

conformity with section 79 as amended by clause 6 of the measure.

Clause 8 amends section 84 of the principal Act which deals with the duration of drivers licences. The present period of a licence (three years) is extended to a period not exceeding five years. The effect of the amendment is to enable the introduction of a system under which licences expire on those birth dates of a driver that are divisible by five. The Registrar is enabled to extend the five year period for a period not exceeding 12 months. The purpose of the extension is to enable a licence expiring, for example, after five years and three months in the case of a person who renews his licence three months prior to a birthday divisible by five.

Clause 9 amends section 98a of the principal Act which deals with driving instructors licences. Provision is made for the Registrar to attach conditions to licences. The duration of the licences is extended to conform with the amendments to section 84 of the Act.

Clause 10 makes an amendment to section 145 of the principal Act which is the regulation making power. Provision is made to enable the promulgation of regulations which confer exemptions from the provisions of the Act in favour of persons, classes of persons, vehicles or classes of vehicles.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill seeks to amend section 133 of the Motor Vehicles Act 1959, to limit expressly its operation to contracts which attempt to avoid compulsory third party bodily insurance. Section 133 of the Motor Vehicles Act provides:

Any contract (whether under seal or not) by virtue of which a person contracts in advance out of any right to claim damages or any other remedy for the negligence of any other person in driving a motor vehicle shall to that extent be void.

This section falls within part IV of the Act entitled 'Third Party Insurance'. Since its enactment in 1938, transport operators have regarded its provisions as applicable only to contracts seeking to avoid liability for death and bodily injury, but not applicable to contracts related to damages for loss of, or damage to, property. This view is supported by *Hansard* reports of that time.

It has been common practice throughout Australia for carriers to specify in cartage contracts that goods being transported are carried at the risk of the owner of the goods. In such cases, the carrier has not insured the load and has proceeded on the basis that, if the load is lost, neither the carrier nor the driver can be sued for damages because of the provisions of the cartage contract. In a decision handed down by the High Court in August 1985 in the matter of *Lake City Freighters Pty Ltd v. Gordon and Gotch Pty Ltd*, 60 A.L.R. 509, the court ruled that the provisions of section 133 applied to third party claims for property damage as well as to those for death and bodily injury. The effect of

this decision is that, in South Australia, the owner of the goods has a right of action against the carrier and/or the driver for damage to those goods, notwithstanding that the provisions of the cartage contract may be to the contrary. Carriers in South Australia are therefore financially disadvantaged in relation to carriers in the eastern States (where legislation governing compulsory third party insurance is only applicable to death and bodily injury) because they will need to arrange insurance cover in the event of loss of, or damage to, goods carried.

Representatives from the Australian Road Transport Federation, the Transport Workers Union, the South Australian Road Transport Association and the National Freight Forwarder Association have requested that section 133 be amended, to limit its operation to contracts seeking to avoid liability for death and bodily injury, operating retrospectively. This request is supported by the Department of State Development on the grounds that road transport companies operating wholly within South Australia are financially disadvantaged relative to road transport companies operating in Victoria and other States (except in Western Australia). It also disadvantages road transport companies relative to rail transport.

However, the Bill does not seek to affect the proceedings in the matter of *Lake City Freighters Pty Ltd. v. Gordon and Gotch Pty Ltd.*

Clause 1 is formal.

Clause 2 provides for the commencement of the measure, proposing that the amending Act be deemed to have come into operation at the time that the principal Act came into operation.

Clause 3 limits the operation of section 133 of the Motor Vehicles Act 1959 and any corresponding previous enactment to contractual provisions by which a person contracts in advance out of any right to claim damages for the negligence of any other person in driving a motor vehicle, where such negligence has resulted in death or bodily injury. (Section 133 renders such provisions void.) However, proceedings in Supreme Court Action No. 1239 of 1982 are not to be affected by the amending Bill.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

DOG FENCE ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill amends the Dog Fence Act in two ways. Firstly, it rationalises the membership of the Dog Fence Board to reflect contemporary needs. Secondly, it clarifies that both the board and the local Dog Fence Boards can borrow funds with the approval of the Treasurer. The board is currently made up of four members:

- The Chairman, who must be the Chairman or member of the Pastoral Board at the time of appointment.
- Two members appointed on the nomination of the United Farmers and Stockowners of South Australia Inc.
- One member appointed on the nomination of the Vermin Districts Association.

The need for mandatory liaison between the Dog Fence and Pastoral Boards is anachronistic. Rapid advances in relevant technologies dictate the need for specialisation and separation. In this connection the Bill provides for the Director of Lands or his nominee to be a member and Chairman of the Dog Fence Board.

Local Dog Fence Boards established in terms of the provision of the Dog Fence Act have taken over the rights, duties and obligations previously vested in the boards of the various vermin fenced districts. It follows that the Dog Fence Board should include a representative or nominee of the local Dog Fence Boards rather than a nominee of the Vermin Districts Association. The Vertebrate Pests Control Authority is responsible for the control of dingoes while the board is responsible for maintaining the fence in dog proof condition. The need for coordination between the two bodies is recognised and this Bill provides for the membership of the board to be increased to five, the fifth member being a nominee of the authority.

Turning now to the second question, section 32a of the Dog Fence Act deals with borrowings by the board. The wording of that section however is not clear and can be construed as precluding the board from obtaining finance from any source other than the Treasurer. In addition, there is no power for local Dog Fence Boards to borrow. On several occasions over the years funds have been borrowed from private financial institutions to facilitate works authorised by the Dog Fence Act. The Bill provides for amendments to the Act which clarify the situation and facilitate continuation of current practice in this regard. It also formally extends this authority to local boards in whose names such loans have historically been taken.

Clauses 1 and 2 are formal. Clause 3 substitutes section 6 of the Act and alters the constitution of the Dog Fence Board. The substituted section provides that the board shall consist of five members: the chairman (an *ex officio* member) being the Director of Lands or the director's nominee as approved by the Minister, and four other members appointed by the Governor as follows:

- (a) two (being occupiers of rateable land and at least one of the two being an occupier of rateable land adjoining the dog fence) on the nomination of the United Farmers and Stockowners Ltd Inc.;
- (b) one (being an occupier of rateable land but not being an officer of the Public Service) on the nomination of the Vertebrate Pests Control Authority; and
- (c) one on the nomination of the Minister from a panel to which each local dog fence board has nominated a person.

Where a nominating body fails to make a nomination, there is provision for the Minister to nominate for appointment such person as the Minister thinks fit. The section provides that the offices of all current members of the board are vacated on the commencement of the measure to enable new appointments to be made.

Clause 4 repeals section 9 of the Act which deals with the power of the Minister to nominate a member in default of nomination by any association. This matter is dealt with in the substituted section 6. Clauses 5 to 8 are consequential amendments. Clause 5 amends section 10 of the Act to make it clear that each nominating body is entitled to replace, in accordance with the Act, its nominated member

when a vacancy in the office of that member occurs. Clause 6 amends section 11 (2) of the Act which gives power to any nominating association to request that the appointment of its nominated member be determined before the expiration of that member's term of office. The amendment provides that all nominating bodies except local boards have this power.

The amendments in clauses 6 to 8 also limit the application of the following sections to appointed members: section 11 (casual vacancies), section 12 (dismissal of members) and section 17 (member's remuneration, though both appointed members and the *ex officio* member receive out-of-pocket expenses pursuant to subsection (2)). Clause 9 substitutes section 32a of the Act. The section provides for the borrowing and investment powers of the board. It ensures that the board may, for the purposes of the Act, borrow both from the Treasurer or, with the Treasurer's approval, from any other person and it provides that loans on the latter basis are guaranteed by the Treasurer. The section also provides that the board may invest money in such manner as the Treasurer may approve. Clause 10 inserts a new section 35a. The section gives the local boards borrowing and investment powers similar to that of the board. There is an additional requirement that local boards obtain the consent of the board to each loan.

The Hon. J.C. IRWIN secured the adjournment of the debate.

POULTRY MEAT HYGIENE BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Poultry Meat Hygiene Bill 1986 was introduced into Parliament during the last session but lapsed. The present Bill is the same as before except that clauses 28 and 29 of the previous Bill and references to the declared day have been deleted. Since the passing of the Meat Hygiene Act 1980, poultry processing is the only significant item of food not covered by specific legislation. Poultry naturally carry more organisms capable of producing food poisoning than other food animals, and the nature of poultry processing is such that there is a far higher risk of cross-contamination.

Meat carcasses can be kept separate during the slaughtering process until after post-mortem inspection, but during poultry processing mixing is unavoidable. This applies to large or small processing works, regardless of the speed of operation. Works that operate at high speed, up to 4 000 birds an hour, have a further problem in that it is difficult to sanitise effectively processing equipment between each bird. Consequently, hygiene and construction standards are essential to reduce the spread of food-poisoning organisms. There are about 39 poultry processing works, of which four process about 90 per cent of the poultry produced in South Australia. Standards of construction and hygiene at many of the smaller works are low and represent a health risk to the community and to the employees.

This Bill is similar to the Meat Hygiene Act 1980 but it will apply to poultry meat instead of red meat. It sets standards of construction and hygiene at poultry processing works and will bring to the industry the same standards