LEGISLATIVE COUNCIL

Tuesday, March 14, 1972

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

PETITION: OBSCENE AND INDECENT MATTER

The Hon. R. A. GEDDES presented a petition signed by 20 residents of Whyalla and Iron Knob alleging that obscene and indecent matter of a most undesirable kind had been circulated widely amongst schoolchildren in this State by persons and organizations outside schools, and that the law was not at present effective in preventing this circulation. The petitioners respectfully prayed that the Legislative Council would amend the law to prevent the sale and distribution of obscene and indecent matter to schoolchildren.

Petition received and read.

QUESTIONS

SOUTHERN DISTRICT HOSPITAL

The Hon. R. C. DeGARIS: Can the Chief Secretary tell me of any plans to provide hospital services in the Morphett Vale and Christies Beach areas in Southern District?

The Hon. A. J. SHARD: The answer to the Leader's question is "No, other than the Flinders University teaching hospital". My knowledge of the matter stems from a deputation that came to see me some years ago about a hospital within that district. We held discussions, but I have not heard anything from them since. However, I understand that on Wednesday of next week I will be presented with a petition from the members of the public in that area concerning a hospital. I have had no direct communication or request for a hospital in that area since I have been Chief Secretary on this occasion.

HANDICAPPED CHILDREN

The Hon. C. R. STORY: Has the Minister of Agriculture, representing the Minister of Education, a reply to my question of March 8 concerning handicapped children and the use of teachers in the Education Department?

The Hon. T. M. CASEY: My colleague reports as follows:

Two teachers were sent to Birmingham University in 1965 to take a one-year course in the education of blind and partially-sighted children. On completion of the course they returned and were appointed to the South Australian School for Blind Children. One of them has remained at that school, and in 1968 was appointed Head of the School for Blind Children under the Headmaster of the Schools for Deaf and Blind Children. He is still in that position and teaches secondary classes of blind and partially-sighted children. The second teacher gained promotion and is at present Headmaster (but not a junior Headmaster) in a school in the Upper Murray area.

COUNCIL OF HEALTH EDUCATION

The Hon. V. G. SPRINGETT: Has the Minister of Health a reply to my question of March 8 regarding the possible formation of a council of health education?

The Hon. A. J. SHARD: I believe that health education is an important part of the function of every person working in the field of public health. It is pursued by co-operation between officers of the Public Health Department and the staff of related departments, such as the Engineering and Water Supply Department, the Education Department and the Department of Environment and Conservation. *Ad hoc* committees are set up on specific subjects, such as abuse of drugs, noise, swimming pools, refuse disposal, etc. I have observed the work of health education councils in Western Australia and Queensland, and much good comes of their efforts. The Public Health Department purchases publicity material from each of them from time to time. Administration of these councils is costly and I am not convinced that this expenditure produces more beneficial effects on the health of the people in those States than arises from the less formal approach to co-operation in health education that operates in South Australia.

AMOEBIC MENINGITIS

The Hon. C. M. HILL: Has the Chief Secretary a reply to my question of March 7 concerning the Government's general policy regarding the filtration of our water supply, with special reference to the possible threat of amoebic meningitis?

The Hon. A. J. SHARD: Planning and design have continued under the present Government, which has yet to decide what steps it will take to implement the scheme.

The Hon. R. A. GEDDES: Has the Minister of Agriculture a reply to my question of March 7 regarding the distribution of the necessary salts to combat meningitis in various water supplies in the State?

The Hon. T. M. CASEY: The Minister of Works reports as follows:

The main at Morgan will continue to be chlorinated at the present level of chlorination necessary to render the water bacteriologically

safe, and it is not possible to increase the dosage of chlorine at this station to the level to alleviate the potential problem under existing conditions. The Director of the Institute of Medical and Veterinary Science and the Director-General of Public Health have only recommended, at this stage, the additional chlorination of the water supplies to Port Pirie and Port Augusta and, until such time as a further recommendation is received, there is no intention to extend the present proposals to other towns being served by the Morgan-Whyalla pipeline or to Eyre Peninsula.

FLAMMABLE CLOTHING

The Hon. V. G. SPRINGETT: Has the Minister of Lands obtained from the Minister of Labour and Industry a reply to my recent question about the use of flammable material in manufacturing children's clothing?

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

In recent months the Standards Association of Australia has made considerable progress towards developing standard requirements on the use of flammable fabrics in clothing. That association has recently published a standard which details test methods for determining the flammability of textiles from which clothing may be made. The standard (which is No. AS 1176) covers tests for ease of ignition and the burning rate. The Standards Association of Australia has also prepared a draft standard to establish the performance requirements of fabrics described as of low flammability. To be so described, the draft standard provides that the ignition time of the fabric must be not less than five seconds and the burning time must be not less than 15 seconds. The draft also incorporates requirements for durability of flame-resistant finishes to cleansing processes and sets out marking requirements of fabrics which meet the performance requirements. It appears that this standard, if adopted, can form the basis for uniform legislation throughout Australia to control the use of flammable fabrics in clothing which will be considered at a conference of Ministers of Labour in July.

WEEDS

The Hon. L. R. HART: I seek leave to make a short statement before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. L. R. HART: On November 24, 1971, I asked the Minister a question regarding the control of weeds on roads controlled by the Highways Department. On December 17, I received a written reply from the Minister in which he said that he had discussed the matter with the Director of Agriculture and the Weeds Advisory Committee. In his letter the Minister said:

At present the responsibility for the control of proclaimed weeds growing on roadsides rests with district councils which can recover costs as defined in the provisions of the Weeds Act, 1956-1969. The Weeds Advisory Committee is considering whether current legislation governing weed control can and should be rationalized, and in this connection the committee wrote recently to the Commissioner of Highways seeking information on the categories of roads now in existence and on any future plan for categorizing roads. On receipt of recommendations and comments from the committee I intend to give further consideration to possible amendments to the legislation.

Has the Minister received the report and the recommendations from the Weeds Advisory Committee; if so, does he intend to act upon the report?

The Hon. T. M. CASEY: To the best of my knowledge I have not received the report from the Weeds Advisory Committee. However, that is not to say it is not in my office. I will check this for the honourable member and inform him accordingly.

TOTALIZATOR AGENCY BOARD

The Hon. R. C. DeGARIS: Has the Chief Secretary a reply to the question I asked last week concerning the Totalizator Agency Board?

The Hon. A. J. SHARD: The board has adopted a policy of assisting participating clubs with loans at an interest rate which ensures that the rights of all other clubs are not in any way prejudiced. Short term loans (that is, for one year) are granted up to the amount received by the club from the T.A.B. distribution in the preceding year. The principal and interest is deducted from the distribution due to the club after the end of the fiscal year. Longer term loans have been made available for amounts exceeding the previous distribution, subject to certain conditions being complied with by the club. These conditions ensure that the repayment of principal and interest to the board is guaranteed. Annual repayments of principal and interest in accordance with the agreed terms are deducted from the distribution due to the club. At the present time the board is considering a proposal to provide finance to a club for the purpose of carrying out capital improvements on its course. The negotiations are still proceeding and it is anticipated that a further report may be considered by the board at its next meeting on March 27, 1972.

AFRICAN DAISY

The Hon. C. R. STORY: I seek leave to make a short statement before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: If funds were made available, could the Agriculture Department undertake certain research work to ascertain the possibility of biological control of African daisy? Has the Government considered making such funds available, or what other action is being taken, either at Commonwealth or at international level, to find some means of biological control of the daisy, which appears at present to be almost out of control in some parts of South Australia?

The Hon. T. M. CASEY: The honourable member would know as well as I do that it is quite impossible for the State Agriculture Department to undertake research into biological control of such a pest as African daisy. It is quite beyond the resources of the department. The usual practice is that such matters are referred to the overall body of the Commonwealth Scientific and Industrial Research Organization. This has been done in many cases where biological control has been considered necessary in the interests of the State and of the country generally. The matter we are now discussing has been referred to C.S.I.R.O. by the Agricultural Council. I made the point while I was attending a meeting of the council. Whether funds are available on a Commonwealth basis is not for me to say: it is a matter for the Commonwealth Government. However, in any matter of biological control one must go to the place where the weed originated—in this case, South Africa. To put the honourable member in the picture, the first infestation that got out of control was in the Port Lincoln district, but in that area complete elimination has been effected as a result of better fertilization of the land where the daisy was growing. This has been stated on many occasions by departmental officers.

I know that African daisy is a problem in some areas of this State at present. However, it can be controlled on agricultural land. The problem arises in inaccessible areas such as deep gullies and ravines, where it is impossible to get at it. It has been stated on many occasions that it can be controlled by being pulled out. However, some people say that when it is pulled out another seed bed is created, which further aggravates the situation. These are very real problems that face us at present. Unfortunately, there is no weedicide that will control African daisy, which, as I have said, can be controlled on agricultural land.

The Hon. C. R. STORY: I seek leave to make a further statement before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. C. R. STORY: I am indebted to the Minister for his reply. However, in case the Minister feels he may be misreported, I think he should check whether any weedicides or herbicides are available in South Australia that will tackle African daisy. It is well known that there are adequate weedicides that will cope with African daisy, the cost of which, however (between $35 and $60 an acre), is prohibitive in many cases. That is a considerable sum of money if that method of control has to be carried out each year. In case he is wrongly reported, I ask the Minister to clarify this matter.

The Hon. T. M. CASEY: I thank the honourable member for what he has said regarding my reply. I totally agree with him. I had in mind that Tordon would kill African daisy, as well as everything else around it, including gum trees. This has happened on many occasions in the Adelaide Hills where Tordon has been used to kill a type of pampas grass that came here from South America. However, it has killed all the gum trees in the vicinity as well. When I referred to the use of herbicides and weedicides, I was referring to those which are normally used by the average landholder.

The Hon. Sir ARTHUR RYMILL: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. Sir ARTHUR RYMILL: I want to pursue this matter of African daisy. I did not intend to today but, in view of the question that the Hon. Mr. Story has asked, I think I should ask a supplementary question in relation to the answer that the Minister gave me the other day on the matter. Two statements are made in the A.B.C. Talk No. 209, which I ask to be tabled. The first statement is:

> The recent move that has been made to change the regulations (that is, the Weeds Act regulations) does not mean that we have thrown in the towel.

That is in relation to African daisy. The other statement is:

> Our national parks are not being neglected.

Neither of those statements is in line with my observations at all. I invite the Minister to drive up Greenhill Road and look at the hundreds of acres of the Cleland Reserve and see the African daisy bushes that were not there two or three years ago. In view of these matters, first, does the Minister agree that the department has not thrown in the

towel? Secondly, does he agree that our national parks are not being neglected?

The Hon. T. M. CASEY: The department has not thrown in the towel on this matter; it is vitally concerned about the spread of African daisy. Of course, national parks do not come within my jurisdiction. Nevertheless, we are concerned.

The Hon. Sir Arthur Rymill: But it is the department's statement.

The Hon. T. M. CASEY: Well, we are concerned, because the weeds officers in my department are called upon by the National Parks Commission to look into these matters; we maintain a strict surveillance of these areas. To say that one can drive up Greenhill Road and make an assessment of the amount of African daisy that can be seen from that road is not a true indication of the present situation. If those areas were eliminated from the public view, perhaps there would not be so much talk about African daisy. Nevertheless, I will take up this matter with the department and find out exactly what steps are being taken in the national parks within the area referred to by the honourable member.

The Hon. Sir ARTHUR RYMILL: In view of my personal observation that absolutely nothing has been done to all these acres in that particular national park, does the Minister not consider that that national park has been neglected? No attempt whatsoever has been made, in my observation, to control this very bad weed.

The Hon. T. M. CASEY: As I indicated earlier, I will take up this matter with the National Parks Commissioners and also my colleague in another place and see what the situation is.

AGRICULTURE DEPARTMENT

The Hon. R. C. DeGARIS: I seek leave to make a statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. R. C. DeGARIS: I have been informed that some sections of the Agriculture Department are seriously understaffed because of retirements and resignations and that the rural youth advisers and weeds officers are two branches in which the staff is depleted. Will the Minister give the Council some information on this matter?

The Hon. T. M. CASEY: I will obtain a detailed report from the Director of Agriculture for the honourable member. Having discussed this matter with the Director this morning, I know that there has been at least one resignation from the rural youth sector. It is not easy to replace these officers, as they are specialized personnel. I do not think the situation is as bad as we are led to believe. Indeed, I understand that the department is functioning quite satisfactorily at present.

The Hon. C. R. STORY: Will the Minister of Agriculture say whether the staff of the weeds branch has dropped from 14 to three fairly recently?

The Hon. T. M. CASEY: I will obtain a report for the honourable member and bring back a reply as soon as possible.

TRADING HOURS

The Hon. R. C. DeGARIS: Has the Minister representing the Minister of Labour and Industry a reply to my recent question about trading hours?

The Hon. A. F. KNEEBONE: Information obtained about the operation of the extended trading hours in New South Wales and Victoria indicates that there is a difference of opinion among traders in those States regarding the extended hours. Reports indicate that trading during the extended hours is regarded as being satisfactory in some districts but not in others. There would be no point in our consulting the Governments of those States for advice on the legislation on this matter, which is to be introduced in this State.

LEAVE OF ABSENCE: HON. JESSIE COOPER

The Hon. C. R. STORY moved:

That one month's leave of absence be granted to the Hon. Jessie Cooper on account of absence overseas.

Motion carried.

EVIDENCE ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It arises largely from the first report of the Law Reform Committee, although in some respects the provisions of the Bill go further than the recommendations of the committee. The most important amendments are undoubtedly those designed to relax the hearsay rules which in certain instances militate against the admission of documentary evidence. There have been cases in recent years in which obvious miscarriages of justice have occurred because reliable documentary evidence has been excluded

from a court's consideration by technical rules of evidence. The principal Act at present provides for the admission of bills of lading in evidence without formal proof. The Bill extends this principle, with appropriate safeguards, to other business records and to other documents prepared by a person with first-hand information of the matters to which the document relates.

The Bill also makes other important amendments. The obsolete and in some ways offensive provisions relating to evidence from Aboriginals are struck out and more general provisions applicable to any person who does not understand the obligation of an oath are inserted. The grounds upon which a court may permit a witness to make an affirmation instead of an oath are widened to some extent. The provisions relating to the admission of telegraphic messages in evidence are modernized and made applicable to criminal as well as civil proceedings. The provisions for the admission of computer output in evidence are reintroduced. Finally, an amendment consequential upon the repeal of the Administration of Justice Act by the Foreign Judgments Act is inserted in the principal Act.

The provisions of the Bill are as follows: Clauses 1, 2 and 3 are formal. Clause 4 slightly widens the definitions of "electric telegraph" and "telegraph station" in the principal Act. Clause 5 widens the discretion of a court to permit a witness to make a solemn affirmation instead of an oath. Where a witness requests that an oath be administered by means not readily available to the court, the court is permitted to administer a solemn affirmation in lieu of an oath. Clause 6 repeals sections dealing specifically with Australian Aborigines and uncivilized persons and replaces them with a provision generally applicable to persons who do not understand the obligation of an oath. Clause 7 repeals and re-enacts the provisions of section 12 of the principal Act, which deals with the admission of evidence from a child under the age of 10 years. The present provision appears to relate only to criminal proceedings, and accordingly a provision of general application is inserted. Clauses 8 and 9 make consequential amendments to the principal Act.

Clause 10 repeals section 45 and enacts new sections 45, 45a and 45b. New section 45 covers much the same ground as the old section, which related to the admission of bills of lading and other similar documents in evidence. However, the scope of the new section is widened to cover documentary evidence of the transportation of human beings as well as goods. New section 45a provides for the admission of business records in evidence. Safeguards are inserted enabling a court to prohibit the admission of a business record where it is of the opinion that the person who prepared or directed the preparation of the document should be called to give oral evidence, that the prejudice resulting from the admission of the document would outweigh its evidentiary weight, or that it would be otherwise contrary to the interests of justice to admit the document in evidence. New section 45b is a more general provision enabling a court to admit documentary evidence where it is satisfied that the document was prepared by, or at the direction of, a person with first-hand knowledge of the matters contained in the document. Similar safeguards are adopted relating to the admission of documents in evidence under this section.

Clauses 11 and 12 extend the operation of Part VI of the principal Act, which relates to the admission of telegraphic messages in evidence, to criminal proceedings. Clause 13 makes amendments to section 56 consequential on the establishment of the office of Solicitor-General and the abolition of the Marine Board. Clause 14 re-introduces the provisions relating to the admission of computer output in evidence. These provisions are, of course, in accordance with a report of the Law Reform Committee. Clause 15 enacts new section 63a of the principal Act. This new section provides that, where any question regarding the law of any other country arises in proceedings before a judge and jury, any question regarding the effect of evidence given in relation to that question shall be decided by the judge and shall not be submitted io the jury. A similar provision existed in the Administration of Justice Act. However, that Act was repealed by the Foreign Judgments Act. It was thought desirable to re-enact the provision in the Evidence Act, where it falls more appropriately. Clause 16 makes a consequential amendment to the schedule.

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

INHERITANCE (FAMILY PROVISION) BILL

Second reading.

The Hon. T. M. CASEY (Minister of Agriculture): I move:

That this Bill be now read a second time.

It is designed to replace with more adequate provisions the existing Testators Family Maintenance Act. The general purpose of this legislation is to provide that, where a member

of a deceased person's family who has been left by the deceased, contrary to his legitimate expectation, without reasonable provision for maintenance, education or advancement in life, he may claim an allowance for those purposes out of the estate left by the deceased. The present Act applies only in the case of a person who dies leaving a will, and the Bill, which covers cases of intestacy, will bring our law into line with that of England, New Zealand and certain other States. The Bill also enlarges the classes of potential claimant against the estate of the deceased. This extension also has precedent elsewhere. The Bill makes various other procedural improvements to the existing law. Amongst these are improvements suggested by the Law Reform Committee in its third report.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 repeals the Testators Family Maintenance Act and enacts transitional provisions. Clause 4 inserts various definitions required for the purposes of the new Act. Clause 5 deals with the application of the new Act to the estates of persons who died before its commencement. Clause 6 describes the classes of person who may claim pursuant to the Act against the estate of a deceased person. Clause 7 provides that, where a person dies and leaves inadequate provision for the maintenance, education or advancement of a person who might legitimately have expected the deceased to make such provision for his benefit, the court may order that provision be made out of the estate of the deceased for that person's maintenance, education or advancement in life. The court is empowered to order that the provision made under the Act should consist of a lump sum or of periodic payments.

Clause 8 provides that an application under the new Act must be made within six months after the grant of probate or letters of administration in respect of the estate of the deceased. The court is empowered to grant an extension of this period. Where an application for extension of time is granted, no order is to be made disturbing the distribution of any portion of the estate prior to the date of the application. Clause 9 provides for the manner in which the amount of an order under the new Act is to be borne. Those who are beneficially entitled to the estate of the deceased are, in general, to bear the additional burden on the estate in proportion to the value of their respective interests in the estate. Where, however, successive interests in property are given by a will, the burden of the additional provision is to be charged against the *corpus* of that property. The clause also contains provisions relating to procedural matters.

Clause 10 provides that an order under the new Act shall, subject to the provisions of the Act, operate in the same manner as a will or codicil. Clause 11 provides that the court may fix periodic payments or a lump sum to be paid by any person to exonerate any portion of the estate to which he is entitled from any charge arising under the provisions of the new Act. Clause 12 enables the court to vary or discharge an order where the person for whose benefit the order is made obtains moneys for his maintenance, education and advancement from other sources.

Clause 13 prohibits a person for whose benefit an order has been made under the new Act from mortgaging or charging, without the permission of the court, the provision to which he becomes entitled in pursuance of the order. Clause 14 protects any administrator of the estate of the deceased from liability to account to any claimant who subsequently becomes entitled to provision from the estate of the deceased. He incurs no liability to the claimant unless he has had proper notice of the claim. Clause 15 provides for the apportionment of duties payable on the estate of the deceased where an order is made under the new Act. Clause 16 is a special provision to bring the Public Trustee within the terms of the new Act. Clause 17 empowers the judges of the Supreme Court to make Rules of Court regulating the practice and procedure upon applications under the new Act.

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

MOTOR VEHICLES ACT AMENDMENT BILL (LICENCES)

Second reading.

The Hon. A. F. KNEEBONE (Minister of Lands): I move:

That this Bill be now read a second time.

It makes some very important changes to the Motor Vehicles Act. The principal amendments relate to the implementation of a system of licence classification. These amendments are designed to ensure that a person who drives a motor vehicle of a certain kind possesses the necessary standard of skill to manage that vehicle without endangering the safety of the public. Ancillary amendments are inserted to establish a minimum age of 18 years at which a person may qualify to

drive heavy commercial vehicles. The Bill also provides for short-term permits, the licensing of manufacturers of number plates, the establishment of a consultative committee to which the Registrar may refer certain important or contentious matters, and a minimum age at which a person may become the registered owner of a motor vehicle, and makes a number of other formal amendments.

In the interests of road safety and standardization of road laws in Australia, provision is made for classifications of drivers' licences similar to those recommended by the Australian Road Traffic Code Committee and endorsed by the Australian Transport Advisory Council. Before 1961, a standard licence was issued in this State authorizing the holder to drive any type of motor vehicle. In recognition of the special skills required to handle heavy vehicles, the Motor Vehicles Act Amendment Act (No. 2), 1960, provided for a separate class A licence for those who demonstrated by practical test their ability to drive vehicles weighing more than three tons. This system in which all other drivers are classified as class B has operated since July, 1961.

The effect of the Bill is to carry this principle further by providing a numbered system of additional classifications. Under the new system the Registrar of Motor Vehicles will require appropriate tests or other evidence of competency before authorizing applicants for licences to drive either articulated vehicles or motor omnibuses. Five classes of licence will be available. Most drivers who drive only motor cars and light commercial vehicles will convert to a class 1 licence. Those who wish also to drive heavy commercial vehicles but not articulated vehicles, omnibuses and motor cycles may convert to class 2. A class 3 licence will extend the privileges of a class 2 licence to include articulated vehicles. A number 4 or 5 classification may be issued either in association with a class 1, 2 or 3. or separately. Endorsement of a licence with class 4 will authorize the holder to ride a motor cycle, while class 5 will permit the driving of omnibuses.

Licences in force when the Act comes into operation will continue for their period of currency under the same conditions as those under which they were issued. The Registrar will have discretion to change classes on the renewal of the licence within the first 12 months of the operation of this legislation on receipt of reasonable evidence of competency or upon satisfactory test results. New applicants for licences will be tested in vehicles appropriate to the class desired.

It is proposed to adopt the following procedures in converting existing classes of licence to the new classes. Those holding existing B class licences will automatically convert to class 1. Those holding existing B class licences restricted to motor cycles only will automatically convert to class 4. Persons holding a current A class licence who had passed a practical test since tests were introduced in 1961 will convert automatically to class 2. The remaining A class licence holders (that is, those who had not passed a test) will convert automatically to class 1. Any person who requires endorsement for a class of licence over and above these automatic conversions will be required to pass a test or to present satisfactory evidence of experience and competence.

Under existing legislation, the Registrar of Motor Vehicles has no authority to permit the use of vehicles on roads in unusual emergencies. Situations frequently arise in which owners are required to go through the laborious procedure of fully registering a vehicle and then cancelling the registration and obtaining a refund perhaps after only one or two days use. This is not only inconvenient to the person but is also cumbersome and unnecessarily time-consuming for the department. This Bill authorizes the Registrar to issue permits for periods not exceeding three days in circumstances in which he is satisfied that it would be unreasonable or inexpedient to require registration. There are various situations in which this can occur. For example, a visitor from another State who is stranded with an expired registration may require some authority to enable him to return home. There have also been cases of a stolen vehicle being located in South Australia and the owner wishing to obtain an authority to remove the vehicle to his home State.

Another example is that of a country property owner who purchases a vehicle for use of the engine on his property or for use as an off-road vehicle, and he merely wishes to do the one trip to the property. Provision is made similar to that already existing with respect to permits issued under sections 14, 17 and 18 of the Act, namely, that the person may be exempted from the duty to comply with any specified provisions of this or any other Act relating to road traffic. This is designed to enable a person to be relieved of unnecessary burdens where limited use of a vehicle is

involved—for example, the carrying of number plates. In licensing manufacturers, it is proposed to require certain conditions to be met —for example, suitability of premises and equipment, standard of plates, keeping of records and the maintenance of an effective service.

Parts III and IIIA of the Motor Vehicles Act give the Registrar of Motor Vehicles discretion in the issue, cancellation or suspension of drivers' licences, tow truck operators' certificates and driving instructors' licences. When such discretion is exercised on the grounds of character or conduct, it is inappropriate that it should rest upon the opinion of one official. The Bill provides for a committee of review to decide these cases where the Registrar considers that there is doubt or that the circumstances of the case or the interests of the applicant justify referral.

Provision is made in this Bill for a minimum age of 16 years for registered owners of motor vehicles. An owner under the Motor Vehicles Act has various responsibilities that cannot be carried out by a very young person who may not have reached the age of reason. It is inappropriate for a person who is not old enough to obtain a driver's licence to be recognized as the owner of a vehicle.

The provisions of the Bill are as follows. Clause 1 is formal. Clause 2 provides for the commencement of the amending Act. It should be noticed that the new provisions relating to licence classification are to come into operation on a date to be fixed by proclamation. Clause 3 inserts a number of definitions, which are required mainly for the purposes of two amendments to .be made by the Bill. The definition of "Minister" is consequential on the next clause, which repeals section 6 of the principal Act. This definition merely tidies up the references to "the Minister" in the principal Act and does not indicate any intention to vary the administration of the Act.

Clause 4, as I have mentioned, repeals section 6. Clause 5 provides for the issue of short-term permits, to which I have referred. Clause 6 amends section 20 of the principal Act by establishing a minimum age at which a person becomes entitled to be registered as the owner of a motor vehicle. The invalid registration of a vehicle contrary to the provisions of this section does not affect the validity of a third-party policy under the principal Act. Clauses 7 and 8 make drafting amendments to the principal Act.

Clause 9 amends section 41 of the principal Act by striking out subsections (3) and (4). These subsections create anomalies when compared with section 54. Under subsections (3) and (4) a person who uses a vehicle of restricted registration contrary to the conditions of registration may be required to pay the full registration fee. However, under section 54 the registered owner may immediately cancel the registration and claim the registration fee back. He could then apply again for restricted registration. It is thought better to repeal these provisions for the recovery of registration fees and leave this matter to be dealt with as a criminal offence. Clause 10 provides for the licensing of number plate manufacturers. Clause 11 provides for the classification of licences in the manner previously described. Clause 12 provides for the Registrar to refer to the consultative committee any contentious question as to the good character of an applicant for a tow-truck certificate. Clause 13 makes a consequential amendment to section 76 of the principal Act.

Clause 14 establishes an age limit of 18 years for persons who seek to obtain licences to operate heavy commercial vehicles. Clause 15 provides for the Registrar to obtain the advice of the consultative committee before he exercises certain powers under the principal Act to refuse to issue a learner's permit or licence to an applicant, or to cancel an existing licence. Clause 16 makes a consequential amendment to section 85 of the principal Act. Clause 17 amends section 98a of the principal Act. These amendments are similar to previous amendments relating to tow-truck certificates. They provide for the Registrar to submit contentious matters to the consultative committee for advice. Clause 18 provides for the establishment of the consultative committee. It is to consist of the Registrar or his nominee, the Commissioner of Police or his nominee and a legal practitioner of at least five years standing. Clause 19 increases to $100 the penalties that may be prescribed for breach of a regulation. Clause 20 provides that a person who drives a commercial vehicle for excessive hours under the new hours of driving legislation is to incur two demerit points for each offence.

The Hon. C. M. HILL secured the adjournment of the debate.

PHARMACY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March *9.* Page 3757.)

The Hon. A. I. SHARD (Minister of Health): I thank honourable members who have contributed to this debate. The Hon. Mr. Banfield took the adjournment last week simply

to give me time to obtain replies to questions raised, first, by the Hon. Mr. Cameron and subsequently by the Hon. Mr. Gilfillan. The Pharmacy Board, when proposing the amendment to the Act, carefully examined the position relating to the carrying on of a business by a pharmacist's widow. The board was satisfied that section 31, which allows the business to be carried on indefinitely by the executors for the benefit of the estate, satisfactorily covers the position. In examining this matter, the board, from its experience, was of the opinion that under normal circumstances it is far better for the estate to realize on the business rather than for it to be continued under indifferent managership. Generally it has been found that under such managership the business deteriorates and the assets of the estate likewise deteriorate. There is no question that a business would be required to be sold quickly at financial disadvantage because of the provisions of section 31. The board understands that similar provisions apply in all the other States.

The second question relates to the presence of the pharmacist in the premises whilst open. Section 30 (paragraph 1) provides that the pharmacist shall be present whilst the business of retailing, compounding or dispensing drugs or medicines on the orders or prescriptions of legally qualified medical practitioners is being carried on. The Full Bench of the Supreme Court of South Australia in August, 1961, held that this section applied only whilst dispensing was actually being carried out. The Act does not therefore require a pharmacist to be present at all times whilst the pharmacy is open. Whilst I appreciate the honourable member's concern about a registered chemist being in attendance on the premises at all times, I do not propose any amendment to the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Power to cancel registration, etc."

The Hon. R. C. DeGARIS (Leader of the Opposition): I did not speak on the Bill in the second reading stage. A matter that concerns me a little and on which the Minister may be able to give me some information concerns the power to cancel registration of a pharmacy. Power to cancel registration is provided in the principal Act, but this amending Bill changes it somewhat. Is there provision for an appeal against the cancellation of registration, or is the say-so of the board to be taken as final? I have complete confidence in the board, but I raise this as a matter of interest.

The Hon. A. J. SHARD (Minister of Health): I am unable to give an answer off the cuff. However, I would be surprised if there was not provision for appeal. I will get this information for the honourable member. Perhaps the matter is covered by regulation.

The Hon. R. C. DeGARIS: Perhaps we could deal with clause 7 after consideration of the rest of the Bill, in the hope that the information will be available then.

The Hon. A. I. SHARD: I do not mind whether that action is taken or whether the Bill is recommitted, if necessary, before the third reading stage.

Clause passed.

Clauses 8 to 18 passed.

Progress reported; Committee to sit again.

Later:

Clause 19—"Amendment of Pharmacy Act Amendment Act, 1965."

The Hon. A. J. SHARD: The sole purpose of asking that progress be reported was to get a reply on the right of appeal in the case of cancellation of registration of a pharmacy. There is such an appeal. I say that to satisfy the Leader of the Opposition.

The Hon. R. C. DeGARIS: On looking at the principal Act, I find that it is so. I have no further objection.

Clause passed.

Clause 20 and title passed.

Bill read a third time and passed.

SOLICITOR-GENERAL BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3758.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I support this Bill, on which I should like to make a few comments. Its first three clauses are more or less formal. Clause 4 is indeed an interesting one. It provides as follows:

> The Governor may appoint a practitioner of the Supreme Court of not less than seven years standing to be Solicitor-General of the State of South Australia.

I draw honourable members' attention to the words "practitioner of the Supreme Court", which means the Supreme Court of South Australia. Section 8 of the Supreme Court Act, 1935, as amended, provides that no person shall be qualified for appointment as a puisne judge of the court unless he is a practitioner of the court of not less than 10 years standing. I ask honourable members once more to note the words "practitioner of the court". Section 8 (2) provides that no

person shall be qualified for appointment as Chief Justice unless he is a practitioner of the court of not less than 15 years standing.

1 refer now to the Motor Vehicles Act Amendment Bill, the second reading of which was given by the Minister this afternoon. Clause 18 of that Bill inserts in the principal Act new section 139b, which relates to the appointment of a consultative committee for the purposes of that Act. New subsection (2) provides as follows:

> The consultative committee shall consist of—
> *(a)* the Registrar or his nominee;
> *(b)* the Commissioner of Police or his nominee; and
> *(c)* a legal practitioner of at least five years standing.

There is no mention in that provision of the Supreme Court. This is the burden of my song: why must the Solicitor-General be a practitioner of the South Australian Supreme Court of not less than seven years standing? There are plenty of other courts equal in stature to the Supreme Court of South Australia.

The Hon. A. J. Shard: Some of our people do not think so.

The Hon. Sir ARTHUR RYMILL: We have recently had the experience of the Government importing a new Commissioner of Police. It seems that men such as this are good men for the job. There is no stipulation regarding the Commissioner's having had to be in South Australia for seven years, let alone regarding his having had to be in the Police Force or anything else. Might it not be possible that the Government will at some time in the future want to appoint a Solicitor-General from somewhere else because the person involved might have special qualifications. and might it not want to appoint a very experienced practitioner within South Australia who has not practised in South Australia for seven years but may have practised somewhere else? The Supreme Court Act provides that in a number of circumstances a person can be appointed a practitioner of our court. Might not the Government want to appoint such a person as Solicitor-General? I refer, for example, to a distinguished Queen's Counsel from outside of the State who may have decided to settle in South Australia and who, within a year or two of his arrival, decides that he would like to apply for the position of Solicitor-General. Why should such a person be excluded from doing so? For this type of job we want to get the best man available.

I could instance eminent Parliamentary Counsel of recent years, who have done a most distinguished job for this State and who, on their appointment, would probably not have met this requirement. Of course, the appointment of Parliamentary Counsel is a substantial, important and responsible one. I draw attention to this matter, as I consider this clause in the Bill to be unnecessarily restrictive. However, this is a Government appointment and, if this is what the present Government wants, that is all there is to it as far as I am concerned. Although I do not intend to move any amendment to the clause I draw the Government's attention to it, for what it is worth. I should not have thought the Government would want to be unnecessarily restrictive in its range of future appointments.

One of the crucial features of the Bill is clause 5 (4), which provides that the Public Service Act, 1967, as amended, shall not apply to or in relation to the Solicitor-General. I think this is one of the main purposes of the Bill, and, as my learned colleague has already commented on it, I do not think it is necessary for me to add anything. Clause 6 (b) provides that the Solicitor-General shall not, except with the consent of the Attorney-General, engage in any other remunerative employment. I think I could safely contrast that provision with clause 4, to which I referred earlier, in which the Government is being unduly restrictive in binding itself to appoint as Solicitor-General a practitioner of our own Supreme Court. Clause 6 (b) is non-restrictive inasmuch as it implies that a Solicitor-General shall be entitled, so long as he obtains the consent of the Attorney-General, to engage in some other remunerative employment. I should have thought the job of Solicitor-General would be a full-time one and that it would be unnecessary to allow him, by implication at least, some sort of right of private work. Perhaps there is some good reason for this, and perhaps the Minister in charge of this Bill—

The Hon. A. J. Shard: It is becoming a fashion in all walks of life.

The Hon. Sir ARTHUR RYMILL: —will tell me why it is necessary.

The Hon. A. J. Shard: I do not know in this particular case.

The Hon. Sir ARTHUR RYMILL: I should not have thought in this case that it was either fashionable or necessary, but that may be by the way. I assume that a judge of the Supreme

Court would not either want, or be allowed, the right to do private work—

The Hon. A. J. Shard: That is so.

The Hon. Sir ARTHUR RYMILL: — because it might conflict with his duties. I am not certain that in this respect it might not conflict with the Solicitor-General's duties. This seems a strange provision; it may have been taken from other legislation.

The Hon. A. J. Shard: "Some other profession" would be the verbiage.

The Hon. Sir ARTHUR RYMILL: It is strange that an appointee to a position of this nature should virtually be given some sort or restrictive right of private practice. In a way, clause 10 likens the Solicitor-General to a judge, because it provides:

The Judges' Pensions Act, 1971 shall in all respects apply to and in relation to the Solicitor-General as if *(a)* he were a judge as defined in that Act; and (b) his service as Solicitor-General were judicial service . . .

In other words, it is putting him on a plane somewhat parallel to the exalted plane of a judge of the Supreme Court. Parliamentary Counsel occasionally refer to me jocularly as the expert on marginal notes, probably because I have picked up one or two errors during my sojourn in this Council. That is somewhat facetious. I call attention to the marginal note of clause 11, which provides:

Where a person who is or has been Solicitor-General is appointed a judge,

certain things shall apply. The word "is" does not relate to the present moment: it is intended to relate to the future as well as the present and the past, but the marginal note states "Former Solicitor-General appointed judge." I should think that the word "Former" in this instance was not quite correct, although I know that marginal notes are not taken into account in determining the meaning of Statutes. Nevertheless, if it was so, this word would restrict it to the present or any past Solicitor-General. I would not think that that was the intention of the clause, as I read it:

(1) Where a person who is or has been Solicitor-General is appointed a judge as defined in the Judges' Pensions Act, 1971, that Act shall apply to and in relation to that person as if (a) the service as Solicitor-General of that person were judicial service as defined in that Act; and *(b)* section 5 of that Act had not been enacted.

(2) Where a person referred to in subsection (1) of this section was, immediately before his appointment as a judge, in receipt of a pension under the Judges' Pensions Act, 1971, that pension shall upon that appointment cease and determine.

The whole tenor of the clause seems to me to be related to any Solicitor-General, past, present or future. Perhaps the word "Former" in the marginal note is not correct. I support the Bill but hope the Minister in his reply will give some attention to the formal matters I have raised.

The Hon. C. M. HILL secured the adjournment of the debate.

UNIVERSITY OF ADELAIDE ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

WILLS ACT AMENDMENT BILL

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

STATUTES AMENDMENT (LAW OF PROPERTY AND WRONGS) BILL

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

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3751.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, which can be described, I think, largely as a Bill to make some procedural alterations in the principal Act, which was passed by this Parliament only in 1969. One or two administrative changes are required, and certain procedural matters have been dealt with. The principal matter deals with the interpretation of an offence and the conduct of the person concerned committing the offence. If that conduct is founded in some way upon the insanity of the person, then the fact cannot be used as grounds for avoidance of the obligations under this Bill. The administration of the Act is transferred from the Treasurer to the Attorney-General and certain provisions are made in connection with service; also, it is made clear that the Crown has a right to be heard on any application. As the matter is simple and straight forward, it does not require any further explanation by me. I am happy to support the second reading.

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

PLACES OF PUBLIC ENTERTAINMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3753.)

The Hon. G. J. GILFILLAN (Northern): I support the Bill, which amends a rather complicated Act. I agree with the Hon. Mr. DeGaris that it appears that the Act could be repealed and redrafted to suit modern conditions. In his second reading explanation the Chief Secretary mentioned several of the matters contained in the Bill. True, under the Bill the Chief Secretary, who administers the Act, is given considerable discretion. Because of the many problems involved in administering such an Act, particularly this Act which, in many instances, is out of date, some discretion must be allowed so that all types of people involved in entertainment should not be unduly penalized.

As several unusual situations exist in this State, perhaps the Chief Secretary, when replying, will clarify the position obtaining when a licensed restaurant meets all the requirements of a licensed restaurant as such but which stages a floor show. Places of public entertainment, when licensed as such, must comply with fairly stringent conditions, in that in the case of halls the doors shall open outwards with the pressure of people in the event of fire, the seating must either be in multiple numbers of chairs or secured to the floor, and other things shall be provided to protect people moving quickly through an exit. A licensed restaurant, as such, would fulfil all the functions of a restaurant but, should entertainment also be provided (particularly when a cover charge is imposed), it would be interesting to know what the situation would be.

In all fairness, I believe that in such a situation the licensed restaurant should not have to meet more stringent conditions than should a restaurant serving a similar number of people with a meal; that would be a commonsense approach. Under the Bill the power to grant exemption applies particularly to sports grounds and racecourses, whereas the Act applies to some clubs as well. Churches or places of worship, universities, colleges and schools are also exempted where the place of entertainment is used for the purpose of that church, school or university. In allowing these exemptions, will the Chief Secretary say whether it is intended that this will mean that there will be supervision of that type of building and whether it would be safe for a congregation of people in the event of fire or other disaster?

Perhaps the conditions may not be stringent, but I believe that, where exempted buildings are concerned, some consideration should be given to safety factors, particularly in the event of fire. The modem schools being built by the Education Department to plans drawn up by the Public Buildings Department are not subject to the same Acts as those that apply to private enterprise, but the specifications for the new schools more than comply with the regulations. For instance, two staircases and numerous exists at ground level are provided in multi-storey schools.

The Bill repeals section 16 of the Act and certain sections are inserted in its place which, to some extent, duplicate what is already contained in section 16 but which go further in one or two fields, particularly regarding the deregistering of a place of public entertainment. New section 16a (1) provides:

> Where the Minister is of the opinion that a public entertainment has been, or is about to be, conducted in a place of public entertainment in contravention of the provisions of this Act, or any other Act or law, he may apply to a local court of full jurisdiction for an order under this section.

I concede that protection exists against perhaps undue use of this authority, in that the case must go before a court. It appears to me that this provision has been included for a certain reason, namely, to control the type of entertainment or any other activity that might involve a law other than the Places of Public Entertainment Act. This provision, which may appear elsewhere in the Statutes (though I am not aware of it), gives the Minister a power which could have severe consequences if it were used unwisely. I have confidence that the Minister will exercise that discretion wisely. I believe that this provision could be related to one or two events that have occurred in relation to places of public entertainment in the last two or three years. In general, the Bill appears to be logical and, because the public needs protection when attending places of public entertainment, I support it.

The Hon. R. A. GEDDES secured the adjournment of the debate.

MISREPRESENTATION BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3756.)

The Hon. C. M. HILL (Central No. 2): I admit that I have experienced considerable difficulty in reviewing this Bill. Although its

clauses are much more easily understood by those accustomed to interpreting the law, nevertheless it is still proper that a layman's view on the Bill should be heard. In his second reading explanation the Minister said:

> The Bill arises out of recommendations made to the Government by the Law Society and the Law Reform Committee.

I seek guidance from experts and others in regard to this Bill. I would like to know whether expert bodies, such as the Law Society and the Law Reform Committee, approve of this Bill. I accept that they have made recommendations that the law should be changed to cover the points dealt with in the Bill, but we have not been told by the Minister that this Bill is exactly the legislation that those two bodies recommended. There is an important difference between, on the one hand, the committee and the society recommending that a change be made and, on the other hand, the actual drafting of that change.

It is not unreasonable, therefore, to ask the Minister whether he will ascertain, if he does not already know, whether the Law Society, in fact, approves of the Bill in its present form. If the society does not approve of the Bill in its present form, I should like the Minister to ascertain what changes the Law Society would suggest. A similar question could be posed to the Law Reform Committee. It appears to me that the Bill is not a defendant's approach to the proposed changes: rather, it is a prosecutor's approach. This leads me to fear that perhaps the Law Society or the Law Reform Committee may not agree with the wording of the Bill.

I am concerned mainly about Part II of the Bill; the other parts were covered very well by the Hon. Mr. DeGaris and the Hon. Mr. Potter. In general, I support the second reading and will carefully follow the progress of the Bill during the Committee stage, when the various amendments that have been foreshadowed are discussed. There is a need for legislation to implement changes in this sphere, because no-one has sympathy for any person who fraudulently misrepresents any matter to the public and gets away with it. Apparently that has been happening, and legislation should be introduced to cover that point.

Where the misrepresentation is intentional and fraudulent I wholeheartedly support action being taken to stop it. However, the question at the other end of the scale (the question of innocent misrepresentation) is a different kettle of fish. I dislike the thought of a person having to face a criminal charge if he has misrepresented some matter quite unintentionally and if he admits to such misrepresentation and explains that it was unintentional. The Bill in its present form leaves the way open for a criminal charge to be laid against such a person; that leaves a nasty taste in my mouth. The Hon. Mr. Potter dealt at length with clause 4 (4), which provides:

> For the purposes of this section, a representation constitutes a misrepresentation if it is false in any material particular.

Last Thursday the Hon. Mr. Potter advocated that the term "in any material particular" should perhaps be altered to the term in the English legislation—"to a material degree". If that alteration was made, there would be some instances where people who were guilty of unintentional misrepresentation would perhaps not be charged; but they might be charged if the wording in the Bill remained in its present form.

I wish to follow a similar line of thought to that followed by the Hon. Mr. Potter; an example comes to my mind of the case of a used car being sold by a salesman who notes the reading on the speedometer and who may well make a further check on the car's mechanical condition. Believing that that condition fits in with the reading on the speedometer, the salesman may well sell that vehicle. It might later be brought to his notice that the vehicle had travelled twice the distance shown. He might then go to the purchaser and admit that he had proof that the representation was incorrect.

That would be a case in which he had innocently made a misrepresentation and willingly went to the purchaser and pointed out his error. It would appear to me that the reading on the speedometer of a vehicle would be taken as being a material particular in regard to whether or not a misrepresentation had been made.

On the other hand, whether the condition of the vehicle was affected to a material degree is quite another question. Perhaps new tyres had been put on the car, the mechanical condition might have been improved by maintenance and repair work, and perhaps the condition of the car was not affected to a material degree because of the innocent misrepresentation. If the speedometer reading is accepted as being a material particular when the question of misrepresentation is assessed regarding the sale of a used car, under the Bill as drafted the salesman and possibly his employer could face charges in the criminal court.

In these circumstances I do not think that would be fair, so serious consideration should be given to changing the phrase to that suggested by the Hon. Mr. Potter, and I will listen with interest to what the Minister says in reply on that point.

In many cases action should be taken against people who have been involved in fraudulent misrepresentation, and I appreciate the position in which the Government finds itself, as in the past people in this category have not been proceeded against successfully. In a modern and complicated society it is difficult in many cases for a jury to be satisfied beyond reasonable doubt that the alleged misrepresentation was intentional. It is hard to prove that the element of guilty intent existed or that the accused had a guilty mind.

I believe the disadvantages of shifting the onus of proof on to the defendant must be weighed against the advantages of implementing legislation that will provide adequate protection (which seems to be lacking at the moment) against intentional commercial misrepresentation. At one end of the scale is obviously fraudulent misrepresentation and at the other innocent misrepresentation, but between the two extremes are many borderline cases regarding which the burden of proof under the legislation, as I interpret it, is on the Crown, or on the complainant, if the complaint is laid by a party other than the Crown.

It is more probable that if the defendant believed his representation was true he would be acquitted, but it still remains for the Crown to prove beyond reasonable doubt that the accused was guilty of a conscious and deliberate misrepresentation. The case must be made out, as I understand it, beyond reasonable doubt.

The accused is afforded a defence in that the onus is placed on him to prove, on the balance of probabilities, that he believed on reasonable grounds that the representation was true. The position of the person making the representation is covered in clause 4 (3) (a), which provides that it shall be a defence to a prosecution under this section that the person by whom the representation was made believed upon reasonable grounds that the representation was true.

Then we come to the position of the principal or the employer. In some respects it seems a fairly difficult task for an employer to accept the probabilities in the Bill, that he in turn can be charged if an employee (whether a salesman or some other form of employee) commits an offence.

The role of the employer is covered by clause 4 (3) (b), which provides that it shall be a defence to a prosecution, where the defendant is not the person by whom the representation was made, that the defendant took all reasonable precautions to prevent the commission of offences by persons acting on his behalf, or in his employment.

However, employers and principals have a clear responsibility to train their staff correctly in business practice and to supervise and control their staff in such a way that employers or principals cannot really escape responsibility when matters of this kind arise.

I question whether there is any need for clause 4 (5), which provides:

> Where a body corporate is guilty of an offence under this section, each member of the governing body of the body corporate who knowingly authorizes, suffers or permits the commission of the offence shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

I ask the Minister to give his interpretation of the words "who knowingly authorizes, suffers or permits the commission of the offence". Does this mean "who knowingly either authorizes, suffers or permits", or does "knowingly" apply only to "authorizes"? If that is the case, it would mean that "permits without knowledge" would be the cause of guilt. I do not think that is the intention, but this should be looked at very closely.

If it means "permits without knowledge", that is a very radical departure. It is extremely unusual for the thinking process of the company to be interpreted in such a way. I should like the Minister to comment on the interpretation of that important passage in clause 4 (5). As this subclause deals with companies, what is the thinking process of the company?

Is it the mind and will of the directors? If it is, one could return to clause 4 (3) (b), to which I referred earlier. It seems that the directors would be guilty under that provision and, if that is so, I wonder whether there is any need for subclause (5). One might well ask, if the prosecution cannot show that directors knowingly authorized, suffered or permitted the commission of an offence, what they could do to take reasonable precautions to prevent the commission of an offence referred to in clause 4 (3) *(b)*.

This whole matter of the responsibility of directors should be examined closely. I ask the Minister what is the position regarding the general manager of a company that is guilty under clause 4 (3) *(b)*. It seems to me that

he may well escape responsibility. Whether or not that is intended, I do not know.

I am not carrying a banner for the directors of companies in this regard because, if they are guilty of such an offence, I would be the first one to support action being taken against them. However, it is hard for me to understand this provision, which is difficult to interpret.

If it can be improved upon, this is the place in which that improvement should be made. It appears that clause 4 (3) *(a)* really deals with the case of the individual involved (generally the employee) and that clause 4 (3) (b) deals with the employer. Bringing the companies into the matter again, clause 4 (5) seems to confuse the issue considerably.

I again stress that I acknowledge the Government's problem and the difficulties it is experiencing in trying to draft legislation to cover the points brought forward by the Law Society and the Law Reform Committee.

The Bill has much to commend it. It simply presents many worries regarding the method in which the Government is going about its responsible task of assisting the public and the commercial world to reduce the degree of fraudulent misrepresentation that takes place.

I have noted with interest that no gaol sentences are provided in the penalties, an aspect upon which I commend the Government because this does, to a certain degree, take the sting out of the matter, especially and specifically because of innocent misrepresentation, to which I referred earlier. Although a maximum penalty of $500 is written into the legislation, in some cases much smaller penalties may be prescribed by the courts.

More important than anything else, I ask the Government to say whether or not the Law Society and the Law Reform Committee approved of the drafting of this legislation and, if they did not, whether the Government will explain the differences in the views of those bodies and the views expressed in the legislation now before the Council. I support the second reading, and will follow the progress of the Bill through Committee with interest.

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

COMPANIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3757.)

The Hon. R. A. GEDDES (Northern): One of the main purposes of this Bill is to bring about uniform companies legislation throughout Australia. The idea behind it is that companies, with their diversification, will be able to, familiarize themselves with the company law relating to their various branches or agencies no matter where those branches are situated in Australia. I should like now to examine what the various State Governments have done regarding companies legislation.

In Queensland, the legislation was passed in a short time—indeed, in about a fortnight. Because there is no House of Review in Queensland, few amendments were moved, and the Bill was passed almost in its original form. In the New South Wales Upper House, 70 or 71 amendments were carried. I do not debate the merits of what New South Wales has done to its legislation; I merely wonder how we can have uniformity in this legislation. Victoria introduced its legislation after New South Wales, and its amendments were similar to those of New South Wales, although in some respects Victoria compromised with some of its provisions. Therefore, in three States there are three sets of legislation, all of which have different provisions.

When this Bill was being dealt with by another House, 13 amendments were made to it and three new clauses were inserted. In due course this Council will have the interesting problem of deciding (and I say this because of indications that have been given by various honourable members who have spoken) on amendments that will follow provisions in the New South Wales or Victorian Acts. Therefore, with the extreme variations that have occurred in the different States, there cannot be complete uniformity throughout Australia.

I have not heard what the Western Australian and Tasmanian Governments intend to do about companies legislation, although one can assume that they will exercise their privilege of moving amendments to it. Their legislation will probably be different from that of the other States and, once more, the dream of uniformity will be lost. Although most honourable members who have spoken have acclaimed the need for uniform company legislation, I believe the principle of uniformity to be restrictive not only for industrial development, which is so vital to our economic future, but also in the control of the everyday existence of the man in the street. Although in theory uniformity is a wonderful dream, I do not believe it is practicable in operation and practice. I believe that this method of uniformity, of marrying the States'

individuality into a net that is often woven by the Eastern States, is a retrograde step and will not in the long run give this State the initiative it may need to woo new industries into creating and maintaining employment here.

Once we try to establish a pattern of uniformity, as this Bill seeks to do, how long will it be before those concerned in transport, education, health and medicine will all be clamouring for uniform types of legislation and control throughout Australia? These are just a few of the controls or obstructions in Acts that can be introduced in this way. This means that the individuality of each State Parliament will be lost. Although it may be the plea or cry of the Australian Labor Party that there is no need for State Governments, it certainly is not my intention to see the privilege that each State Parliament enjoys of representing the people within its State shall be lost.

When the Hon. Mr. Potter was talking to this Bill, he was kind, in my opinion, when he summed up with these words, "Generally, the professional people concerned have become resigned to the measure and consider that they must put up with it." His words are far kinder than the words I am prepared to use.

The Hon. D. H. L. Banfield: He is a man with a heart.

The Hon. R. A. GEDDES: To me, there seems to be a very lethargic attitude to this legislation. We as a Parliament shall be blamed if the Bill does not satisfy the profession once it becomes law; but because those people who are so well trained in company law have not come forward with suggestions for amendments, I can conclude only that they do not really care. Surely this Bill is not so near perfect that the profession can let it pass with no comment.

In his excellent speech, the Hon. Sir Arthur Rymill referred to the fact that the "spivs and crooks" would still find ways around this Bill to make a quick dollar for themselves, to the detriment of the investing public or their creditors. The second reading explanation states that the knowledge gained in the past 10 years of companies in Australia making take-over offers or borrowing money from the public or shareholders or creditors and being unable to keep their promises to refund those moneys when asked for has revealed much hardship. In the clauses of this Bill there is meant to be machinery designed to make it far more difficult for the unscrupulous to hoodwink the public.

It must be remembered that in every law enacted there is some loophole somewhere, and that is where the principle of uniformity throughout Australia will be slow, cumbersome and, in the long run, impracticable. I support the second reading, but I intend to look with interest at the amendments when they are moved.

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

HIGHWAYS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from March 9. Page 3761.)

The Hon. L. R. HART (Midland): In the main, I support this legislation, although there are one or two aspects of it on which I am not particularly clear, so I should like a few explanations when the Bill reaches the Committee stage. Generally, the Highways Act is fairly restrictive. That being so, it is necessary from time to time that we amend it to enable the Commissioner of Highways to carry out certain functions that he considers desirable for the benefit of the State. In the main, the Highways Act deals with the planning and building of roads. The planning of roads (mainly highways) needs to be done with a view to causing as little disturbance and severance as possible. Much of the antagonism towards the Highways Department is caused by planning without consideration of what one may term its social effect on the community. It would seem that at times a road or an alteration to a route is planned merely by reference to a map rather than by a physical inspection of the area and a consideration of the effect it will have on the people living in the area.

The most controversial part of this Bill is the clause dealing with the granting of power to the Commissioner, subject to the approval of the Minister, to establish and maintain ferry services or to enter into an arrangement for the provision of a sea transport service. The main effect of this will be to allow the Commissioner to operate a sea service to Kangaroo Island and Port Lincoln with the m.v. *Troubridge.* As all honourable members will recall, the *Troubridge* was purchased last year by the State Government. So far, we have not been told what money was used to purchase it. I have it on fairly good authority that the money used for the purchase of the *Troubridge* came from the Highways Fund. This is rather hard to believe, because to use those moneys for the purchase of a sea-going vessel would probably require the sanction of the Commonwealth

Government; and the Auditor-General might find it necessary to report on such an action.

However, when the Minister comes to reply later, he may tell us what moneys were used to purchase that vessel. The clause dealing with this gives the Commissioner, with the approval of the Minister, very wide powers. It provides:

The Commissioner may build, construct or otherwise acquire ships or plant necessary or convenient for the operation of the service.

I notice the words "of the service" but somewhere else in the same provision it is provided that he can operate a sea service "between such ports and places within the State as the Minister from time to time approves". So, although the indication is that this clause deals specifically with the *Troubridge,* in effect the Commissioner of Highways can operate sea services anywhere within the State of South Australia. I wonder whether the provision in this Bill should not deal exclusively with the operation of the *Troubridge* between the ports indicated in the Minister's second reading explanation.

The *Troubridge,* which previously went to Kangaroo Island and Port Lincoln, was owned and operated by the Adelaide Steamship Company. Later, the company found that it was uneconomic and indicated that it would sell the ship. The Government of the time, namely, the Liberal and Country League Party Government led by Mr. Hall, intervened and provided a subsidy of $200,000 a year to keep the vessel in operation until June, 1972. The vessel was then being run by a company which had all the necessary expertise in operating sea-going services but which required a $200,000 subsidy to keep it operating. Therefore, I can easily see that, if the vessel is to be run by a Government department, the loss incurred could even be over $200,000 a year; this is something we must examine closely.

However, I realize that providing transport services to Kangaroo Island might require assistance from the State's taxpayers but, when we talk about extending this service to Port Lincoln to cover Eyre Peninsula (an area being satisfactorily provided for by road transport), I question whether we should expect the State's taxpayers, or in particular the Highways Fund, to contribute towards the losses the *Troubridge* will incur. We must examine the legislation before us in conjunction with other legislation which is now before another place and which provides for restrictions on the number of hours a person can drive certain motor vehicles and whereby the Minister, by regulation, may provide a load limit on vehicles.

If we are to have a restriction on the hours a person may drive certain motor vehicles and if a load limit is imposed on them, places such as Eyre Peninsula will be detrimentally affected. One may well term the legislation the *Troubridge* Protection Act, because it will obviously make it more difficult for hauliers on Eyre Peninsula to operate, and that of course will benefit the *Troubridge.* One must not consider this legislation in isolation but examine the effects it might have on the transport system of Eyre Peninsula in general.

Most of the provisions in the Bill amend certain sections of the Act; I have no quarrel with that because some of the amendments are necessary and overdue. Clause 6, which amends sections 27a of the principal Act, gives the Commissioner of Highways power to close roads other than main roads. District councils often close and dispose of district roads in their areas to adjoining landowners and the amount recouped from the sale of these roads goes into the councils' revenue. If the Commissioner is to be given power to close roads other than rural roads, and if these roads are sold by him, who will receive the benefit of the sale? Will it be the Commissioner or will he, once having closed the road, transfer it to the district council to sell? Clause 8 deals with road widening. In his second reading explanation the Minister said:

Honourable members will appreciate that road-widening proposals are often very long-term proposals, and the department's financial resources could be considerably strained if it was unexpectedly faced with a demand for the immediate acquisition of land on which substantial buildings were erected when that land might be required only 10 or 20 years hence.

At present, where the department acquires land for road-widening purposes, the owner of such land may require the Commissioner, after giving one months notice, to pay appropriate compensation for such land. The amendment the Bill makes is that the owner of such land may require the Minister to acquire it forthwith, provided that there are no buildings on it. I believe that that provision could cause hardship to certain people. If the acquisition of land, whether or not it has buildings on it, has an injurious effect on the landowner, it is up to the department to acquire it forthwith, if that is the owner's wish; that was the intention in the Act. I am not happy with the amendment, although I appreciate the difficulty the department could have in finding the

necessary finance, but this is something which the population in general must accept.

If land or property is to be acquired for the benefit of the State in general, I do not think than any private individual should be expected to make a sacrifice when the benefit is for the public in general and not for just a section of it. I think that, if injurious effect can be proved by an individual, it should be up to the Government to pay the necessary compensation so that that person does not make any unnecessary sacrifice. This often happens, particularly where the property being acquired is an old house, the market value for which is not very high; but it is the person's house and it serves his particular needs. If the land or property is acquired at market value, which, in the case of an old house is low because of the age of the property, the property is often depreciated because a freeway might be built through the area.

That person is forced to accept compensation regarded as market value at the time (and perhaps even a generous valuation), but it is insufficient for him to establish himself in another area under similar conditions or in a house of equal value. I therefore do not think we should quibble about the question of compensation for acquisition of land where the advancement of the State is concerned and injurious effects can be proved.

Clause 12 is very necessary. Up to the present, when the Commissioner has proclaimed a controlled-access road, the 12-month period relating to compensation claims has run from the day of the proclamation. Of course, within that 12-month period the detrimental effects of the proclamation may not be felt by the landowner. Therefore, any claim for compensation may be made only on the basis of supposition. Clause 12 provides that the claim can be made within a period of 12 months from the time that acquisition is carried out. That means that a claim can be made that is more in keeping with the effects suffered as a result of the proclamation. I therefore support clause 12.

Clause 14 deals with access to properties on controlled-access roads. This matter has caused much inconvenience in the past. On the Main North Road at Para Hills a controlled-access road was proclaimed, but provision was not made for a service road. Under those conditions property owners were completely denied access to their properties, because they could not enter them from the controlled-access road. The same situation exists in the area at present, except that access has been granted to one of the property owners. If this clause gives the Commissioner power to give access to some properties on controlled-access roads, I have no quarrel with it.

Clause 17 provides that any moneys forthcoming from the ferry service operated by the Commissioner shall be paid into the Highways Fund. I should like the Minister to clarify whether any losses incurred in operating the ferry service will be met from that fund or from general revenue. If such losses are to be met from the Highways Fund, the motorists of South Australia can well complain because of their substantial contribution to the fund. Transport operators on the West Coast, who pay huge fees, could well ask why their moneys should be used to finance a competitor, who may well offer "cut" prices to attract business. I support the second reading of the Bill.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

ADJOURNMENT

At 4.46 p.m. the Council adjourned until Wednesday, March 15, at 2.15 p.m.