process of becoming law in other States. Paragraph (6) of Part IIIB reads:

Where it is practicable so to do, the Registrar shall, when the number of demerit points recorded against any person exceeds one-half of the number required for the suspension of his licence, send by post to that person a notice—

(*a*) notifying him of the number of points recorded against him; and

(*b*) warning him that further convictions for prescribed offences may result in the suspension of his licence.

I think that is fair enough. This is a notification that should be sent to the person concerned if he has reached the stage where he has accumulated half of the demerit points that may cause his disqualification for a period.

However, the point that I do not agree with entirely is the very beginning of Part IIIB, where it is provided that the Governor may make regulations providing that a prescribed number of demerit points shall be recorded against a person convicted of a prescribed offence. The Hon. Mr. Bevan last week did, I believe, disagree with this, and in this case I am inclined to agree with my honourable friend.

However, I do not agree with the honourable member when he says that the coming into force of this Part will mean that an offender will be punished twice for the one offence. I must disagree with him there because that is not necessarily the case. The points do not become a punishment until they add up to the suggested number of 12, which will be the number if this provision comes into effect. It is not a punishment at this stage but rather it is a warning. Therefore, I could not agree altogether with the honourable gentleman there: I do not think people are being punished twice for the one offence. I agree, however, with my honourable friend when he says:

Driving a motor vehicle under modern traffic conditions is becoming a highly complex task. A driver must be capable not only of meeting these complexities but also of making a series of observations and decisions in a very short time, otherwise road accidents, instead of decreasing, will increase. The cost to the State both financially and in the loss of life is far too great to allow the present situation to continue without some action being taken.

I agree with him there entirely, and I submit that that is the reason for this Part of the Bill which is, of course, by far the most important Part. However, I do suggest that the Government take another look at the provision to which I have referred that the Governor may make regulations providing that a prescribed number of demerit points shall be recorded.

As I indicated just now when saying that it was suggested that 12 points should be the maximum, we have heard suggested by the Minister that a certain scale of points will be used. However, this provision which I have quoted means that this will be done by regulation, and personally I would prefer to see it done by legislation and the scale of points set out in a schedule at the end of this Bill. I am aware that back-benchers usually look to do things by legislation because they come in here as representatives of the people and they wish to see as much of the laws of the land carried out by legislation as possible. Although I am not in a position to verify this, I believe that once a back-bencher becomes a Minister he sometimes becomes very much in favour of regulations, because there are a tremendous number of things that have to be done and if some things are done by regulation it streamlines the procedure from an administrative point of view.

However, I believe that there will be some controversy with regard to this points demerit system. Some people may not agree with the Hon. Mr. Bevan, whose words I quoted just now, that action is necessary in view of changing circumstances. Nevertheless, I believe that the Government should give serious consideration to setting out the scale of demerit points in a schedule in the Bill.

I wonder whether some further warning should be given to a person. I appreciate that he will be given a warning half-way through his period of misdemeanours, as it were. However, I think perhaps we ought to consider whether he should be given a further final warning before he runs into the position where he will be disqualified. I think the Hon. Mr. Bevan suggested some sort of corrective school or body that would enable the person who was making mistakes to be instructed. I think the Police Force does this now. I know that people who have made fairly minor mistakes have been asked to go and see a film and hear a talk about various things with regard to road courtesy and the management of their vehicles on the roads, and that these have been helpful to them; but I do think that perhaps the Government should consider whether another warning should be prescribed prior to the person becoming liable for disqualification, because some people who are driving vehicles for their livelihood are in a very difficult position indeed if their licences are to be cancelled or if they are to be disqualified for periods of up to 12 months. I suggest that the Government should have a look at the two things I have mentioned: the setting out of a schedule and also the possibility of a further warning being given prior to the person reaching the number of points which mean that he will be disqualified.

There are a number of other formal amendments to the Bill and also some drafting amendments. The formal amendments mostly correct the position where the word "Treasurer" is referred to and the word "Minister", which is now current, is inserted instead, and there are several other drafting amendments which need no particular consideration at present as they are fairly obvious in their intent. I support the second reading, although I may have further comments to make in Committee.

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

UNDERGROUND WATERS PRESERVATION BILL

Adjourned debate on second reading.

(Continued from October 2. Page 1930.)

The Hon. H. K. KEMP (Southern): In speaking to this Bill I am very conscious of the fact that this matter of water supply is

probably the most important single subject in South Australia because in much of this State underground water is the only supply. We tend to forget this when pipelines and such spectacular engineering projects as reservoirs are being built, but a great part of the population of this State is completely dependent on the water below the ground, as this is the source of water supplementing the rainfall.

This applies, of course, to very large parts of Eyre Peninsula, where water is indeed very precious, and it applies in many of our northern districts in a smaller degree. However, when we come down south of Port Wakefield it becomes increasingly important. We have this area of the Adelaide Plains where we are in dire trouble at present from overuse and in respect of which this legislation is designed to assist.

Further south in Adelaide itself we have always enjoyed a very rich water supply underground which, fortunately, up to the present has proved to be rapidly replenished. However, on the other side of the hills we are running into exactly the same trouble as exists in the Gawler, Salisbury and northern Adelaide Plains district. The water table, which is the sole district supply, is being over-pumped in the Langhorne Creek and Milang area and trouble is rapidly developing. From Geranium, Pinnaroo and Lameroo to Bordertown and then west to the coast the water beds have, up to the present, been the backbone of development.

Pinnaroo, Lameroo and Geranium are attractive towns and lovely places in which to live. They differ greatly in appearance and in amenities from towns of similar size with an equivalent rainfall. The reason is simple: a bed of good water can be reached at 185ft. This water supply enables the residents to live comfortable lives.

In these districts and a little farther south there has been a tendency in latter years to draw on these beds not only for domestic, stock and garden supplies but also for large-scale irrigation. Here lies danger to these districts and the whole State, because I am sure there is an insufficient rate of replenishment in the area to enable large-scale irrigation to be carried out for very long. There are tremendous drains on water resources when farmers have 100 acres or more of lucerne and they pump from the water beds. If these beds are endangered there will be such dire consequences for a large area that we must have more information before too much expansion or irrigation occurs.

Farther south, it is thought that the State's water supplies are almost inexhaustible. A very erudite gentleman from the Commonwealth Scientific and Industrial Research Organization has said that the water resources in the beds of the South-East are capable of supplying irrigation for 250,000 acres or more. Is this important statement true? I think that, before we reach the stage experienced in other parts of the State, a much closer investigation must be made than the superficial examinations so far made.

If the South-East has this inexhaustible water supply, why is it that in the water beds below the paper mills at Millicent the water table has been pumped well below 200ft., levels which has led to acute danger in the northern Adelaide Plains. Why is it that in the Millicent and Kalangadoo areas the water table dropped considerably two seasons ago when only limited pumping was going on for growing potatoes and small seeds in that district? These experiences and the experiences we have had over the long term do not point to an inexhaustible water supply in the South-East.

I think the accepted figure for the drop in the level of the water table in the Mount Gambier lakes area is about 15ft. to 20ft. This does not sound like the inexhaustible water supply that we have been told about. It is urgent that an intensive and continuing study be conducted of South Australia's underground water supplies, particularly in the South-East. I realize that the department is very short of hydrologists and that it has been absolutely necessary to interrupt the observations being made in some areas that are so vitally important in the Salisbury-Virginia area and will be increasingly important in the South-East.

We talk glibly of large amounts of water in the South-East, but there is no high rainfall country there (in the sense of the amount of rainfall that we usually accept as needed for recharging water beds). Mount Gambier receives about 30in. of rainfall and Naracoorte receives a little more than 25in. Not much farther north the rainfall is between 15 and 20in. Where can the so-called inexhaustible water supplies in the beds below Pinnaroo and in the Padthaway area, which receives 24in. of rainfall, be coming from? To supply these beds there is no high rainfall that is surplus to the amount needed for crops.

I am sure we will find eventually that much of the water in the South-East does not have much chance to penetrate underground.

This whole subject is so important that the Government should try to encourage Mr. O'Driscoll to return to South Australia. He has done much work in the South-East and is such a brilliant worker in the field of hydrology. His return would be welcomed. He gave us the only good study of underground water in the South-East.

This subject is so important to South Australia that a chair of hydrology should be set up within the school of geology at a university and the position offered to him. In this way we would get his services back and the trained men that we need to keep this subject under review. No subject is as important as water and underground water in this part of the South-East is a tremendously valuable asset. Any industrial development in the area will be wholly dependent on it.

How can we attract industry there when two of the really worthwhile industries already there are in difficulty in respect of their water supplies? I do not say they are in any danger —they certainly are not, because the Millicent district is only a short distance from springs that are at present pouring many millions of gallons into the sea and completely wasted. Water from this source is available if required —and not at any great distance.

In order that further industries may be established, a detailed study must be conducted. Unfortunately, we cannot assess the value of a water bed until it has been drawn on to such an extent that further supplies are endangered. We do not know how much water is there until we almost exhaust it. Then, we must say that we will not take as much water in the future.

This is the tragedy at Virginia and Salisbury. There, we are already drawing far too much water and, consequently, much of the primary industry already established there will have to move to other places. Consequently, I regret that this Bill does not achieve more control over water resources. The underlying principle should be that the primary ownership of the water belongs to the occupiers of the land above it and, therefore, it is a matter of equitably sharing the available water between those landowners, although only to the extent that the supply is not endangered or the future of the beds impaired.

Unfortunately, this principle is not recognized in the Bill. Indeed, I do not know of any legislation in the world in which it is recognized. However, that is the principle that should be adopted, and when difficulties such as we are facing in the Salisbury area arise the people using the water should be responsible for sharing it.

This principle might be written off as too Utopian, but we have an example in this State of its having worked well for over 100 years. I am referring to the Langhorne Creek area, where everything rests on the equitable sharing of the floodwaters that come down the Bremer River. The available water is shared among the growers who are dependent on it, without legislation having had to be passed to effect that result.

Although this is a limiting factor in the production of orchard fruits and grapes in that district, there have not, as far as I know, been any serious quarrels during that period. This example should be continued. These people are approaching their problem in this manner and are setting up a body to arrange the equitable sharing of available water, as from their experience they know the need exists.

It would be possible for me to go on talking on other important aspects of this subject for a long time. However, I will not do so as I have made the main general points worth considering. I should have liked a little more time to look over the Bill because of its importance and to consider the implications of some of the minor points involved, which must be examined so closely because this legislation is so important to so many people and to such a large area of this State.

I turn now to the provisions of the Bill. One point that strikes me is that, in every case in which a penalty is mentioned, a set sum is fixed. For instance, the penalty for an offence against clause 7 (1) is $200. The same applies to clause 8 (1) and the penalty for an offence against clause 8 (2) is $200 for the first day on which the offence is committed and, in addition, $10 for each day during which the offence continues.

Why has there been this departure from the practice of fixing a maximum penalty? In some cases a heavy fine is attached to a comparatively minor offence, yet the magistrate who will hear the matter summarily has no alternative to imposing the fine stated. This matter should be examined by the Minister.

Other points have been overlooked in the Bill. For instance, clause 12 (5) provides that the holder of a permit shall, at the request of the Minister, the Director or an authorized person, produce the permit in order that an endorsement may be made thereon. No time

limit is fixed; it is only a matter of one's producing the permit. If this is not done, a penalty of $200 will be imposed.

The same fault appears in clause 15 (2), pursuant to which one must give notice in writing either personally or by post to the Minister of any repairs having been carried out on a well within a defined area. After such repairs are done the owner or occupier of the land on which the well is situated shall, forthwith after the repairs are carried out, inform the Minister. One could imagine the situation where a man, having just finished such repairs and being in a dirty state, would have to sit down forthwith and write a letter to the Minister without having a chance even to wash his hands.

The Hon. C. R. Story: I think this gives the Minister a discretionary power.

The Hon. H. K. KEMP: The Minister has plenty of discretionary power in this respect, because he could lumber such a person immediately even if there was no real delay in his being so notified. No time limit appears in clause 17 (3).

Clause 18 provides that the occupier of land within a defined area upon which a well is situated shall maintain the well in good repair and condition. That is a wide term, the implications of which I do not think are appreciated. I assume that "good repair and condition" means such in the opinion of the authorized person such as the Director or whoever else is responsible. If that is so, it should be spelt out more clearly because this clause has been prepared with some of the artesian wells south of Kingston in mind, some of which are in a bad state of repair and wasting much precious water. Also, "defined area" and "well" are broad terms, perhaps even broader than "good repair and condition".

Clause 20, which is very necessary and which deals with the wastage of water from artesian wells, provides:

An artesian well shall be capped or equipped with valves so that the flow of water from the well can be regulated and stopped.

Subclause (2) provides:

An owner or occupier of land on which there is situated an artesian well that is not capped or equipped with valves as required by this section shall be guilty of an offence.

Apparently that is a pretty solid offence, because a $500 penalty shall be imposed for such a breach. In this respect an instance of which I was told some years ago comes to mind: some responsible people who were safeguarding the use of water in the Far North of this State closed down wells which were obviously wasting much water. These people had authority to do this, yet immediately after the wells were closed a person came along and opened them up again.

Clause 22 places the onus solidly on the owner or occupier of the property, and it is complementary to clause 20. A higher penalty should be imposed on a person who without authority interferes with the setting of a well. This is the point that is not covered here. An owner can, in good faith, go along and set his well to withdraw water at the most economic level necessary for him to do his work, yet some irresponsible person can then come along and, despite the best equipment being used, he can render it useless.

Clause 22 deals with the responsibility of people to conserve water. I think there is redundancy when one looks at subclause (1) and compares it with subclause (2). That point is worth looking at. Reverting to my earlier remarks about conservation of water, when we have a comparatively limited area supporting people with a common interest, all of whom are greatly concerned about conserving water, it is a pity they cannot be given some real charge or responsibility in the conservation, use and sharing of water.

These must be considered to be Utopian ideas in the beds in the Virginia area but I am sure it is a practical idea in the Langhorne Creek area where the density of population is less and people are bound together in a common interest. I am sure the same problem will arise in the area of the South-East in and around Padthaway.

I do not want to set myself up as an expert but, in view of the rainfall there, I cannot see how there can possibly be anything other than a risk of shortage of water in the near future, because this water they are getting is coming out in millions of gallons at shallow depth and, although admittedly much of it is seeping back, the rainfall there is only 24in. a year. This is local water and local water only, derived from the local rainfall.

I do not know whether or not this is a normal procedure (I have not had a chance to check it in the short time available to me over the weekend) but I think that the Secretary of the Underground Waters Appeal Board and the Underground Waters Advisory Committee should be the same person, and there must be a man well suited to this task in the Mines Department. It is most important for the harmonious working of these two

bodies that the Secretary of each be the same man. Clause 28 deals with well drillers. An anomaly has crept in here. Subclause (3) provides:

This section shall not apply in respect of anything done by a person upon land of which he is the owner or occupier, or by a person ordinarily employed by that person.

Does the Minister intend to exclude the owner or occupier, or his employee, from holding qualifications, as it states here? I think this point has been overlooked. It is good enough in a case where pressure of water is not involved, but in the case of artesian water (again, I refer to the artesian beds situated near Kingston) no owner or occupier is likely to have the qualifications necessary to pierce those beds and put in good wells.

We can deal with that point during the Committee stage, but there is an oversight here. As I say, it is all right where no pressure is involved—in that case, there is no great difficulty in the repair and maintenance of sub-artesian wells—but, when pressure of water comes into the picture, it is a different matter altogether. Elsewhere in the Bill the importance of pressure of water is recognized.

In paragraphs (*a*), (*b*) and (*c*) of clause 44 (1) an officer of the Mines Department is specifically excluded. This really means that the appeal board would not have access to information or expert opinion from the Mines Department. It is specifically stated in clause 40 (3) that an officer of the Mines Department (a public servant) cannot be a member of the appeal board. I do not think that was the intention of those who drafted the Bill. I agree with the Hon. Mr. Kneebone that the intention of clause 55 is to substitute "Director" for "Minister".

That concludes my remarks. I support the Bill, with the reservations stated. I compliment the Government on bringing it in in such a clean form. Usually, Bills tend to become fairly ragged and complicated and to double up far too much the functions of the Public Service. However, this is a clean Bill that will work very well indeed.

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

LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from September 25. Page 1773.)

The Hon. C. M. HILL (Minister of Local Government): In reply, I thank honourable members for the attention they have given this measure while it has been in this Chamber. When it was introduced, I pointed out that it was designed to remove anomalies in the original Act and to make some alterations and additions. I stressed that the Government would try to improve the 1967 legislation. It is fair to say that we had in mind when the original Bill was passed that it would need some amendment with the passing years, and especially in the early years there would probably be a need in certain areas for improvements to be made. The Government is endeavouring to effect these amendments by means of this Bill.

All the main points raised in the debate have been carried through to the various amendments at present on file. If, therefore, I tried to answer some of the points raised during the second reading debate, it would only mean repetition during the Committee stage, so I shall wait until then. I think that will be the most effective way of dealing with the whole measure.

Bill read a second time.

The Hon. Sir ARTHUR RYMILL moved:

That it be an instruction to the Committee of the Whole that it have power to consider new clauses relating to section 47 (Matters to be established by applicants for certain licences) and section 89 (Rules of Licensed Clubs).

Motion carried.

The Hon. R. A. GEDDES moved:

That it be an instruction to the Committee of the Whole that it have power to consider a new clause relating to section 22 (retail storekeepers' licences).

Motion carried.

The Hon. A. J. SHARD: I rise on a point of order or procedure. My question, Sir, is: what is the difference between these contingent notices of motion and the contingent notice of motion I moved during the debate on the Electoral Act on September 18? At that time, when I moved my contingent notice of motion, you, Sir, informed the Council on certain procedures as outlined on page 1604 of *Hansard*. My point is that if it was necessary for a warning to be given to the Council regarding my contingent notice of motion at that time, why does not the same apply in the present instance?

The PRESIDENT: I gave a full explanation to the Council at the time the honourable member moved his contingent notice of motion on another Bill, and at that time I pointed out the difference and fully explained it. It was left to the Council to decide on that occasion, and it was explained that it was purely a matter for the Council to accept it

or not. In this case I have examined the matter and, while the matters covered by the Hon. Sir Arthur Rymill's proposed two new clauses are not specifically covered by the Bill, they are so closely associated with clauses in the Bill that I have no doubt about any need for the instruction. However, I shall leave it to the Council to decide. Sir Arthur Rymill's proposed amendments to clause 14 are relevant to the subject matter of the clause, and an instruction to the Committee of the whole is not necessary as to the original part. I suggest that Sir Arthur Rymill's motion is in order.

The Hon. A. J. SHARD: I am not questioning that it is in order; I am not doubting it for one moment. My question was that the Council was informed of its responsibilities in connection with my contingent notice of motion, but on this occasion it was not.

The PRESIDENT: I am reminded that the previous contingent notice of motion moved by the honourable member dealt with a matter that was not included in the Bill; it was in keeping with the title of the Bill, but it was not included in the Bill when it arrived here after it had been introduced in another place and defeated there. The position was then explained to the Council, and the Council decided to accept it, as it has already done in this present case.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"W.E.A. may hold licence."

The Hon. Sir NORMAN JUDE: I think this clause is rather inconsistent with the general purposes of the Act in regard to the granting of certain licences. Without going into detail, I do not know how many people know where Graham's Castle is. It seems to me that this is not a Government institution that may require to be licensed by the Minister of Lands, for instance, for a National Park or for the Royal Show. This is a specific building, and it is amazing to me that objection has not been taken by the industry to this clause. I suspect that a bargain has been made, and I think honourable members should have their attention drawn to that fact.

Why we should pass special approval for a special licence for a building I do not know. The building is in my electorate, and, as I have said, I am surprised that objection has not been taken to the way in which this has been done. I cannot see, for example, why there is any need for a limited publican's licence; surely it would be possible, on the occasions that people go there for seminars and for other gatherings of that nature of a weekend, to obtain the necessary permit?

I might add that I have heard in this connection that another building used for similar purposes in the southern districts has the reputation of having the finest cellar in the South-East. I shall want to know a little more about that later. Obviously, the court has wide discretionary powers, of which I approve, and which I am certain are approved by sections of the industry that wanted them in the first place. However, I am rather surprised to find that the same industry takes no exception to this clause being included in the amending Bill. It is my intention to vote against the clause.

The Hon. C. M. HILL (Minister of Local Government): The honourable member is casting insinuations about a deal being made; when doing that he should be more specific about it or else keep quiet, because we do not make much progress if honourable members talk about deals and no-one else knows to what the honourable member is referring. This matter was raised by one honourable member during the second reading debate, and I thought then some reflections were being made upon the Workers' Educational Association of South Australia Inc., and I take exception to this. It is an educational organization that gives a good deal of first-rate service to the people in this State who want to educate themselves in a better manner.

I submit that there is nothing wrong in this measure at all. If there is any thought that people at Graham's Castle will not be conducting themselves in a respectable manner as a result of approving this clause, or if there is any reflection on their conduct, then I would like to hear all about it. However, as it reads it is a means by which the W.E.A. can be assisted. The Hon. Sir Norman Jude did not seem to know where it was; he ought to, because it is in his district, and it is an exceptionally wellknown historical landmark, wellknown all along the South Coast.

The Hon. Sir Norman Jude: I know very well where it is.

The Hon. S. C. Bevan: It is still left to the discretion of the court whether the licence is granted.

The Hon. C. M. HILL: That is right. I consider that we should leave the provision as it is.

The Hon. Sir NORMAN JUDE: I take exception to the Minister's suggestion that there was any reflection on the W.E.A. I merely suggested that a deal might have been done, and I still say that.

The Hon. A. J. Shard: By whom?

The Hon. Sir NORMAN JUDE: A deal in respect of one thing being done in consideration for giving support to something else. If the Minister does not understand that, he ought to. The point I make is that this is a limited publican's licence, and I cannot see the need for it. These people can get permits, and surely it is reasonable for them to get permits. We do not give a limited publican's licence to parts of the showgrounds, to tennis courts, and so on. I certainly did not reflect on the W.E.A. and I resent the Minister's suggestion that I did.

The Hon. Sir ARTHUR RYMILL: I have no objection whatever to the W.E.A.'s having a licence, but I do have considerable qualms about the implications of putting a provision in the Act for a special licence for one body that seems to be no more deserving of it than hundreds of other bodies one can think of. If this provision is passed, does it not open the way for many other people to come along and say to the Government, "Well, you granted a licence to the W.E.A.; why can't we have one?" That is the objection I see to it, and I think that in that relationship it is very objectionable indeed.

The Hon. S. C. BEVAN: I support the clause. New section 17a sets out that this licence "may be granted". An application still has to be made to the court, and the court itself, after hearing all the evidence, can reject or approve the application. The court will grant the licence under certain conditions.

The Hon. F. J. Potter: The court can grant a permit under the present legislation.

The Hon. S. C. BEVAN: That is so. It is the court that issues the licence, not the Government. All the Government is doing in this amending legislation is giving the W.E.A. the right to apply to the court for this licence because of the circumstances that prevail at Goolwa from time to time. If the court thinks that a licence should not be granted, it will not grant the licence. I cannot see anything wrong with the clause at all.

The Hon. F. J. POTTER: I think the Hon. Mr. Bevan is being rather naive about this. We are being asked to insert a provision which indicates to the court that it may grant a particular licence to a particular association at a particular place. It must be taken that the court will have to be much more circumspect about the question as to whether this particular licence is to be granted than it would be in the case of any other association. The court will say, "Why is our attention being specifically directed by Parliament to this association for this kind of licence at this place?" I would say that it would be a strange thing if the licence was not granted by the court, and I think we are being very naive if we are suggesting that anything else other than that would happen.

The question I think all honourable members should ask is: "Although this is an admirable association, what is special about it, and why should it have this special consideration of a limited publican's licence in respect of these premises?" I understand that this association caters in its activities for all kinds of people, including young people who in many instances would be under the age of 20 years. Why should we give these people a limited publican's licence, in other words, to turn this particular castle into a public house, in effect? I cannot understand that.

As Sir Arthur Rymill said, who will be the next to come along and ask for this privilege? All a body needs, apparently, is specific premises somewhere which its members frequent and use for their activities, and they can come along and say, "This particular association has it, why can't we have it; we have our premises and we ought to have the right to be considered by the court for this type of licence." Under the present legislation, this association can get a permit for its members on the occasions when they want to exercise their permit rights, and I would think that that is a fair thing. No-one has explained why this association, in respect of these premises, should have these very extended rights.

The Hon. C. M. HILL: The position originally was simply that the W.E.A. requested this right. It made its request to the Government, and the Government, after considering it, considered that it was proper to grant it. I understand that the association mentioned particularly in its application that this licence was needed at the times when it held seminars. The court can decide on such an application, and it may grant a licence.

The Hon. Sir ARTHUR RYMILL: I think honourable members are assuming that the word "may" is permissive only and not obligatory. However, I can assure them that in law, in a certain context, "may" often means "shall", and I would not be nearly as certain as either

of the two honourable members who mentioned this point that "may" in this case does not mean "shall". Certainly, the court, under subsection (2), can impose conditions.

This was one of the first things I stumbled on when I started to practice law. A certain club wanted to sell some of its property, and its rules said that it had to give a certain notice to a meeting of the members requesting their permission to do so. The rule also said (and this is graven on my heart) that such notice "may" state the method by which such sale should take place. The matter went to the Supreme Court, which decided that "may" meant "shall" and that the notice was faulty because it did not include the method of sale.

This, however, is only a technicality: the real crux of the question is whether one specific institution, which is no different from many other institutions, should specifically be granted the privilege of applying for a licence of this kind and whether this type of licence is, in any event, the appropriate licence for which this body should be permitted to apply. I think there ought to be another sort of licence that it ought to be authorized to apply for but, be that as it may, this is undoubtedly setting a very important precedent and I think it will be difficult, if this clause is passed, to deny other people similar rights.

The Hon. C. M. Hill: Other institutions have been given comparable favours already.

The Hon. Sir ARTHUR RYMILL: I question whether a limited publican's licence is, in any event, the correct one, and I certainly agree that there is already provision for permits, whereby the requirements of this organization can be fulfilled without any amendment at all.

The Committee divided on the clause:

Ayes (6)—The Hons. D. H. L. Banfield, S. C. Bevan, C. M. Hill (teller), A. F. Kneebone, A. J. Shard, and C. R. Story.

Noes (10)—The Hons. M. B. Dawkins, R. A. Geddes, G. J. Gilfillan, Sir Norman Jude (teller), H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Majority of 4 for the Noes.

Clause thus negatived.

Clause 6—"Special licences."

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

After "amended" to insert:

(*a*) by striking out from subsection (2) the passage "one day" and inserting in lieu thereof the passage "a period not exceeding three days";

and

(*b*).

The purpose of the amendment is to give the German Club of Hahndorf the opportunity to extend the period of its festival to three days. Last year the club attracted a crowd far greater than it could handle. There is every reason to encourage the club in its work.

The Hon. C. M. HILL: The Government wants to help the Workers Educational Association and all interests who seek help in connection with this Bill. The honourable member, who voted against the provision relating to the W.E.A., is now taking up the cause of an incorporated body and giving it a further favour. However, despite his inconsistency in this regard, the Government respects the contribution socially, culturally and economically that the people of German descent in the Hahndorf area are making. Apparently this festival is very important to the club. It has had this kind of privilege for one day, and the honourable member evidently thinks that extending it to three days would be more satisfactory. I was hoping that he could substantiate his claims regarding his amendment with a little more force than he did. Nevertheless, I will not oppose the amendment.

Amendment carried; clause as amended passed.

Clause 7—"Publican's licence."

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

In paragraph (*b*) to insert the following new subsection:

(1b) If upon application by a licensee the court is satisfied that over any portion of a year public need does not justify the keeping of his licensed premises open during the latter part of the period during which he is authorized to sell and dispose of liquor, the court may authorize the licensee to close his licensed premises at such time within the last four hours of that period over such portion of a year, as the court thinks fit and specifies in the licence.

My amendment will have the effect of allowing a publican to close his licensed premises during periods when he has not sufficient business to remain open provided, of course, that the court considers his circumstances warrant this happening.

The Hon. Sir NORMAN JUDE: Although I am concerned about this matter, the principle is sound, particularly in relation to a few of our remote country hotels. The amendment provides that the court may, if it is satisfied that public need does not justify keeping licensed premises open, authorize a licensee

to close his licensed premises within the last four hours of the period. Generally speaking, this would be at night. If the court grants such a licence and endorses the publican's licence accordingly, he could close at 8 o'clock each night. In this respect, what would happen if a bus load of people came along? The licence would provide that the publican could close, which could, of course, act to the detriment of the public.

I wonder whether the amendment is not worded in such a way that it will have the desired effect. I wonder also whether it is drafted to suit the requirements of the people who requested the amendment and whether it might limit rather than assist such people. If necessary, we could examine this matter for a day or two, during which time we could obtain some outside information.

The Hon. C. M. HILL: Although I should like to co-operate with the Hon. Sir. Norman Jude, I do not think there is any need for us to think about this matter for a couple of days. The Hon. Mr. Kemp is trying to assist one or two small hotelkeepers who find that their custom does not extend into the evening hours. The Hon. Sir Norman Jude mentioned the word "principle"; of course, we already have the long-standing principle of hotels having to provide food and lodging. I do not know whether the Hon. Mr. Kemp has looked at section 168 of the principal Act, which specifically mentions refusal to supply food and lodging. Generally speaking, I wonder where we will get if we start allowing the court to alter the basic hours of hotels as provided in the 1967 legislation. Although I know of a number of publicans in the country who are experiencing difficulty in this respect, I do not think it would be wise for this amendment to be passed. Accordingly, I oppose it.

The Hon. R. A. GEDDES: The amendment is a little too far-reaching. I echo some of the words of the Hon. Sir Norman Jude. A number of country hotelkeepers in the Northern District have expressed a similar type of wish: not that their hours of trading be restricted but that they be able perhaps to close their front bars so that they could open just the saloon bar of their hotels, thereby reducing labour costs. I agree with what the Minister said regarding 10 o'clock closing, but there might be some merit in a hotelkeeper's being allowed to close his front bar when trade is limited. The honourable member's amendment is a little too emphatic and will not help the situation.

The Hon. H. K. Kemp: Would an order by the court cover this need as effectively as this amendment would?

The Hon. F. J. POTTER: I do not know what the honourable member is talking about because at the moment the court has no power to vary the hours. A publican has a publican's licence and must remain open until 10 p.m.

The Hon. G. J. Gilfillan: But the court can vary the hours.

The Hon. F. J. POTTER: Yes, in certain circumstances, but that power refers to opening and closing hours in relation to certain licences. The amendment would mean that the court could allow the whole of the premises to be closed and I doubt whether that would meet the circumstances. The amendment does not provide that the hotelkeeper may be authorized to close any part of his licensed premises: it merely provides that the court may authorize the closing of the whole of the licensed premises. I doubt whether that is desirable or whether it would meet the wishes of the publicans who find themselves in the position mentioned by the honourable member. For this reason, I oppose the amendment.

The Hon. Sir NORMAN JUDE: The Hon. Mr. Geddes mentioned a salient point in this respect: that probably a publican, in the interests of the proper running of his business, wants to close merely a portion of his premises. I ask the Minister seriously to consider this matter so that, perhaps, the measure could be redrafted, and I think it would then have the approval of honourable members.

The Hon. A. J. SHARD: There is no need to adjourn consideration of this amendment. A hotelkeeper's licence is based on the needs of a community, and if a hotelkeeper decides to close he might find himself working in opposition to a person with a storekeeper's licence because he is not prepared during ordinary licensed hours to serve the public adequately. I do not know whether hotelkeepers in general want that. If we are to start giving people at a hotel the right to choose their own hours, in the long run we shall be doing the hotelkeeper a disservice, when there are applications for other licences to serve the needs of people, if that particular hotelkeeper is not prepared to do it.

The Hon. C. R. STORY (Minister of Agriculture): I draw the Committee's attention to section 19 of the existing Act, which provides:

(1) Subject to subsections (2), (3) and (4) of this section, every full publican's licence shall authorize the person thereby licensed to sell and dispose of any liquor in any quantity, in the house or premises therein specified—

(*a*) upon any day (other than Sunday, Christmas Day and Good Friday) between the hours of nine o'clock in the morning and ten o'clock in the evening or in the case of any particular licensed premises for such other continuous period not exceeding thirteen hours beginning not earlier than five o'clock in the morning and ending not later than ten o'clock in the evening as is fixed by the Licensing Court on the application of the licensee.

I also draw the Committee's attention to section 168, which makes the position reasonably clear in this regard. The sidenote reads "Duty to supply food and lodging", and subsection (1) states:

Subject to this section, the holder of a full publican's licence or limited publican's licence or a restaurant licence if requested to supply any person with meals or in the case of a full publican's licence or limited publican's licence, lodging, shall comply with that request.

The Hon. Sir ARTHUR RYMILL: I think I should point out that the Hon. Mr. Shard's objection is not valid in relation to competition by the holders of storekeeper's licences, because this amendment relates to a period between 6 p.m. and 10 p.m., and the licence referred to by the honourable member ceases at 6 p.m.; it does not continue until 10 p.m.

Amendment negatived; clause passed.

Clause 8—"Wholesale storekeeper's licence."

The Hon. Sir ARTHUR RYMILL: This is a rather curious clause. Subclause (2) states:

. . . a wholesale storekeeper's licence shall not be renewed unless the court is satisfied that the predominant proportion of the whole of the trade conducted in pursuance of the licence consists of the sale and disposal of liquor to persons licensed . . .

In other words, it is a genuine wholesale storekeeper's licence; but then subclause (3) seems to me almost to whittle that away completely, because it provides:

If, upon the application . . . for the renewal of a wholesale storekeeper's licence—

that is, after the passing of this amendment—

the holder of the licence satisfied the court that, by reason of subsection (2) of this section—

which I have just read—

the trade conducted by him in pursuance of the licence up to the date of the application could not continue undiminished, the court shall exempt . . .

It seems contradictory. Can the Minister say just what this whole clause is aimed at and what is its real intention?

The Hon. C. M. HILL: I will refer to the comments I made on this clause previously. Perhaps this will satisfy the honourable member.

The Hon. R. A. Geddes: Are you quoting from your second reading speech?

The Hon. C. M. HILL: Yes; I am quoting from that. I said:

A recent decision of the Supreme Court has held that the only criterion by which the character of business as wholesale or retail is to be determined is the quantity of liquor that is the subject of the sale. It was the intention of Parliament in enacting section 21 that a wholesale storekeeper's licence should not be granted except to a person whose business consisted substantially of sales to liquor merchants.

That is dealing with the wholesale storekeeper's licence. My statement continued:

Indeed, in the original Bill as introduced into the House of Assembly, clause 21 provided that a wholesale storekeeper's licence should authorize sales only to persons authorized to resell the liquor. This provision was amended because a number of wholesalers carried on a retail business that was subsidiary and ancillary to the wholesale trade which constituted the major part of their business. The amendment to section 21 provides certain restrictions to the amount of retail trade conducted in pursuance of the licence and thus clarifies the original intention of Parliament.

I hope that explanation satisfies Sir Arthur Rymill.

The Hon. R. A. GEDDES: In my second reading speech on this matter, I asked a question similar to Sir Arthur's. In fact, I cited the problems embraced by subclause (4). In answer to the debate this afternoon, the Minister said he would answer honourable members' questions during the Committee stage. I find this matter is either most confusing or is designed to be most helpful to a certain section of the wholesale trade where, as the Supreme Court decision says, the wholesaler should not sell beyond his licence but should sell mainly to liquor merchants. During my second reading speech, I referred to Harris Scarfe Limited, where a storekeeper could buy wholesale and John Citizen could buy both at wholesale and at retail rates. We are confronted here with three confusing definitions of what could happen. The first is that the "predominant proportion of the whole of the trade" must be done in the business. Secondly, if it can be proved that a licence holder's trade will be upset, the court can have a second look at his wholesale licence; and,

thirdly, by subclause (4), he must deal wholesale for 90 per cent of his licensed trade, only 10 per cent going to the retail part of his trade. I support Sir Arthur's view that it is the most confusing and difficult part of the Bill to follow.

The Hon. F. J. POTTER: At first sight the words may seem confusing but I do not think they are, because they are put there, obviously, for a specific purpose. The predominant question to be asked in connection with this clause is: when is a wholesaler not a wholesaler, or (to put it affirmatively) when is he a wholesaler? Subclause (2) sets out to define what we mean by a wholesaler—that he is a person in respect of whom the "predominant proportion of the whole of the trade" practised by him is to be with persons authorized to sell liquor.

The Hon. Sir Arthur Rymill: But subclause (3) says it need not be.

The Hon. F. J. POTTER: Subclause (3) is obviously intended deliberately to deal with the class of person mentioned by the Minister—a person doing a double business, wholesale and retail. That was referred to a moment ago. Again, it is designed to give some protection to some body, either a single person or a group of people who have been carrying on this dual trade. They have not been mentioned.

One thing disturbs me: I know in the transitional period it is necessary to make some allowances for practices that cannot be covered by the new definitions, but the thing about subclause (3) that disturbs me is that apparently these storekeepers, when they next apply for renewal of their licences, are to be granted a continuation of their dual activities in perpetuity. It will not be that they will be permitted to carry on for a specific period of say, 12 months or two years, in order to rid themselves of a particular section of their activities, but they are to be allowed to continue both as wholesalers and retailers for ever. I do not like this very much, nor do I think it is within the spirit of the Act.

I think this is a matter in which the court should have some supervision; I do not think that we, as a Parliament, should be granting particular rights to particular people who, by reason of their activities, have gone outside the definition of the Act. I would be prepared to allow such a situation to continue for a defined period, but I ask the Minister why this should be allowed to go on forever.

The Hon. Sir ARTHUR RYMILL: I agree with the Hon. Mr. Potter, and I think his comments have clarified my thoughts that subclause (3) is virtually establishing a third type of storekeeper's licence. In other words, there will be a wholesalers storekeeper's licence, a retail storekeeper's licence, and now a mixed licence of privilege available only to people with a certain type of licence at present who, under the wording of the clause, will be permitted to continue forever. Therefore, the effect of subclause (3), if I am correct in my assumption, is to propose a new licence for a very limited and privileged group. In those circumstances, and to test the feeling of the Committee, I move:

That subclause (3) be deleted.

Amendment negatived; clause passed.

New clause 8a—"Retail storekeeper's licence."

The Hon. R. A. GEDDES: I move to insert the following new clause:

8a. Section 22 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) Upon application for renewal of a retail storekeeper's licence that was declared to be a retail storekeeper's licence under subsection (5) of section 3 of this Act, or that was granted to the holder of a storekeeper's Australian wine licence (whether that person is the present holder of the retail storekeeper's licence or not) the court shall, if it is satisfied that the licensed premises of the applicant are adequate and properly equipped for the sale and disposal of all types and kinds of liquor pursuant to the licence, remove any conditions, binding on the licensee, that restrict the types and kinds of liquor that may be sold or disposed of in pursuance of the licence.

The amendment is designed to allow a retail storekeeper, or a person holding a storekeeper's Australian wine licence, the right to apply to the court when that licence next falls due to sell not only wine but also spirits and beer in bottled form. Clause 8 was ably spelled out by the Hon. Sir Arthur Rymill and the Hon. Mr. Potter as relating to the type of privileged person involved with the provisions of subclause (3) of that clause.

I think the retail storekeeper, due to the change of conditions in trade that has occurred since the introduction of 10 o'clock closing and the more liberal allowance for clubs concerning the sale of liquor, has not been able to enlarge his licence to be able to sell beer and spirits, and he has been restricted by the provisions of the original Act. It appears that this Act is becoming more restrictive in its operation as regards who may sell liquor and when a person shall be permitted to sell liquor.

The principal Act helps hotels and clubs; on the other hand, it restricts the retail storekeeper in his trading under the changed conditions. There are 84 retail storekeeper's licences in the State, 55 in the city and 29 in the country, and the great majority of these licensees have applied for the right to sell all brands and types of liquor, but they have not been given this privilege. In fact, the court has, in a way, given them a restricted licence to enable them to continue to sell wine; after a period of time, say 18 months or longer, the court has suggested that the licensees make fresh application and, if thought desirable, their cases would be reviewed.

A number of hotelkeepers have said that the retail storekeeper is the person who restricts or upsets the trade of hotels. I disagree with that argument because I am positive that clubs are the organizations causing those difficulties. It was only a short time ago in a large northern town that the hotelkeeper told us that when competitions were run in a club during the football season a large quantity of beer was sold resulting in a restriction of sales from the hotel. This was immediately reflected in the hotel's sales during the ensuing week. People simply do not have the money to spend well in the clubs on Saturday and Sunday and then go to the hotel to enjoy a convivial glass after work during the next week.

I cannot believe that allowing the retail storekeeper to sell all manner of liquor in bottled form, under his licence, would abnormally affect the trade. I see no reason why he should not be able to provide a full range of liquor. I believe, too, that this would enable the housewife, who does not like going into the bottle department, to have the privilege of being able to order her beer or spirits and have them delivered. I consider that the trade would benefit because of this. The law of supply and demand must have some effect, and I consider that the whole thing would iron itself out without being unduly restrictive on either section. The trading hours for a retail storekeeper's licence are 9 a.m. to 6 p.m., so the hotel has the added advantage of being able to trade until 10 o'clock at night. Also, people are to have the right to take their bottles away up till 10.30 p.m.

The Hon. C. M. HILL: I have listened with great interest to the comments of the Hon. Mr. Geddes, and I am impressed very much by his sincerity and by the manner in which he is endeavouring to assist those people who have made representations to him. However, I cannot support his amendment. It would compel the court to grant the right of unrestricted trade to those holders of retail storekeeper's licences who held licences under the old Act.

It is well to remember that in fact, at the moment, the court has a discretion to enlarge the trading rights enjoyed under the licence. The important part of the Statute is the fact that before anyone can obtain a licence he has to show a need, that is, that the granting of a licence is required for the needs of the public. If an applicant is unable to show need, he does not get a licence, but if he is able to show need a licence is granted.

In the case of the Australian storekeeper's wine licences, many of those people would have difficulty in establishing a need for beer and spirits. Particularly is this so where the area is well served with other types of licence, including hotels. Many holders of Australian storekeeper's wine licences are being induced to obtain the retail storekeeper's licence and were willing to accept that type of licence limited to what they could establish a need for, namely, wine, and to leave the question of whether they should be able to sell beer and spirits to a time when they were able to show more easily that there was a need for the full type of licence, that is, including beer and spirits.

The only two holders of Australian storekeeper's wine licences who have not received a retail storekeeper's licence are two people who did not, for their own reasons, apply, and the others have received a retail storekeeper's licence. Some have received a full licence and a number have restrictions upon the licence. The restriction in some cases is in regard to deliveries, because it has been thought appropriate not to allow two holders of licences to compete too vigorously in a particular area unless they were already delivering in that area. This was so where there were a number of licences in close proximity.

The amendment disregards the question of need altogether and directs the court to give a full licence provided the premises are satisfactory. Since the Licensing Act is built around section 47a, which provides for need to be shown, it is suggested that this should not be altered and that section 47 should remain the corner-stone upon which the court must act; that is, if a man can show need, he will get his full licence; if he is unable to show his need (and some will not be able to), he will not get a full licence.

The Hon. A. M. WHYTE: I agree entirely with the amendment, for I think it brings some justification to this portion of the Act. I do not think any other trade provides protection for one section as against another. People involved in the quarrying industry, for instance, are not restricted to carting special size rocks.

I believe that the necessity to establish need could fall straight back on to the point of economics. If the holder of a wine licence believed that he could serve the public well, another section of the trade should not have the right to restrict him. I do not disagree with the hoteliers fighting their case, as they are doing in this instance. All I am saying is that I do not believe we should pass legislation to give them any advantage over any other section of the trade. The hoteliers are not restricted in any way, for they can sell beer, wine and spirits. On the other hand, here we are restricting a storekeeper to selling only wine. This, to me, seems quite unfair. Although I can see the hoteliers' position, and although I agree that in many instances the hotel trade needs as much assistance as possible, I believe that this provision is restrictive on one portion of the trade. Therefore, I commend the amendment.

The Hon. Sir ARTHUR RYMILL: I oppose the amendment, the effect of which is to overrule by legislation a number of decisions made by the Licensing Court in the exercise of its discretion. It removes the discretion from the Licensing Court and says that, despite the fact that it has made a condition that certain of these retail storekeeper's licences shall be restricted, on the renewal thereof that restriction shall be removed in every case.

The point I think the Hon. Mr. Geddes might have overlooked is that a number of these licences might not have been granted at all except for the fact that the court had the power to limit the licence. In fact, from what I know of these decisions it would be a fact that at least several of these licences would not have been granted had it not been for the fact that the court had the discretion to limit them, and exercised that discretion.

The Hon. Mr. Geddes's amendment says that, despite the fact that the court exercised its discretion, licences should be granted in full. However, as I have said, in my opinion those licences would not have been granted at all if, at the time of the application for the licence, this provision had been in the Act. It is contrary to the whole spirit of the legislation and disregards the concept that the court has a discretion to exercise and that each applicant has to justify his case. Consequently, I oppose the amendment.

The Hon. Sir NORMAN JUDE: When I first saw this amendment I was inclined to support it but, having studied the legislation and having studied the recent Buttery case at Reynella, I have concluded that this provision takes away the court's discretion. It may well be that there are certain cases where we can consider the needs of the public or the poor fellow who has the licence, but the fact remains that the court in its discretion may give a licence to sell spirits, not beer, because the licensee may not have the facilities to handle beer.

The Hon. G. J. GILFILLAN: I support the amendment. Most holders of retail wine licences have fairly small enterprises; there are 55 in the city and 29 in the country. As far as I know, most of them are in the larger centres where competition can be absorbed. Since the 1967 legislation extended hotel trading hours to 10 p.m., there has been increased competition for the smaller enterprise which is forced to close at 6 p.m. and which does not compete in respect of over-the-bar and dining-room sales. It has been said this afternoon that this is an attempt to overrule the court, but I point out that some amendments to the principal Act already carried do just this. Because of the resources employed against him, the cost has become extremely high for the owner of a small enterprise who is seeking to widen his licence or, in some instances, even to renew his licence. Larger organizations can employ leading counsel, and some applicants to the court have incurred costs of thousands of dollars. I do not think Parliament ever intended this when it passed the principal Act. Wherever possible we should consider the needs of the public and we should remember that we profess at least to stand for freedom of private enterprise.

New clause negatived.

Clause 9—"Vigneron's licence."

The Hon. Sir NORMAN JUDE: I move:

After paragraph (*a*) to insert the following new paragraph:

(*a*1) by striking out paragraph (ii) of the proviso;

After paragraph (*b*) to insert the following new paragraph:

(*b*1) by striking out the passage "or perry" wherever it occurs and inserting in lieu thereof, in each case the passage, "perry or fermented liquor derived from berried fruit";

After new subsection (2) to insert the following new subsections:

(3) The holder of a vigneron's licence granted after the commencement of the Licensing Act Amendment Act, 1969, shall not be entitled to sell or dispose of wine in pursuance of the licence unless he satisfies the court that he uses, or will use, in each year, not less than 10 tons of grapes in the course of his business as a vigneron.

(4) The holder of a vigneron's licence shall not be entitled to sell or dispose of mead, cider, perry or fermented liquor derived from berried fruit in pursuance of the licence unless the mead, cider, perry or fermented liquor derived from berried fruit is made by him to the extent of at least 70 per centum of its total quantity, and to the extent to which it is not made by him, is used only for the purposes of blending with mead, cider, perry or fermented liquor derived from berried fruit made by him.

The wine industry believes that the provision at present in the principal Act is impracticable. Many winemakers purchase certain products from other producers that are sold under their label. The amendment provides that a vigneron to whom a licence is granted shall not be entitled to sell or dispose of wine unless he processes at least 10 tons of grapes annually. This is confined to those vignerons registered under the Commonwealth Wine Grape Charges Act. The vignerons believe that the addition of new subsection (3) will ensure that vigneron's licences are granted only to legitimate producers. The various bodies associated with this legislation accept this amendment. The vigneron who uses his licence for selling mead, cider, perry and other fermented liquors must comply with the requirement previously made—that he must manufacture not less than 70 per cent of the liquor sold and, if it is not made by him, he must use it only for the purpose of blending. This meets the requirements of the Wine and Brandy Producers Association and of bodies connected with manufacturing perry that have been in touch with me.

The Hon. Sir Arthur Rymill: What fruits have you in mind?

The Hon. Sir NORMAN JUDE: Elderberry wine and blackberry liqueurs.

The Hon. C. M. HILL: I support the amendment.

The Hon. H. K. KEMP: The Bill would have completely prevented some smaller cidermakers in the Adelaide Hills from operating. I am worried about one small matter in this respect: a person could be creating a curious brew such as parsnip wine; I cannot see 10 tons of parsnips being included. I should like to receive an assurance that this sort of person has not been entirely overlooked.

Amendments carried; clause as amended passed.

Clauses 10 to 13 passed.

New clause 13a.

The Hon. Sir ARTHUR RYMILL: I move to insert the following new clause:

13a. Section 47 of the principal Act is amended by striking out from paragraph (*e*) of section 47 the passage "for any licence in" and inserting in lieu thereof the passage "in relation to".

My amendment arises out of a technical decision by the Supreme Court in relation to Buttery's case, which the Hon. Sir Norman Jude referred to earlier and in which objection was lodged to the removal of his licence, I think from Birkenhead to a place described as Reynella or somewhere near thereto. The court heard the objection, overruled it, and granted a licence. The objector appealed, and on the hearing of the appeal the Supreme Court decided that in the manner in which the new Act had been drawn, although objection could be raised to a new licence, objection did not lie on legal grounds to the removal of a licence. Of course, this was a technicality, and it is not for me to discuss the rights and wrongs of the court's decisions. However, along with other honourable members, I have no doubt that this was not intended by Parliament when it passed the provision.

Section 47 of the principal Act provides that an applicant for a licence other than a packet licence or a vigneron's licence in respect of previously unlicensed premises or for the removal of such a licence shall satisfy the court in the case of an application for a licence in a new or expanding community that the licence would not unreasonably restrict the grant of a full publican's licence in the locality. That section has roughly the same effect as section 48, under which Buttery's case was decided. It lists the objections that can be raised to the granting or renewal of such a licence, and paragraph (*h*) provides that objections can be lodged in the case of an application for a new licence in a new or expanding community if the licence would unreasonably restrict the grant of a full publican's licence in the locality.

The decision of the Supreme Court was, therefore, that although one can object to the granting of a new licence one cannot object and be heard in objection to the removal of

a licence. My amendment merely seeks to give people the right to be heard by the court which, of course, is a fundamental right that should be permitted to everyone and which, I am sure, is not dealt with in the Act because of a misunderstanding or a piece of misdrafting when the Act was passed in 1967.

The Hon. C. M. HILL: I support the amendment.

New clause inserted.

Clause 14—"Objections."

The Hon. Sir ARTHUR RYMILL: I move:

After "centre" in paragraph (*a*) to strike out "and"; and to insert the following new paragraph:

(*c*) by striking out from paragraph (*h*) of subsection (2) the passage "for a new licence in" and inserting in lieu thereof the passage "in relation to".

These amendments are consequential on the amendment I moved previously.

The Hon. R. A. GEDDES: Will the amendment further restrict a person who wishes to change his licence to a new area?

The Hon. Sir ARTHUR RYMILL: No, it merely enables people to object on the grounds that are already contained in the Act.

The Hon. C. M. Hill: The grounds in the Act objecting to a new licence?

The Hon. Sir ARTHUR RYMILL: Yes. Under the decision of the Supreme Court, an objector cannot be heard in this case.

The Hon. R. A. Geddes: In relation to an old licence being transferred?

The Hon. Sir ARTHUR RYMILL: Yes. I have already mentioned section 48 (*h*) which contains the words "in the case of an application for a new licence" upon which the court made its decision. The provision would read, "In the case of an application in relation to a new and expanding community". It applies to licences in respect of premises not previously licensed.

Amendments carried; clause as amended passed.

Clauses 15 to 22 passed.

Clause 23—"Permits."

The Hon. V. G. SPRINGETT: I move to insert the following new subsection:

(4a) The premises in respect of which a permit is granted may be separately situated in more than one place, and a permit may be granted on condition that it may be used, in the alternative, in respect of any one of those places, but shall not be used in respect of more than one place.

This amendment affects section 66 of the principal Act. The reason for this amendment is simple. An organization may make arrangements to hold a function at which liquor will be available and sold. It may be planned as an open-air occasion and it may rain on the day, so that the people will have to go into sheltered premises, which are not covered by the permit. Consequently, they will not be able to sell their liquor. The purpose of this amendment is to make it possible for an alternative site to be named so that the organization concerned can use its permit in only one place for a specific occasion.

The Hon. C. M. HILL: I do not object to the amendment; therefore, I do not oppose it.

Amendment carried.

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

To insert the following new subsection:

(19a) A permit shall not be granted in respect of Good Friday, Christmas Day, or any other prescribed day or part of a day except where a permit under section 66a of this Act is in force in respect of the premises in respect of which a permit under this section is sought;

and in subsection (20) to strike out "but does not includc any function which is to be held on Good Friday, Christmas Day, or any other prescribed day or part of a day".

The object of these amendments (which affect section 66) is to give people who hold receptions, banquets, and other functions the privilege of serving liquor at wedding receptions on Christmas Day and Good Friday. Many Continental people make those days their wedding days.

The Hon. C. M. HILL: I could not follow the honourable member. I am sorry but I have mislaid the amendment, which was not pasted in my file. Would he explain it a little further?

The Hon. H. K. KEMP: This amendment arises from requests by people running reception houses, and particularly one newly established in the Glen Osmond area at high cost. They are making a particularly good job of catering for wedding receptions and entertainment at business conferences. I think they need to be given more consideration than they are getting at present, when they have only a permit to purchase from the nearest hotel.

The Hon. C. M. HILL: I do not oppose the amendment.

The Hon. A. M. WHYTE: If permits were to be issued for wedding receptions I would be more inclined to go along with the honourable member, but it astonishes me that there

will be a need for business conferences on a Good Friday or a Christmas Day. I understand there are sections of our immigrant community that have weddings on Christmas Day, and maybe on Good Friday, too. I would be prepared to agree to this for wedding festivities, but it seems most unnecessary for any other purpose on a Good Friday or Christmas Day.

The Hon. A. J. SHARD: I cannot understand what all this adds up to. The amendment was not on our files until about 2.30 this afternoon. I do not think we should be asked to vote on something about which we are not clear. I am not clear about it and I am sure other honourable members are not, either. I suggest that the Minister either request permission to deal with other clauses and have this clause recommitted or report progress so that we can look at this amendment and have a clearer understanding of what it means.

The Hon. R. A. GEDDES: I support the Leader in his argument because, for the life of me, I cannot follow this amendment. Permits for these reasons on a Good Friday or Christmas Day do not seem to make sense. I think honourable members should have time to look at this amendment and that the old adage "when in doubt think it out" applies. Perhaps this is a good amendment, warranting support.

The Hon. C. M. HILL: As some honourable members have expressed concern that they are finding difficulty in following the debate at this stage, and as it might be appropriate to give ourselves a little more time to consider the further amendments to clause 24 that are on file (it seems that three honourable members have amendments dealing with the same question in regard to reception houses), I believe that some further consideration might lead to some common ground being established and, therefore, a more expeditious handling of the matter when we come to it. Therefore, I ask that progress be reported.

Progress reported; Committee to sit again.

ADJOURNMENT

At 5.2 p.m. the Council adjourned until Wednesday, October 8, at 2.15 p.m.