**FENCES ACT AMENDMENT BILL 1977**

**House of Assembly, 13 April 1977, pages 3388-8**

Second reading

**The Hon. PETER DUNCAN (Attorney-General)** obtained leave and introduced a Bill for an Act to amend the Fences Act, 1975. Read a first time.

The Hon. PETER DUNCAN: 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 principal Act upon two subjects. First, it contains a power of exemption that is designed to make possible the exemption of “roads screening reserves” from the provisions of the Act. These reserves are a relatively new development in South Australia and so far are to be found only at West Lakes. They are strips of land which lie between land in private ownership and road reserves. The strips, which do not form part of the road, are owned by the local council and are used by it as buffer strips; they are heavily planted with trees, shrubs and other vegetation to reduce the transmission of noise caused by motor vehicles to abutting residential areas. This kind of reserve was not envisaged at the time the Fences Act was enacted. If these reserves are not exempted from the Act, the local council could be liable for upwards of $250 000 as its contribution towards the cost of fencing private property that adjoins the reserves. In order that the exempting provision will be wide enough to cover not only the road screening reserve but also other forms of development that may occur in the future, the Bill provides for the exemption to be prescribed by regulation. This will make possible a flexible approach to exempting public lands from the provisions of the Act, while retaining Parliamentary oversight of such exemptions.

The other amendment proposed by the Bill is designed to clarify the transitional period between the old Act and the new Act. Under the old Fences Act the occupier of land which abutted on unoccupied land could erect a fence and subsequently claim a contribution when that adjoining land became occupied. Legal opinions differ as to whether this right to contribution can still be exercised following the repeal of the old Fences Act. The Bill therefore seeks to put the matter beyond the reach of argument by providing for the rights conferred under section 10a of the repealed Act to remain in force following the enactment of the new Fences Act.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 provides that, where a fence was erected under the repealed Act and a right to claim contribution could have arisen under section 10a of the repealed Act, that right shall be exercisable notwithstanding the repeal. Clause 3 empowers the Governor to make regulations exempting public land of specified kinds from the provisions of the Fences Act.

Mr. CHAPMAN secured the adjournment of the debate.