IMPOUNDING ACT AMENDMENT BILL 1967

Legislative Council, 19 October 1967, page 2825

Second reading

**The Hon. S. C. BEVAN (Minister of Local Government):** I move:

*That this Bill be now read a second time.*

Its objects are to provide protection for certain classes of goat and to mitigate the rigours of section 46 of the Impounding Act which, according to a recent decision of the Supreme Court, imposes liability irrespective of fault upon an owner whose cattle escape on to a street or public place. Clauses 3, 4 and 5 deal with the first amendment. Section 14 of the principal Act provides by subsection (5) that any goat trespassing upon Crown lands may be seized and impounded, while section 35 provides that any such goat, if not sold after failure of the owner to claim it, may be destroyed. But section 14, in the same subsection (5), provides that no angora goat shall be destroyed. Section 41 provides for the destruction of goats, pigs or poultry trespassing on enclosed land, but by subsection (2) excepts angora goats.

The amendments made by clauses 3, 4, and 5 will extend the exemption to four other types of goat, all of which are valuable milking goats. Goat’s milk is a commercial item of great value, especially to people suffering from asthma and certain stomach disabilities. The four breeds mentioned are the only types in the State at present or likely to be introduced in the future. The other amendment is dealt with by clause 6. The general effect of the amendment is to provide that an owner whose conduct has been unimpeachable should have a defence to a charge under section 46 which, as I have said, makes an owner of cattle found in a street or public place guilty of an offence.

The Bill provides for the insertion of two new subsections in section 46 . New subsection (2a) provides that an owner shall have a defence to a charge under section 46 if he has attempted with all reasonable diligence to prevent the escape of his cattle and he did not know and might not reasonably have been expected to know of their escape or, having discovered the escape of his cattle as soon as might reasonably have been expected of a person exercising proper diligence, he immediately made all proper endeavours to bring them back within confinement. New subsection (2b) provides that anything that a servant or agent of the owner knows or might reasonably be expected to know shall be deemed to be something that the owner knows or might reasonably be expected to know. The purpose of this provision is to make the owner responsible for a servant or agent to whom he has entrusted the care of his cattle.

The Hon. A. M. WHYTE secured the adjournment of the debate.