HOUSE OF ASSEMBLY

Thursday, October 12, 1972

The SPEAKER (Hon. R. E. Hurst) took the Chair at 2 p.m. and read prayers.

RENMARK IRRIGATION TRUST ACT AMENDMENT BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Appropriation (No. 2),
Daylight Saving Act Amendment.

PETITION: MANNUM PRIMARY SCHOOL

Mr. WARDLE presented a petition signed by 1,047 parents and friends of the Mannum Primary School, seeking the erection of a new primary school at Mannum, as a matter of urgency, in the 1973-74 financial year.

Petition received and read.

QUESTIONS

WHYALLA SHIPYARD

Dr. EASTICK: In the absence of the Premier, can the Deputy Premier say whether the regrettable decision by the Whyalla shipyard not to proceed with a $12,000,000 to $15,000,000 expansion plan is expected to have any short-term or medium-term effect on the development of Whyalla? I appreciate that the decision not to proceed with this development is not of the Government's making. However, the fact that there was to have been this degree of development at Whyalla at this time must surely have been known to the Government and would thus have played a part in the development of the area and in the preparation of various facilities to be provided at Whyalla. Last week, following a news report which indicated that the possibility existed of the building of bulk carriers in excess of 100,000 tons with an alteration to the facilities already there, I asked the Premier a question about the increase in the capacity of the Whyalla shipyard. I ask this question, having regard to the effect that this decision will have on the people already living at Whyalla.

The Hon. J. D. CORCORAN: The Leader says that his question relates to his concern for people already living in Whyalla but, as I understand the situation, this decision will not affect those people. In other words, as a result of the decision there will not be a retrenchment of people currently employed in Whyalla.

Dr. Eastick: Except in the building industry, for instance.

The Hon. J. D. CORCORAN: Other things that are likely to happen in Whyalla will cater for that. I do not think the Government was notified of the decision before Broken Hill Proprietary Company Limited announced that there would be no further extension to the shipyard at Whyalla. I am as disappointed as is the Leader and as are all members (especially the member for Whyalla) that this decision has been made. I think that possibly two factors must have a bearing on the decision made by B.H.P. Company: first, the lack of orders, and secondly, the policy of the Commonwealth Government in relation to shipbuilding. The Leader knows that that Government's policy has a direct and important bearing on this question. Just how any recent policy decision by the Commonwealth Government has affected this issue, I am not to know.

There has also been a report that a shipyard will be developed at Westernport in Victoria, but whether or not that report has substance or has had any bearing on this matter I do not know. I shall be pleased to refer the Leader's question to the Premier, who, if he has any further information on the matter, I am sure will be happy to give it to the Leader. I think it would be in order for me to say that I have no doubt that the Premier, on behalf of the State and Whyalla, will ask B.H.P. Company whether its decision cannot be reconsidered. I am certain that that action will be taken. I will ask the Premier whether he has anything further to add to what I have said.

MOUNT GAMBIER INTERSECTION

Mr. BURDON: Has the Minister of Roads and Transport a reply to my question of September 12 about the intersection, at Mount Gambier, of Ferrers Street and Lake Terrace?

The Hon. G. T. VIRGO: In 1969, the Road Traffic Board recommended to the Corporation of the City of Mount Gambier that certain works be carried out at the Lake Terrace, Ferrers Street and Rotary Avenue intersection to improve safety. These works, comprising improved delineation and safety bars, have not been carried out. Rotary Avenue and Ferrers Street pass through a residential area parallel to, and therefore in competition

with, the main road, and consequently form a convenient route from the Blue Lake to the city centre for an increasing volume of traffic. To discourage use of this residential area by "outside" traffic would appear to be the best solution to the problem, and this could be achieved by closing the Rotary Avenue entrance at the intersection, thereby forming a "T" junction. Rotary Avenue would then become a cul-de-sac. Action along these lines will be recommended to the corporation for implementation as soon as possible. "Stop" signs are not recommended at this location, because of the grades and relatively good sight distances involved.

INDUSTRIAL CODE

Mr. COUMBE: As the Industrial Conciliation and Arbitration Bill has now passed this House, can the Minister of Labour and Industry say whether he intends to introduce a Bill this session to amend the remainder of the Industrial Code sections dealing with safety, health, and welfare and, if he does not, when will he introduce it?

The Hon. D. H. McKEE: It is expected that the Bill will be introduced very soon.

NON-RATABLE LAND

Mr. RODDA: Will the Minister of Local Government consider assisting, financially, district councils in the South-East and in other parts of the State in whose districts are sizeable areas of non-ratable forest land? This matter has arisen as a result of discussions I had with the Penola District Council, which, I understand, has written to the Minister. That council raised its rates this year by 1c, an increase that will yield about $14,000 in additional rate revenue, but the council is faced with the possibility of having to retrench about eight or nine employees. In addition, at a cost of about $28,000 the council is required to construct roadworks in forest areas, from which it receives no rates. As a real anomaly seems to exist, I am sure that the Minister will ask his officers to investigate this matter. It is not an isolated case: the same situation applies in other council districts in which large areas of non-ratable land are situated, and this circumstance should have a bearing on the grants made to councils.

The Hon. G. T. VIRGO: Grants from the Highways Department to councils are made on the basis of the needs of the road network within the area concerned. From time to time complaints have been made that the grant money available to councils for debit order work often fluctuates, but if it is accepted (and I certainly accept it) that the money should be made available on a needs basis and not on a propping-up basis to assist councils, there must be a fluctuation. This position has to be appreciated. I should like to take this opportunity of considering in depth the matter raised by the honourable member. I will do that and give him the information as soon as possible.

COBDOGLA BASIN

Mr. CURREN: Can the Minister of Works, representing the Acting Minister of Irrigation, say why action is being taken to divert drainage water into the lagoon south of the Cobdogla pumping station?

The Hon. J. D. CORCORAN: The honourable member was kind enough to tell my colleague that he was seeking this information. The Acting Minister of Irrigation states that, in order to avoid a risk of overflowing the Cobdogla evaporation basin, a portion of the flow from the Cobdogla comprehensive drainage system is to be diverted as a temporary measure from mid-October to March, 1973. The water to be diverted is the relatively fresh portion of the drainage effluent and will have a salinity level less than the salinity at present in the lagoon south of the Cobdogla pumping station into which it is intended to be diverted. Furthermore, after allowing for loss through evaporation and the rate of flow of drainage water being diverted into the lagoon, the water level in the lagoon is expected to fall steadily by at least 1ft. 6in. at the end of March, 1973. Consequently, the risk of a serious development at the Cobdogla evaporation basin is to be avoided without prejudicing the supplies to the Cobdogla pumping station or the quality of water in the main stream.

HAWTHORNDENE WATER SUPPLY

Mr. EVANS: Has the Minister of Works a reply to a question I asked recently regarding the Hawthorndene water supply?

The Hon. J. D. CORCORAN: Hawthorndene, Belair and surrounding districts are supplied from the storage tanks at Belair and National Park which in turn are fed from the pumping station at Clarendon. The pumps at Clarendon are operated as and when required merely to maintain satisfactory levels and storages in the tanks. No difficulties are normally experienced by the Engineering and Water Supply Department in maintaining a supply. There are consequently no plans for any enlargement of the system. With the winter now past it will be necessary from now

on to operate the pumps at Clarendon for varying periods each weekend and no further problems should be experienced by consumers in this area.

ADDITIONAL LEAVE

Mr. GUNN: Has the Minister of Roads and Transport a reply to the question I asked on October 4 regarding a reply the Minister gave on September 19 to my Question on Notice?

The Hon. G. T. VIRGO: On Wednesday, October 4, the member for Eyre drew attention to and sought clarification of my reply (reported at page 1374 of *Hansard*) to his question on the additional day's leave granted to transport workers in recognition of their extra effort during the period of the petrol shortage. I told the honourable member on that occasion that I would obtain for him a copy of my prepared reply to his Question on Notice. I now have that reply and will make it available to him. The honourable member will note that the question is in two parts and that the reply to the first part concludes with the figure $65,000. The additional words recorded in *Hansard* were undoubtedly spoken by me, but it is obvious that they were uttered in response to an interjection which, regrettably, has not been recorded. If the honourable member reads the reply carefully, he will find that those additional words are not in context. I suggest that the phrase to which the honourable member objects does not relate to the question but rather to an interjection that was uttered. I offer no criticism of *Hansard* for not having reported the interjection: I appreciate the difficulties *Hansard* has in connection with a section of the House which is very noisy, but I think it is only fair—

Members interjecting:

The Hon. G. T. VIRGO: It's happening again now.

The SPEAKER: Order! These unnecessary interjections are most unruly, and honourable members should take cognizance of the fact that *Hansard* is responsible for reporting the proceedings of this Chamber. Honourable members must conduct themselves in a proper manner, and I will not tolerate members' interjecting when Ministers are giving replies. This obviously results in additional time of the House being taken to straighten out matters. The honourable Minister of Roads and Transport.

The Hon. G. T. VIRGO: Thank you, Sir. I think that is a fair example of what occurred on September 19, and it shows up as such in *Hansard*. I hope the honourable member will appreciate that the phrase to which he took exception has no relevance whatsoever to the reply he received but, as promised last Thursday, I have a photostat copy of the original reply, which I should be only too delighted to let the honourable member have.

STUDENT SUSPENSIONS

The Hon. HUGH HUDSON: I ask leave to make a personal explanation.

Leave granted.

The Hon. HUGH HUDSON: I refer to a report on page 3 of this morning's *Advertiser*, under the heading "Heads Want Powers to Curb 'Rabble Rousers' ". I should like to correct an impression that that report gives and, in doing so, I make clear that I may well have contributed to the misunderstanding that has arisen. The problem arises in relation to the powers of headmasters of schools to suspend students. The relevant Education Department regulation states:

> Teachers may suspend pupils guilty of insolence, persistent disobedience, immoral conduct or a serious breach of discipline of any other form, or pupils whose presence is deemed by their teachers to be a menace to the health or moral welfare of others.

It has been made clear that that regulation gives sufficient power to heads to deal with what might be described as the out-and-out rabble rouser and that the problem of the student who is persistently disobedient, for example, is not the problem that arises in relation to the amendment to the regulations currently being considered by the Executive of the South Australian Institute of Teachers. The proposed change in the regulations relates to giving to heads a power of suspension in cases where students are guilty of persistent and wilful inattention and indifference to schoolwork, and there are students in this category who, if they do not come into the specific category of being grossly insolent, persistently disobedient or guilty of immoral conduct, may not have this power of suspension used against them.

It is considered that students who are just indolent (if one likes to use that word) can be a severe distraction to the efforts of the teacher in a class, and it is often difficult for schools to galvanize such students into making a real effort with their schoolwork. The idea is that, used wisely and with discretion, the power to suspend such students may be a means of producing the proper reaction from them, so that the students appreciate the need to make an effort with their schoolwork. The article

in today's *Advertiser* makes this clear although the heading states "Heads Want Power to Curb 'Rabble Rousers' ". I may have contributed to that impression being given because I used the term when talking to the reporter. Power already exists in the regulations to cope with the student who is persistently disobedient or insolent, and the proposed amendment is not designed to do this. The student who is indolent and often very quiet creates a great difficulty in the school because there seems to be no way for the school to exercise its responsibility in getting that student to do the best of which he or she is capable.

Mr. Coumbe: Do you support the headmasters?

The Hon. HUGH HUDSON: I have indicated that, if the Institute of Teachers agrees to this change in the regulations, I shall recommend such a change to the Government, and the amended regulations would be laid on the table of this House. This is a real problem for schools where a significant percentage of a class may be in this category because of parental pressure for the student to continue a P.E.B. course against his will or because the student, for a variety of reasons, may not be interested in study. The power to suspend is always used with discretion by heads. It is a back-up power and a means of telling the parents about the problems the school is having with the student. As the regulation stands (and this would apply to any amendment), if a head finds it necessary to suspend a pupil he must immediately furnish a full report of the circumstances to the parents and to the Director-General. The parents and the school can then combine effectively in order to produce a better result from the student.

I should appreciate it if the *Advertiser* could tomorrow correct the impression that has been created today (namely, that the amendment to the regulations is designed solely to deal with rabble rousers) by saying that the main purpose of the amendment is to give headmasters extra leverage when handling students who are persistently and wilfully indifferent to the work the school is asking them to do.

Mr. GOLDSWORTHY: Has the Minister of Education a view of his own on the need for the suggested changes in regulations put forward by the High School Headmasters Association in respect of dealing with students that are guilty of wilful and persistent inattention to work? The Minister has explained that the newspaper headline is misleading and that he has referred the matter to the South Australian Institute of Teachers.

The SPEAKER: Order! I point out to honourable members that honourable Ministers in this Chamber represent the Crown and the Government. I think that it is probably not correct to ask for personal views on matters. However, I call on the honourable Minister of Education.

The Hon. HUGH HUDSON: Although the matter has not yet been considered by the Government, I have already indicated that, if the institute agrees, I shall recommend to the Government the change in the regulations. I think that indicates my view on the matter.

Mr. Goldsworthy: They don't—

The SPEAKER: Order! There shall be only one question at a time; second questions will not be permitted.

The Hon. HUGH HUDSON: The reason for referring this matter to the institute is that the headmasters cannot expect to be able to operate a change in the regulations effectively if most of the teachers in their schools oppose the proposed method of discipline. I should have thought that the honourable member would accept as fundamental that effective discipline within schools requires the support of most of the teachers on the staff, and the honourable member would also be aware—

Mr. Goldsworthy: What if the—

The SPEAKER: Order!

The Hon. HUGH HUDSON: If the honourable member cares to listen, I will continue to reply to his question. He may also be aware that the institute, before considering this matter at its council meeting early in November, has asked all secondary schoolteachers for their opinion. Indeed, my understanding is that most of the teachers at secondary schools have expressed their opinions on this matter. In these circumstances, the institute can give reasonable advice to the Education Department and the Government on the willingness of teachers generally to operate within a certain framework with regard to the application of discipline. I will certainly state my personal view; I do not know whether or not the honourable member agrees. I consider that it is vital to have solid support from teaching staffs in our schools in relation to the kind of disciplines that are enforced and the disciplinary methods adopted. This is absolutely essential.

Mr. Goldsworthy: This is another question.

The Hon. HUGH HUDSON: It is in addition to the question the honourable member asked.

Mr. Goldsworthy: You asked the question; you answer it.

The SPEAKER: Order!

The Hon. HUGH HUDSON: I point out to the honourable member that, fortunately for the truth in these matters, I cannot be cross-examined by a lawyer so that I would be required to answer only "Yes" or "No". I can give an answer in the terms that I desire.

AGRICULTURE QUESTIONNAIRES

Mr. CARNIE: Will the Minister of Works ask the Minister of Agriculture for an assurance that personal questions will not be included in any future questionnaires sent out by the Agriculture Department? As I asked a question about this recently I do not intend to go into the details again. Although the Minister's answer appeared to indicate that the department's motive was innocent, there is still disquiet among farmers in my district that questions such as those included in section 1 of that questionnaire should be asked at all.

The Hon. J. D. CORCORAN: I will take the matter up with my colleague and ask him whether or not he is willing to give the assurance the honourable member seeks. It may be difficult for him to give such an assurance. I am pleased that the honourable member noted that the questions which he considered to be of a personal nature (and I believe they were of a personal nature) were asked for a specific purpose which was designed to assist the people of whom they were asked. Unfortunately, they were not accepted in this way, and I think the information was returned, without being used, to those who did reply.

GOODWOOD PRIMARY SCHOOL

Mr. LANGLEY: Can the Minister of Education give me any information about the relocation and rebuilding of Goodwood Primary School?

The Hon. HUGH HUDSON: Goodwood Primary School is due for rebuilding, and I think the Public Works Committee has now reported favourably on the project. The honourable member would know that the rebuilding project involves rebuilding the school on land that has been purchased at the back of the existing school. That land is well away from Goodwood Road and, when the new buildings are erected, the old buildings will be demolished and a grassed area will be established to enable an oval to be provided at the school. I think that our currrent planning involves the calling of tenders for the rebuilding of the school in April next year, and I should think that the availability date for the new school would be likely to be in the second half of 1974. As the honourable member will readily appreciate, rebuilding a school in such a situation is a difficult and more complicated project than normally is the case, because the rebuilding must proceed while the school continues to function. The rebuilding must be programmed so that the continued functioning of the school is not seriously impaired. I hope that soon after mid-1974 it will be possible to consider the Goodwood school and the problems that exist there at present, particularly in those classrooms that front Goodwood Road, from which there is much interference from traffic noise, and that such problems will then be things of the past.

GRASSHOPPERS

Mr. ALLEN: Has the Minister of Works a reply from the Minister of Agriculture to my recent question about the prevalence of grasshoppers?

The Hon. J. D. CORCORAN: My colleague states that grasshopper hatchings in the Peterborough to Hawker districts are expected to be two or three times as numerous as last year. However, rains will be required to produce enough green feed for the grasshoppers to survive and reach the winged stage. Conditions at present are only a little better than in 1967, when large hatchings died within two or three weeks because of lack of feed. In these circumstances landholders are being advised by the Agriculture Department's entomologists to delay spraying. The department in the meantime has deployed four low-volume spray units in the council areas concerned. These units can be hired by landholders if required. Supplies of the chemical used (technical maldison) have also been made available for purchase at half price.

HANDICAPPED CHILDREN

Mr. MATHWIN: Will the Minister of Education say what restrictions, if any, have been placed on the supply of free Government transport for handicapped children between their homes and their place of education? As the Minister will remember, this matter was debated in the House last year and, I am pleased to say, a scheme was provided for as the result of a motion moved by a member on this side of the House. Parents and friends of the crippled children's association are most concerned about several cases involving the Somerton Crippled Children's Home. One case is that of a 12-year-old child attending the

Somerton home who wants to live at Elizabeth with his family because he has brothers and sisters there. He leaves home at 7.30 a.m. by taxi-cab for Gepps Cross, whence he is taken by bus to Ashford House. There a bus picks him up and takes him to the Somerton home, at which he arrives about 9.30 a.m. This is a tiring two-hour journey for a boy suffering from muscular distrophy, but apparently he has been refused an allowance to enable him to travel directly from Elizabeth to Somerton.

Another case is that of a girl who lives at Ashton, in the Hills area, and studies at the Somerton home during the week. The Education Department has refused to provide transport for this child between her home and Somerton on Friday or Monday. Consequently, the mother must take her daughter to the school on Sunday, a day earlier than the day on which the child commences school, because the girl's father uses the car on Monday and, therefore, the mother cannot use it on Monday morning. In returning from school, the child is taken by the Somerton Crippled Children's Home bus to the city, placed on public transport, and taken to her home in the Hills. This creates much difficulty for the child and the parents, and I ask the Minister whether he can give me any information on this matter.

The Hon. HUGH HUDSON: Some points should be made in reply to the honourable member. First, the change that was made in the policy on the transport of handicapped children related to the Government's meeting the full cost of transport of such children, whereas the parents had previously been required to pay one-third of the cost of travel, say, by taxi-cab. I think the honourable member appreciates that, whether anyone likes it or not, there must be a limit on the extent of the Government's financial commitment and that, when the student is travelling to Somerton and bus facilities for handicapped children are available, those facilities should be used. When those facilities are available, the Government cannot be expected to go ahead blindly and meet the full cost of taxi-cab transport from, say, Elizabeth to Somerton.

Mr. Mathwin: They have to be made available in this case.

The Hon. HUGH HUDSON: Those facilities exist. The honourable member is suggesting we should not use the existing bus facilities from Gepps Cross to Ashford and from Ashford to Somerton. I think that is the question at issue here. I understood the honourable member's suggestion was that we should meet the full cost of providing taxi-cab transport from Elizabeth to Somerton and not take advantage of spare capacity on the Somerton Crippled Children's Home bus from Gepps Cross to Ashford in the first instance and from Ashford to Somerton in the second.

Mr. Mathwin: They must go that way because there's no other way to get there.

The Hon. HUGH HUDSON: I ask the honourable member to try to appreciate that those bus facilities exist already. They do not involve a charge to the parent and, if the child does not travel by bus, the cost of taxi-cab transport from Gepps Cross to Somerton would have to be met in full by the Government every day, as against the use of an existing facility. Clearly a limitation must be placed on the extent of the Government's financial commitment, and it is wrong to ask that we should not use facilities when they are already available. I also point out that the attitude of the Psychology Branch is that, where possible, handicapped children should be encouraged to travel on public transport.

Mr. Mathwin: I agree with that.

The Hon. HUGH HUDSON: That is part of the general policy. It may be that, in the case to which the honourable member refers of a student travelling from Ashton, no alternative is available. It may be assumed that in that case a decision to travel on public transport could be considered doubtful. I think that the honourable member will agree that, where it is possible for handicapped children to learn how to use public transport and become part of the community, the opportunity to do this should be taken.

Mr. Mathwin: I agree.

The Hon. HUGH HUDSON: Whether that is a factor in this instance I am not sure. In some instances, when the crippled children's facilities are shifted to Islington some of these problems may be modified substantially, especially in respect of the child who must travel from Elizabeth. I will check out the cases to which the honourable member refers and see whether there are other factors in the situation which either call for reconsideration of the decision made or would provide explanations of the decisions other than the ones I have already given.

RACING

Mr. BECKER: Will the Attorney-General ask the Chief Secretary to consider setting up a committee of inquiry to investigate all aspects of horse-racing in South Australia? I have been approached by numerous constituents who are involved in horce-racing in this State and

who are concerned for the future of the industry. In requesting the setting up of the committee of inquiry, I ask whether the following aspects can be investigated in depth: an increase in the percentage clubs receive of bookmakers' holdings on interstate races to 1¼ per cent to bring this percentage into line with the percentage clubs now receive from bookmakers' holdings on local races; the introduction of on-course betting by bookmakers on Sydney races; the percentage clubs receive from the Totalizator Agency Board; the feasibility of three metropolitan horse-racing tracks; midweek meetings in the metropolitan area; the establishment of a racing control board; the importance of the race horse breeding industry.

The SPEAKER! Order! The honourable member seems to be making a second reading explanation.

Mr. BECKER: I am just explaining what I want the committee to inquire into. I ask whether the committee could also inquire into allegations that escalating costs are resulting in a poor return to owners that could lead to a recession in the industry and to unemployment, and into any other relevant matters.

The Hon. L. J. KING: I will refer the matter to my colleague.

ABATTOIRS

Mr. VENNING: Can the Minister of Works, representing the Minister of Agriculture, and as a member representing a rural district, say what the Government is doing at present in co-operation with the Metropolitan and Export Abattoirs Board to increase the ability of the Gepps Cross abattoir to handle the large quantity of stock presently coming forward? Not long from now, the abattoir will stop work for the day. I understand that work will stop about 4 p.m. at the end of that shift, and that work will not start again until 8 a.m. tomorrow. Although, we were given to understand last year that, because of the problems at the abattoir, an extra shift would be brought on at 4 p.m., that has not yet happened. I should have thought that, with the large numbers of stock being sent to the abattoir as a result of the drought conditions, this Government would do something in co-operation with the board to solve to a degree the problem that now exists at Gepps Cross. Perhaps the Minister could confer with the Minister of Labour and Industry, the member for Florey and the member for Adelaide, men who have taken an active part in union operations. Will the Minister explore all avenues to ascertain what can be done to provide facilities that will increase the number of stock that can be killed at the Gepps Cross abattoir?

The Hon. J. D. CORCORAN: This problem has been present for many years, as the honourable member knows. It is not easy to solve, but this Government has taken more positive action to solve it than has any previous Government. The honourable member knows that last week a Bill was passed in this Chamber (it is now in another place) that we think will vastly improve the operations of the Gepps Cross abattoir. That is sufficient evidence to show that the Government recognizes that a problem exists. The honourable member knows that I am not fully conversant with the day-to-day management of the abattoir, but, as the Minister of Agriculture is, I will refer to my colleague the matters raised by the honourable member and ask him for a considered reply. The Government is concerned: we know of the problems and we are trying to take actions that will eventually (if not immediately) solve them.

MURRAY RIVER

Mr. McANANEY: Will the Minister of Works obtain details of present storages in reservoirs on the Murray River? Also, will he ascertain how much water is likely to be available in the Murray River system for the coming year, and obtain an estimate of the level of Lake Alexandrina at the end of this summer if only quota water is available?

The Hon. J. D. CORCORAN: I will obtain a report as soon as possible.

SEWERAGE CONNECTIONS

Dr. EASTICK: Can the Minister of Works say whether there has been any rearrangement of priorities for sewerage connections in the State, particularly in the area controlled by the Gawler corporation?

Mr. Clark: I wish they would do my street.

Dr. EASTICK: So that I can justly represent my constituent, who has just interjected, I should like the Minister to say when the $300,000 that has been allocated for work in the Gawler corporation district this financial year is to be spent. At present, no apparent action is being taken, and one would appreciate, having seen the team that is based on Gawler (many members of that team are Gawler residents) functioning now alongside Main North Road at Salisbury, that the work seems to have swung away from the Gawler area into another locality. It was indicated earlier that this team had proved most efficient

and, from my knowledge of the work completed in the area, I would agree with that statement. However, my constituents are concerned to know when work will proceed in the Gawler area.

The Hon. J. D. CORCORAN: To the best of my knowledge no specific instruction has been given to turn work away from the Gawler area. I hope that the Leader would not suggest that, merely because he represents the area, I would do that.

Dr. Eastick: That was never meant.

The Hon. J. D. CORCORAN: I did not say it was. We have a general problem with the amount of work to be done by the work force available. Recently, I examined again the desirability of some work, particularly in new subdivisions, being let to private contractors. That was previous policy, although I altered it slightly by directing that such work should be performed by departmental labour unless that was found to be impossible. The Engineer-in-Chief and I discussed this matter only last week. Perhaps the present policy may be partly the reason for work slowing down (if it has slowed down) in this area, but I assure the Leader that I will ensure that the work is completed as soon as possible. I remind the Leader that this Government has a better record regarding this type of work than has any previous Government.

TORRENS RIVER

Mr. COUMBE: Will the Minister of Works obtain a report on the works undertaken by councils under the provisions of the River Torrens Acquisition Act? Recently, I inspected some of these works which, started some years ago, have been continued by successive Governments. Grants have been made on a subsidy basis to various councils in areas abutting the Torrens River and, as a result, several attractive improvements have been made along the banks of the river, although this does not include the section through the city of Adelaide. Also, can the Minister say whether all funds that have been made available have been accepted, or have claims been made by councils to carry out works, the cost of which is in excess of the normal subsidy made available by the Government?

The Hon. J. D. CORCORAN: As the honourable member has said, several works have been undertaken, and each year subsidies up to a certain limit are made available to councils on a $1 for $1 basis, although some councils have exceeded that amount of expenditure on beautifying the areas. I will obtain a report for the honourable member.

ARTIFICIAL INSEMINATORS

Mr. RODDA: Has the Minister of Works a reply from the Minister of Agriculture to the question I asked last week about artificial inseminators?

The Hon. J. D. CORCORAN: My colleague has informed me that the performance of artificial insemination in South Australia is controlled by the Chief Inspector of Stock, under authority of the Stock Diseases Act. This is administered, in part, by the use of a permit system for farmers wishing to inseminate their own stock. Such a permit may be issued without any test of competence, provided the stockowner agrees to provide certain information with regard to the use of artificial insemination in his herd. Stockowners may avail themselves of the course of instruction conducted at Struan, or any courses conducted in other States, to acquire familiarity with techniques to enable them to use artificial insemination in their own herds. For persons wishing to provide an artificial insemination service for stockowners, an annual licence system is used. Conditions for the issue of these licences are more demanding, the Chief Inspector requiring some evidence of competency. The mere attendance at any school of instruction, whether in South Australia or elsewhere, is insufficient. Persons seeking a licence must apply, in the first instance, to the Chief Inspector, who may require the applicant to undertake an examination conducted by the Artificial Breeding Board in the theoretical and practical applications of artificial insemination. A fee is charged by the board to the applicant for the examination. The board has agreed to conduct these examinations at the request of the Chief Inspector. Exemptions from examination may be granted in the case of a person holding a current official inseminator licence from an interstate Agriculture Department.

WHEAT

Mr. VENNING: Can the Minister of Works, representing the Minister of Agriculture, say what is the Government's attitude towards the wheat stabilization agreement that is to be renegotiated at the end of this year, and when the Agricultural Council is to meet again?

The Hon. J. D. CORCORAN: The reply to the second part of the question is that the council is to meet next Monday. I will obtain from my colleague the information sought by the honourable member.

DROUGHT RELIEF

Mr. GOLDSWORTHY: Can the Premier say what plans the Government has to help

farmers seriously affected by drought conditions now prevailing? Several ways are open to the State Government to help farmers if a drought area is declared. Yesterday, in the early hours of the morning I heard a radio broadcast to the effect that no approach had been made by the Premier to Canberra for Commonwealth assistance for drought relief.

The Hon. G. T. Virgo: Did you hear what was on T.D.T. last night?

Mr. GOLDSWORTHY: It did not concern drought relief.

The SPEAKER: Order! The honourable member must not reply to interjections.

Mr. GOLDSWORTHY: And Government members are precluded by Standing Orders from interjecting.

The Hon. D. A. DUNSTAN: Drought relief is provided under the Primary Producers Emergency Assistance Act passed by the Labor Government in 1967, which provides for assistance to be given on application. We have not received any individual applications in accordance with the provisions of the Act. I have received a letter from a person at Browns Well suggesting that a drought relief area be declared. It is not necessary that we declare a drought relief area to obtain assistance from the Commonwealth Government. Members must know the provisions of the Act and that applications can be received from persons in drought areas. Regarding the statements of the Prime Minister, so far as I can see they are nothing more than grandstanding. The Commonwealth Government has previously laid down the conditions under which drought relief assistance will be given to South Australia, and this requires a large expenditure by the South Australian Government before it can even begin to get any assistance from the Commonwealth Government. As we have not received any individual applications, we are in some difficulty in this regard. However, people in the area will be communicated with. Indeed, suggestions received from the area are being examined. There has already been a statement in this House that, if there is a need for our spending in South Australia the amount necessary on drought relief to qualify for drought assistance from the Commonwealth Government, this will be done and the necessary application will be made to the Commonwealth Government. In these circumstances the Labor Government is proceeding in accordance with the normal provisions of our legislation for assistance to farmers. Assistance is available, and we are prepared to give it, although I do not know what is happening in Canberra regarding the questions asked by the member for Angas and the replies from the Prime Minister, because they do not seem to know their own Government's conditions for assistance to be given South Australia. If they are proposing a change in the conditions so that we need not spend the money they have previously required to be spent before giving us Commonwealth assistance, I should be grateful if the member for Kavel would extend his good offices, such as they are, to that part of his Party in Canberra to which he can relate, so that we may have this additional assistance.

WATER POLLUTION

Mr. McANANEY: Recently I asked the Minister of Works a question about pollution of Hills rivers and the effect of pollution on the environment. However, I did not obtain a reply from the Minister to the first part of that question. Will the Minister now obtain a report on the results of tests made in rivers and the effects of pollution on the conditions of people living in watershed areas?

The Hon. J. D. CORCORAN: I shall be happy to obtain that information. I am disappointed to think that the first part of the honourable member's previous question was not replied to. I am surprised that this has occurred, and it must have been as a result of the way the question was framed, because officers of the Water and Sewage Treatment Branch of the Engineering and Water Supply Department are an extremely courteous and efficient group of officers.

Mr. McAnaney: We agree.

The Hon. J. D. CORCORAN: I will see whether it is possible to obtain the report for the honourable member.

NOISE POLLUTION

Mr. EVANS: Has the Minister of Labour and Industry a reply to my question of September 14 regarding noise pollution emanating from lawnmowers and the report from the Standards Association on this subject?

The Hon. D. H. McKEE: The present Australian standard for the construction of domestic lawnmowers concerns safety requirements of mowers. The Standards Association has now produced a draft of an Australian Code of Recommended Practice for Noise Assessment in Residential Areas. The means of noise assessment and the levels of noise acceptable in residential areas established by this code, when completed, may provide the basis for investigation of practicable means of reducing to such levels noise produced, for

example, by domestic lawnmowers. In these circumstances it has not been considered appropriate to suggest to the Standards Association that the possibility of a specific standard for the construction of domestic lawnmowers, to reduce their noise level, should be incorporated in a standard that concerns mechanical safety.

WHEELCHAIRS

Mr. MATHWIN: Will the Minister of Roads and Transport consider the possibility of allowing electric wheelchairs to be used on public footpaths? A new type of wheelchair now available is being used by some children; it is an electric wheelchair (driven by batteries) and its speed is no more than about 3 m.p.h. This especially concerns children from the Somerton Home for Crippled Children who are able to handle these wheelchairs quite well but who, having to use the road as they do at present, are often in danger. If these children were allowed to use the footpaths, they would be able to take full advantage of being out of doors and especially of enjoying the wonderful beach area at Somerton.

The Hon. G. T. VIRGO: If the honourable member's explanation had lasted a little longer, I think I could have located in *Hansard* the reply that I previously gave on this subject. Legislation has already been introduced this session to permit wheelchairs to be used on footpaths. Perhaps the only matter that needs clarifying is whether the fact that this wheelchair is electric may be different, but I will have to check that technical point. However, I will obtain full information for the honourable member, as it will help him and save his looking up the reply that I gave on the matter.

Later:

The Hon. G. T. VIRGO: I should like to provide the member for Glenelg with the information he was seeking. It will appear in *Hansard* and perhaps the Opposition Whip will be good enough to inform the member for Glenelg about it after he returns from the meeting of the Liberal Movement. On page 6 of Bill No. 6, which is a Bill to amend the Road Traffic Act and which was introduced in this House on August 6, clause 12 amends section 61 of the principal Act as follows:

. . . by inserting after the present contents thereof as amended by this section (which are hereby designated subsection (1) thereof) the following subsection: . . .

(2) Where a person by reason of some physical infirmity reasonably requires the use of a wheelchair, it shall be lawful for that person to operate a self-propelled wheelchair on a footpath notwithstanding the provisions of subsection (1) of this section.

The member for Glenelg may be interested to look also at page 504 of *Hansard* where in my second reading explanation I said:

Clause 12 amends section 61 of the principal Act to enable incapacitated persons to operate motorized wheelchairs on footpaths.

Obviously the honourable member is unaware that the Bill has gone through all stages in this House and in the Legislative Council and is now law.

SCHOOL BUSES

Mr. WARDLE: Will the Minister of Education have his officers prepare a report for me on the difference in the method of payment in respect of school buses, and will he ascertain during which year an officer of the South Australian Education Department visited Victoria, New South Wales or other States in order to determine the method of payment used in those States? On three occasions within the last three months, as member for my district I have been asked to examine the matter concerning various school bus routes. On each of those three occasions I have noted some unhappiness on the part of the operator concerned, although I know that operators are in contact with the department and will convey to it any complaints they may have. However, on each of the three occasions to which I refer I have gained the impression that school bus operators here believe that the Victorian system, especially, is superior to ours. Although I have no knowledge of that system (nor do the operators concerned seem to be clear about it), I point out that it is considered that the Victorian system is much better than ours.

The Hon. HUGH HUDSON: It is nice to know that there are still some Opposition members in the House to ask questions.

The Hon. J. D. Corcoran: There are a couple of secret meetings going on.

The SPEAKER: Order! The Minister has drawn attention to the state of the House and it is necessary to count the House. The honourable Minister of Education.

The Hon. HUGH HUDSON: I do not wish to describe the honourable member as being a little disingenuous, but I think it is clear that, when he says that certain operators describe the Victorian system as being better, presumably they mean that those operators get more out of the Victorian system (or think they get more out of it) than the operators in South Australia get out of their present system. If

that were the situation, the cost to the Education Department would be more, and our ability to expand services to areas that need them would be substantially reduced. The methods used by the department take into account variable road conditions, the size of the bus, the length of the route, and so on, and a bus operator is free to apply to the department to have his position reassessed; as the honourable member indicates, that is certainly the case. We assess fully the cost of running our departmental buses, including the salary paid to each driver, and the average cost of departmental buses is lower than the cost of the contract buses that we use (I think the honourable member asked a previous question on that point). However, I do not think that the honourable member should push this matter too hard. The bus service between Tailem Bend and Murray Bridge is more costly to the Government than the train service would be.

Mr. Wardle: I didn't have that in mind.

The Hon. HUGH HUDSON: It was not a fully satisfactory service but, if the cost of the bus service were pushed up too high, one might be forced into a situation where the whole matter had to be reconsidered. It is not our normal practice to give completely detailed replies on how these things are assessed: we have to look after our bargaining position, just as the bus operators who are trying to push up the rates look after theirs. I will see what additional information, if any, I can get for the honourable member but I am not making any promises.

SCHOOL OF ART

Mr. COUMBE: In view of the expansion to be achieved through amalgamating the School of Art with the new Torrens College of Advanced Education, planning work on which has commenced, I ask the Minister of Education what will be the future function of the existing School of Art, which is situated in Stanley Street, North Adelaide, in my district. I ask the question especially with a view to ensuring that there is no overlapping of administration of functions. Further, can the Minister say what will be the function of the existing School of Art Council?

The Hon. HUGH HUDSON: The School of Art building in Stanley Street, North Adelaide, will be taken over by the Department of Further Education and become a technical college, although its specific functions have not yet been determined. The moving of the School of Art to the Underdale site is, I think, one of the latter phases of the development of the Torrens college because, obviously, the conditions of staff and students at Western Teachers College are considerably worse than those of the people at the School of Art, and some priority must be given in that regard. When the legislation concerning the Torrens college is introduced soon, the honourable member will see inevitably that the present School of Art Council will go out of existence, the Torrens college having its own council. However, I do not doubt that provision can be made (if desirable, it will be made) for an advisory committee or council to operate in relation to the activities of the art school and the design school.

Mr. Coumbe: This merits special consideration.

The Hon. HUGH HUDSON: I certainly agree that an advisory council of this kind associated with the Torrens college in relation to the South Australian School of Art could be created. I hope that many members of the existing council of the School of Art will become members of the council of the Torrens college.

WINDY POINT ROAD

Mr. EVANS: Has the Minister of Roads and Transport a reply to my recent question regarding guard rails on sections of the Windy Point road?

The Hon. G. T. VIRGO: The use of guard railing on the outside curve of the sharp bend immediately below the Dogs Rescue Home at Mitcham is inhibited by the need to provide access to private property and a side road at this location. It would be necessary to erect the railing in three separate segments, none of which would be of sufficient length for structural stability. Such erection would also create four points at which "end on" accidents with the guard rail could occur. It is proposed to improve the delineation around the outside of this curve by the use of additional sighter posts with large reflective delineators and reflective hazard markers.

PRESS STATEMENT

Mr. JENNINGS: My question, to the Leader of the Opposition, is based on the leading article in the *News* today. Will the Leader speak to Mr. McAnaney with the object of trying to provide him with an opportunity to avoid making further statements such as he has made or may have made (he may have said something different from the *News* report)? The honourable member is a great friend of mine—

The Hon. G. T. Virgo: The Leader of the Opposition or the member for Heysen?

Mr. JENNINGS: Both the Leader of the Opposition and the member for Heysen are friends of mine, and particularly the member for Heysen.

The SPEAKER: Order! I point out to the honourable member for Ross Smith that Standing Order 123 provides:

At the time of giving notices of motion, questions may be put to Ministers of the Crown relating to public affairs; and to other members, relating to any Bill, motion, or other public matter connected with the business of the House, in which such members may be concerned.

I think that the question asked by the honourable member for Ross Smith is in conflict with that Standing Order.

Mr. JENNINGS: I submit that this matter is in the public interest.

Mr. Coumbe: Are you disagreeing with the Speaker?

The SPEAKER: Order! I repeat that Standing Order 123 refers to any Bill, motion, or other public matter connected with the business of the House. From what I could hear of the question, I did not think it was on a matter that was connected with the business of the House. Therefore, I have to rule the honourable member's question out of order.

SHARK SALES

Mr. GUNN: Will the Minister of Works ask the Minister of Agriculture whether the Government has requested the Victorian Government to allow greater quantities of shark to be exported to Victoria as is now being done by another State? It was reported in yesterday's *News* that the Tasmanian Minister of Fisheries had announced that a certain quantity of shark up to 28in. in length would be permitted to be exported from Tasmania to Victoria.

The Hon. J. D. CORCORAN: I will ask my colleague for a report, but my understanding of the situation is that the ban was placed only on school shark over a certain size and that any school shark under 28in. in length would still be permitted to be sold in Victoria. Irrespective of that, Victoria could not prevent Tasmania from exporting shark.

Mr. Gunn: I am talking about South Australia.

The Hon. J. D. CORCORAN: If South Australia wanted to export shark, Victoria could not stop it, but it is against the law in Victoria to sell it and there would be no point in South Australia's sending shark to Victoria. Not all shark is prevented from being sold in Victoria but a ban on a certain sized fish had the effect of limiting the sale of shark of other sizes.

CARD PRICES

Mr. EVANS: Will the Premier request the Commissioner for Prices and Consumer Affairs to investigate the exorbitant prices of greeting cards, whether they be for birthdays, Christmas or weddings? The prices of this type of card are often as high as 40c, 50c or 60c. As it is possible to buy a paperback novel for as little as 75c, it seems ridiculous that the price of cards is so high, and I doubt whether an investigation has been carried out into the profit margin on them. As Christmas is not far away, the time is opportune for the Commissioner to make such an investigation. I ask the Premier to request that that investigation be made and to bring down a report.

The Hon. D. A. DUNSTAN: I will do that.

QUEENSTOWN SHOPPING CENTRE

Dr. EASTICK: Will the Premier say how possible is the Queenstown shopping complex? This afternoon's press, under the heading of "Giant Shop Plan, Dunstan's View", states:

The Premier (Mr. Dunstan) indicated today that a giant shopping complex at Queenstown was still possible.

Mr. Gunn: Read on.

Dr. EASTICK: The report also states:

The Government has not expressed opposition to the shopping plan at all, the Premier said when commenting on latest reports that Myers might be prepared to allow $2,500,000 worth of land they own at Queenstown to remain vacant for years, if necessary, in the hope that their plans for the $10,000,000 21-acre centre might eventually be fulfilled.

On the basis of those comments and other comments that I think the Premier will accept as having made, I ask him how possible is the Queenstown shopping centre.

The Hon. D. A. DUNSTAN: The promoters of the Queenstown shopping centre have been told from the outset of their operations that, in order to proceed with such an operation, they must obtain normal planning approval and that the planning process must proceed in accordance with the provisions of Planning and Development Act. That has not been done to date. The Myer organization proceeded to buy land in an area in Queenstown that had been zoned as residential by the 1962 plan, which was adopted by this House as the plan for the metropolitan area of Adelaide. There were no land use regulations

in relation to the area until these were promulgated by the Port Adelaide council.

That council put forward land use regulations for the area that zoned it for land use in accordance with the 1962 plan. There was no objection from the Myer organization or any other person to the regulations. These were forwarded to the State Planning Authority and were being examined in the normal way. In the meantime, the Port Adelaide council asked for and obtained interim planning control, which gave power to the council to preserve existing land use within the area, except with the consent of the council. The exception under section 41, the interim development control provision, is only to provide for those marginal cases where there needs to be some minor change in existing land use.

The Myer organization and a certain proportion of the Port Adelaide council then put forward the proposal that a consent to departure from existing land use under interim development control should occur, completely altering the land use in Queenstown, contrary to the existing plan, contrary to the council's own proposed land use regulations, without any supplementary plan being published to the public, and without the normal receipt of objections and other public submissions in relation to any change in the 1962 plan, which is provided for under the Act.

Mr. Mathwin: They gave approval in principle, didn't they?

The Hon. D. A. DUNSTAN: Who did?

Mr. Mathwin: The council.

The Hon. D. A. DUNSTAN: Well, there were several resolutions of the council, as a matter of fact, most of which did not have the necessary quorum. At no stage was a proposal put forward for alteration of the 1962 plan in accordance with the provisions of the Planning and Development Act and, consequently, the public, it was proposed, should be completely denied the protection of the Planning and Development Act.

When that proposition was before the Government, we had before us the recommendation of the State Planning Authority that the regulations on land use in Port Adelaide, in accordance with the 1962 plan, should be adopted, and we gazetted them, because that was the only way to proceed to preserve the provisions of the Act and prevent a complete departure from its principles to give some back-door advantage to someone, completely contrary to normal planning procedures and to the council's own proposals for land use in the area. That has been done. Following this, an offer was made to people in the area that the Government would consider any matters in consultation with the Port Adelaide council and any developers in the Port Adelaide shopping centre, in West Lakes, or in the Queenstown area.

Dr. Eastick: How was the offer conveyed?

The Hon. D. A. DUNSTAN: By me personally to all the parties involved. I saw Myers, West Lakes, the Port Adelaide developers, the Port Adelaide council, and the Mayor of Port Adelaide, and I asked them to go away and consider a report of a committee (which report I have tabled in this House) set up by the Government to examine the problem in the area, recite its history, and make recommendations. The recommendations of that committee were that the principles of the 1962 plan should still obtain and that the major shopping development should be in the Port Adelaide shopping area, not at either West Lakes or Queenstown. I asked them to consider that report, which had been given to government, and to submit any proposals in consequence.

Dr. Eastick: Individually?

The Hon. D. A. DUNSTAN: Either individually or together. Since then I have appointed an officer of the State Planning Authority (Mr. Speechley) to act as convenor for any joint consultation amongst the Port Adelaide council, other interested operators, and the Government to try to resolve the question. I have not had a reply from the Port Adelaide council on how it is prepared to co-operate following that letter to the council from me.

In the meantime, the Managing Director of Myer Emporium Limited has come to see me and has said that that company has examined the situation in the area and is not prepared to take part in the development of West Lakes (initially the company was not prepared to take part in any redevelopment in the Port Adelaide shopping centre), that it had spent the money in Queenstown and that it intended to hold the land until it was able to do something with it. The fact is that, although the Government indicated that, if the company was prepared to go ahead with residential development, we would try to co-operate to help with development in the area in accordance with the report to the committee, the Myer organization paid much more than market value for the property in Queenstown.

Mr. Mathwin: Mainly because it got it approved in principle.

The Hon. D. A. DUNSTAN: The Myer organization did not have planning approval at all.

Mr. Mathwin: In principle.

The Hon. D. A. DUNSTAN: It did not have planning approval of any kind at any stage, and it knows that. The organization has been told from the outset that the Government will not play favourites with anyone on this and also that anyone here, in Queenstown, at West Lakes, or at Port Adelaide, must proceed in accordance with the principles of the Planning and Development Act which have been laid down by this House. It tried to get in by the back door. I told the organization that I considered that proceeding in the way it did was most extraordinary and that it was atrociously advised. I said that specifically to Mr. Steele. This organization paid sums such as $40,000 for properties worth $10,000 in Queenstown, and that is now affecting its decision about what to do with the property. I am trying to resolve the situation as best I can in the interests of all the parties concerned and to get a reasonable and proper shopping development within the Port Adelaide area that will provide additional rate revenue and additional employment, but this has to be done in accordance with proper procedures. I have told Mr. Steele that his way is to propose a supplementary development plan, and he has now said that that is what the Myer organization intends to do. If that is what it intends, the Government is not prejudging the matter. The way is open for this organization to put forward a supplementary development plan which will be exposed to public viewing, which will be subject to public submissions, which will be reported on by the State Planning Authority, and which will come before this House for decision.

That is the proper way to proceed, and the way is open. I pointed out to Mr. Steele that, in order to get rid of the objections of the Port Adelaide traders and the recommendations of the committee to the Government, it might well be that Myers should co-operate in some development in Port Adelaide. He has indicated to me that Myers is willing to co-operate in such a development. That is the present situation. If Myers and the Port Adelaide council are willing to proceed in the way laid down by this Parliament for alteration of the planning base in Queenstown (and the way is open), the matter can be resolved in the proper and normal fashion, which is what these people have been told from the very outset of this operation. I will not be subject to blackmail threats. I will not be subject to the Mayor of Port Adelaide saying that he will put up political candidates against the member for Price and the member for Semaphore because they will not subject themselves to his demands for a complete departure from the planning law in South Australia. If this thing is to be done, it is to be done in accordance with the rules which have been laid down by this Parliament, and this Government will not depart from those principles.

Mr. COUMBE: One of the recommendations of the Government committee that investigated this problem was that the West Lakes organization be asked to review carefully the scale of this commercial venture at West Lakes. The Premier has said that he has appointed Mr. Speechley to act as liaison officer, and no doubt Mr. Speechley has now reported to him. Can the Premier say whether the West Lakes organization has reconsidered the proposition recommended, and can he give any details of this?

The Hon. D. A. DUNSTAN: The whole proposition as to the size of the various proposals in the area is currently being considered by the West Lakes board, which is meeting in Sydney today. I am aware that the current reconsideration of the whole proposition in relation to development of the area is taking place currently. The organization has had the report made available to it and has examined it.

Mr. Coumbe: When you are informed, will you inform me?

The Hon. D. A. DUNSTAN: I will do my best to inform the honourable member of what resolutions we come to. The honourable member will appreciate that this whole situation is somewhat fluid. There is no limitation in the planning procedures for West Lakes regarding the size of any operation at West Lakes. The indenture has been passed by this House, the honourable member having been a party to the indenture enacted here. He is well aware of the cost to the total West Lakes project of the development of some sort of shopping centre in the area and the provision of a traffic flow to that area, which is a cost to the West Lakes corporation. The corporation is also involved in any Port Adelaide shopping centre development, as it holds much of the land that will be involved in such a development. Therefore, it is intimately involved in whatever scale of operation takes place at each one of these sites. I have spoken with Sir John Marks as I have spoken with Mr. Steele of Myers, and they are examining the whole situation in the light of the report of the committee and the latest announcement of the Myer organization.

INDUSTRIAL DISPUTE

Mr. HARRISON: Has the Minister of Labour and Industry any information about progress made at the conference held this week in relation to the concrete manufacturers association dispute before Commissioner Marron?

The Hon. D. H. McKEE: I have just received information that the matter is now settled and that there will be no further escalation of the dispute. The man involved has been reinstated without loss of status or breach of continuity. Assurances were given and accepted by both sides. I understand that the unions will meet at 7.30 tomorrow to hear a report and a recommendation to return to work. Commissioner Marron has ordered that a resumption of work should take place no later than 7.30 a.m. Monday.

EYRE HIGHWAY

Mr. GUNN: Can the Minister of Roads and Transport say whether a final decision has been made about the exact location of the proposed new route of the Eyre Highway? Some time ago the Minister announced a proposed route that the highway would take when it was sealed. Following that announcement, there was some discussion in the newspapers about certain problems relating to this route. I have been informed that a similar problem exists on the route now used. Therefore, in view of this and the likelihood that a new road would have to travel through dense scrub, which would have to be cleared, I wonder whether the Minister has anything further to add.

The Hon. G. T. VIRGO: The route of the road is still being considered, no finality having been reached.

JUVENILE COURTS ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

FOOTWEAR REGULATION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

RIVER TORRENS ACQUISITION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

LAND AND BUSINESS AGENTS BILL

The Hon. L. J. KING (Attorney-General) obtained leave and introduced a Bill for an Act to consolidate and amend the law relating to certain kinds of agent; to provide for the licensing and control of land brokers; to repeal the Land Agents Act, 1955-1964, and the Business Agents Act, 1938-1963; and for other purposes. Read a first time.

The Hon. L. J. KING: I move:

That this Bill be now read a second time.

It re-enacts portions of the present Land Agents Act and amends that Act. It also incorporates and amends the provisions of the present Business Agents Act. There are four Acts that deal with the licensing of persons who act as agents in the selling of land or businesses or prepare documents relating to the sale of land. They are as follows: the Auctioneers Act, the Business Agents Act, the Land Agents Act and provisions in the Real Property Act dealing with the licensing of land brokers. As the functions of all persons licensed or registered under these Acts are to a marked extent interrelated, it has been thought desirable to bring land agents, land salesmen, business agents, business salesmen and auctioneers of land under the jurisdiction of one board and under one common licensing scheme. It has also been thought desirable to set up a licensing body in respect of land brokers who are at present licensed by the Registrar-General.

The sale of many businesses, including small businesses, involves the transfer of absolute ownership or a leasehold interest in land. The transfer of such interests is intermingled with the purchase of the goodwill and stock-in-trade of the business. At present, business agents are licensed by the Local Court. Land agents who were previously licensed by that court were brought under the jurisdiction of a licensing board in 1955. There is no authority in relation to business agents that may effectively inquire into complaints against the conduct of licensed business agents in their capacity as such agents. It would not be appropriate, nor would it be practicable, for the court to make such inquiries, except when a formal application for a cancellation of the business agent's licence is made. The present Business Agents Act does not provide for any previous

experience or knowledge on the part of an applicant. He is merely required to satisfy the court that his character and financial position are such that he is, having regard to the interests of the public, a fit and proper person to carry on business as a business agent.

Negotiations for sale of a business frequently involve complex financial transactions on which purchasers and vendors expect to receive advice from the business agents engaged. Many business agents are experienced and are competent, by virtue of that experience, to tender such advice; but having regard to the present licensing provisions, it is open to anyone of good character and satisfactory financial position to obtain a licence. One of the purposes of the Bill is to ensure that business agents who in the future are licensed for the first time shall be required, as are land agents, to have adequate experience and knowledge to perform competently the functions the public is entitled to expect of them. The Land Agents Board has, in the past, received complaints about the activities of persons licensed under both Acts where it has been unable to act because it cannot be determined where the agent's duties as a business agent in a particular transaction cease and where his duties as a land agent commence. Both the Land Agents Act and the Business Agents Act require the agent to keep a trust account. Where a person is licensed under both Acts, it is frequently unnecessarily difficult, and sometimes impossible, to determine into which account moneys received by such agents should be paid.

The Bill seeks to bring about a common licensing scheme in relation to land and business agents and auctioneers of land. Such a scheme is operating in other States and there is an Ordinance covering the same object in the Australian Capital Territory. The Bill also provides for a licensing board for land brokers who, as previously mentioned, are at present licensed by the Registrar-General. Although the Registrar-General requires such persons successfully to undertake a course at the Institute of Technology, the only qualification contained in the Real Property Act is that such persons be fit and proper persons to be land brokers. Again, there is no authority having the jurisdiction to undertake investigations into complaints about the conduct of persons licensed as land brokers. Where a person is licensed as a land agent and is also licensed as a land broker, the Land Agents Board has been unable satisfactorily to deal with a complaint concerning a particular transaction because the conduct as a licensed land agent of a person holding both licences cannot be separated from his conduct as a licensed land broker. There are some grounds for holding the view that a person should not be licensed both as a land agent and as a land broker. However, the Bill seeks to achieve a compromise between this view and the present situation.

In addition to setting up a common licensing system under a land brokers licensing board, other provisions in the Bill provide for a fund to meet defalcation by land and business agents and land brokers along the lines of the fund recently set up by the Legal Practitioners Act. At present, land agents and salesmen are required to provide a bond of $4,000 against possible defalcations. This amount is grossly inadequate but a substantially higher amount would involve insurance premiums beyond the financial capacity of many agents. There are other provisions for regulating the making of contracts for the sale of land or businesses and also variations of those provisions of the Land Agents Act and the Business Agents Act that concern the conduct of land and business agents. Auctioneers who simply auction goods and chattels are not affected, but there is no good reason why an auctioneer auctioning land should not be required to be licensed or registered, as in many cases a contract is negotiated by the person conducting an auction immediately after the land being sold has failed to reach the reserve price.

Careful consideration has been given to suggestions of various interested bodies and, whilst it has not been considered practicable or desirable, by legislation, to deal with all the matters that have been raised, with one exception, all the provisions relating to the control of agents meet with the approval of the Real Estate Institute. A considerable proportion of the provisions in this Bill were recommended by the Land Agents Board, which has been charged with the licensing of land agents and the registration of land salesmen for the past 17 years. I now deal with the provisions of the Bill.

Part I contains saving and transitional provisions, but attention is drawn to provisions that provide that any licence in force under the present Land Agents Act or Business Agents Act before October 1 shall be deemed to be a licence in force under the Bill and that a person licensed as a business salesman under the Business Agents Act immediately before the commencement of the Act shall be deemed to be registered as a salesman under the Bill. This means that a few persons who do not have

all the qualifications required for a land agent will become so licensed by virtue of their having held a business agent's licence. The number of such persons is, however, relatively small and it was thought better to permit these persons to continue to carry on as business agents rather than lose their livelihood or be outside the licensing provisions and the control of the board. With regard to persons registered as business salesmen, their qualifications are similar to those at present required for land salesmen and it is not thought unreasonable that, under the Bill, they should become licensed as registered salesmen of land and businesses. Again, the number of persons affected is small.

Part II deals with the Land and Business Agents Board. The constitution of this board will be similar to the board under the present Land Agents Act and provisions as to quorum, validity of the acts of the board, allowances, etc., will remain as they are at present.

Part III deals with the licensing of agents relating to dealings in land or businesses. These provisions are similar to those in the existing Land Agents Act and provisions as to quorum, Land Agents Act. Clause 13 prohibits the carrying on of business or holding out as a licensed land agent without a licence. Clause 14, which provides for applications for licences, follows, as does clause 13, the present provisions of the Land Agents Act. Clause 15 sets out the qualifications required of a person to entitle him to hold a licence. They are based, with some modification in relation to the necessity for practical experience, on the present Land Agents Act, but allow persons holding a business agent's licence to be licensed under the Bill. Clause 16 provides for a licence to be granted to a corporation. It requires that, in the case of a corporation that did not hold a licence at the commencement of the Act, the persons managing, directing or controlling the affairs of the corporation, should have the same qualifications as those of a licensed agent or registered manager. The board is given power to exempt certain corporations from the requirement that the persons in control of the business are licensed or registered. At present, completely unqualified persons are able to form a proprietary company and engage a registered manager, who is then subject to their control, in order to carry out the corporation's business as a land agent.

Land agents are offering personal services to the public, and it is considered reasonable, subject to the exemptions, that those who are able to control the affairs of a corporation holding a licence should have sufficient knowledge of and experience in the duties of a land agent to guide the corporation in its business. They should not be permitted by the protection of the corporate body, in effect, to carry on businesses for which they are not qualified. Clauses 17 and 18 deal with the duration and renewal of licences. Clause 19 provides that, where a licensed agent dies, an unlicensed person may, with the consent of the board, carry on the business up to a period of six months in accordance with conditions imposed by the board. Clause 20 provides for the surrender of a licence with the consent of the board.

Part IV provides for the registration of salesmen. Clause 21 provides that a person who is not registered as a manager, who is a person required to have the same qualifications as those of a licensed land agent, shall not serve any person as a salesman or hold himself out as a salesman or act as a salesman unless he is registered. The effect of this is that only a registered salesman and a registered manager may be in employment as a salesman engaged in negotiating dealings in land or businesses. This clause follows the present Land Agents Act.

Clause 22 provides, as do the present Land Agents Act and Business Agents Act, that a person shall not employ any unregistered salesman. It also provides that, unless the board considers that special circumstances exist, no person shall employ a salesman in his business except on the basis that the salesman is employed full time in that business. The clause exempts from this latter provision any salesman employed part time within a period of 12 months after the commencement of the Act, and also permits the indefinite continuation of employment of a salesman employed on a part-time basis where he was so employed by a land agent immediately before the commencement of the Act and he continues in that employment.

This provision is designed gradually to phase out the present practice of agents nominally employing large numbers of salesmen who, because of the spasmodic nature of their activities, obtain little or no practical experience or knowledge. It has been found in some instances that there has been conflict between the agent and the so-called salesman as to whether or not the salesman is in the employ of the agent. This part-time employment frequently involves lack of any supervision by an agent over salesmen. The Land Agents Board has investigated several cases where

part-time salesmen, who were quite inexperienced, were left to their own devices by the agent and who, obviously, were quite unsupervised in the conduct of difficult negotiations with prospective purchasers.

Clause 24 re-enacts section 39 of the present Land Agents Act. It continues to exempt stock and station agents from the requirement that all employees of a branch office should be registered as salesmen or managers. Clause 25 provides for the mode of application for registration to be made by a salesman. Clause 26 provides for the qualifications for registration of a salesman. At present, the only requirement is that a person should be a fit and proper person. The purpose of this clause is gradually to require that persons who apply to be registered as salesmen shall have sufficient knowledge in order properly to carry out their functions. The duties of a salesman are often crucial in the negotiations for sale and purchase of land. It is the salesman who communicates with the purchaser, shows him the property, and usually writes up the contract note, which is ultimately signed by the purchaser and the vendor.

It is the salesman who communicates any offers from the purchaser to the vendor, and frequently it is only when a contract has become binding on both parties that the land agent, or business agent, the employer of the salesman, becomes aware of it. It is regarded as essential that the qualifications for salesmen should be upgraded, and that the requirement to be registered is that such a person shall not only be a fit and proper person but also that he has passed such examinations or obtained such educational qualifications as may be prescribed.

The Bill exempts from educational requirements any person who was registered as a land salesman under the Land Agents Act or licensed as a business salesman under the Business Agents Act immediately before the Bill comes into effect. It is thought that this preserves adequately the rights of persons holding an existing registration and, although as previously pointed out it is perhaps giving a business salesman some advantage which he did not previously have, it is only reasonable that such persons, who could in most instances, by application to the existing Land Agents Board, now be registered as land salesmen, should have their position preserved.

It also exempts from the educational requirement any person who, within 10 years before the date of his application, was registered as a salesman or registered as a manager under the Land Agents Act before the commencement of the Act contained in this Bill, or held a business agent's licence under the Business Agents Act. Clauses 27 and 28 provide for renewal of registration as a land salesman. Both these clauses are in similar terms to the existing Land Agents Act and Business Agents Act.

Clause 29 provides that a salesman may surrender his certificate of registration. It also provides that, while he is not in the service of an agent, his registration is suspended. Both these provisions are contained in the existing Land Agents Act. This clause requires that a registered salesman shall give notice to the board of the commencement or termination of his employment. This provision is contained in the existing land agents regulations, but it is considered sufficiently important to incorporate it in the Bill, as its requirements have, in the past, frequently not been observed, the usual excuse being ignorance.

Part V deals with nomination and registration of managers whom a licensed corporation is required to have in its service and actual control of the business conducted in pursuance of the corporation's land agent's licence. Clause 30, in addition to providing for the control of its business by a registered manager, also provides that a licensed land agent, not being a corporation, whose usual place of residence is outside the State, must have a registered manager in control of his business. Subclause (3) of clause 30 exempts from the requirement to nominate a registered manager during a period of one month after the happening of certain events.

Other provisions in the clause are evidentiary, dealing with the usual place of residence within the State of a person, and with a prohibition on remuneration to a registered manager who is not in the service of a licensed agent. This clause substantially follows the existing provisions in the Land Agents Act, but the last-mentioned provision relating to remuneration has been considered necessary, because of the practice of licensed land agents paying commission to registered managers not in their employ. This has been found to be most unsatisfactory, as a registered manager may nominally be in the employment of several agents, a practice which may give rise to conflict of interest between the public and the agents themselves.

Subclause (6) of clause 30 provides for a manager to be employed full time. This is directed against the case of one registered manager being nominally in the employment

of several persons or corporations who are licensed as land agents. This practice has been observed where unqualified persons promote a proprietary company, become directors of it and obtain a land agent's licence in respect of that company. Although there has, in the past, been the requirement that they must employ a registered manager, it has been found that a licensed land broker, for example, who is also a registered manager, is nominally appointed as registered manager, but in fact he plays no part in the business, and carries on some other business or is engaged in other employment.

In addition, it has been found that such a person is the nominated registered manager of more than one corporation holding a land agent's licence. This situation is most undesirable. Subclause (7) of clause 30 is complementary to subclause (5). Clause 31 provides for the mode of application for registration as a manager. Clause 32 provides for the qualifications required for a person entitled to be registered as a manager. These qualifications are similar to those provided for by clause 15 in relation to land agents' licences. As has been previously pointed out, a registered manager stands, in relation to a corporation (or a land agent whose usual place of residence is outside of the State), in the place of the person holding a licence.

Clauses 33 and 34 provide for duration of registration and for renewal. Clause 35 provides for surrender and suspension of registration of a manager whilst not in the service of an agent. It also provides for notification to the board of commencement or termination of employment.

Part VI deals with the conduct of the business of an agent. Clause 36 requires a licensed agent, within 14 days after commencing or ceasing to carry on business, to give to the Secretary of the board notice in writing of that fact. Clause 37 provides for an agent to have a registered office for service of notices at the registered office, and for registration and for giving notice of the situation and change of situation of a registered office. Clause 38 provides for registered branch offices, and follows the existing provisions in the Land Agents Act. Clause 39 requires the agent to exhibit a notice as to his name, the fact that he is a licensed land agent, and the name or style under which he carries on business. It also provides for notification to the board of alteration of the name or style under which he carries on business.

Clauses 36, 37, 38 and 39 substantially follow the existing provisions in the Land Agents Act. Clause 40 provides for a licensed land agent to keep prescribed particulars of employees engaged in his business and to produce the record of those particulars. This provision has been found necessary because of the occasions on which land salesmen have failed to notify the board, as required by the existing regulations, of their change in employment or ceasing to be employed and also because in some instances, as has previously been pointed out, agents, through failure to keep proper records, have not been able to inform the board whether or not certain salesmen were employed by them. Some agents nominally employ more than 20 or 30 salesmen on a commission-only basis.

Clause 41 prohibits the publication by licensed agents of advertisements that do not state the name of the licensed agent, his address and the fact that he is a licensed agent. It also prohibits a registered manager or salesman from advertising except in the name of the licensed agent by whom he is employed. The clause further requires that a person shall not advertise any transaction relating to the sale or disposal of a business without the consent in writing of the owner of the land or business. This clause has its counterpart in the existing Land Agents Act.

Clause 42 requires an agent, upon demand or, in any event, within two months after the receipt by the agent of moneys in respect of any transaction, to render to the person for whom he has acted as agent an account setting out particulars of such moneys and of their application. Substantially similar provisions are contained in the present Land Agents Act and Business Agents Act. Clause 43 makes it an offence to render false accounts and is similar in terms to provisions contained in the Land Agents Act. Clause 44 provides that an agent shall supply to any person who has signed an offer, contract or agreement relating to a transaction that has been negotiated by the agent a copy of any such document. This provision is considered to be necessary because of the difficulty sometimes experienced by purchasers, and even vendors for whom the land agent has been acting, in obtaining a copy of the documents that they have signed.

Clause 45 requires an agent to obtain an authority in writing before acting on behalf of any person in the sale of any land or business. At present a land agent is required to obtain an authority in writing before advertising any land for sale but there have been instances

where agents have purported to offer a property for sale (other than by advertising) without the instructions or consent of the owner of that property, causing unwarranted embarrassment to the owner.

Clause 46 first provides that a licensed agent must not have any direct or indirect interest in the purchase of any land or business that he is commissioned to sell, unless he has previously informed his principal of his interest and the principal has authorized him to Act. Secondly, it provides that a registered manager, salesman or other person in the employment of a licensed agent must not have any interest in the purchase of any land or business that the agent has been commissioned to sell unless the agent has so informed the principal and the principal has authorized the agent in writing to act on his behalf. This provision does not affect a licensed agent or other persons in his employ when acting in respect of any interest which arises merely as an agent. It is further provided that an agent, salesman or registered manager who acts in contravention of the provision, in addition to being liable to a penalty, may be ordered to pay over to the principal, who is usually the vendor, any profit that he has made, or is likely to have made, from the purchase. Furthermore, the licensed agent is not to be entitled to receive any commission where the agent or any employee has been found to have an interest and has not disclosed that fact to the principal and obtained his consent to the agent acting in the transaction, notwithstanding that interest.

The Land Agents Board, in investigating complaints against agents, has taken the view that it is improper conduct on the part of the agent not to disclose an interest in the purchase of land which he has been commissioned to sell. However, this view is not widely known amongst agents and it has been thought better to make specific legislative provision so that there will be no doubt of the duties of persons engaged in selling land and businesses, and also to provide for the protection of persons where an agent has acted in contravention of this clause. The practice of land agents, who have been commissioned to sell a property, of inserting a name of a nominal purchaser in the contract and then proceeding to have the land transferred to themselves or to a company in which they have an interest, has come to notice for many years but has increased substantially lately. There have been instances where the agent, or his employee, has clearly acted to the detriment of the vendor for whom he is acting. The vendor ought to be able to expect the agent to use his best endeavours to obtain a proper price for the land or business being sold. The agent should not, under a cloak of secrecy, obtain what has sometimes been a very substantial profit for himself.

Clause 47 prohibits a licensed agent from paying any part of the commission, to which he is entitled as agent, to any person other than to a licensed agent or to a registered manager or registered salesman. There have been a number of cases in which a licensed land agent has permitted his licence to be used as a front by persons not, in fact, employed by him, particularly registered salesmen over whom he has no control. Substantially similar provisions are contained in the existing Land Agents Act.

Part VII deals with the licensing of land brokers who are at present, as has been adverted to, licensed by the Registrar-General. Clause 48 contains definitions. Clause 49 sets up a Land Brokers Licensing Board and provides for it to be constituted of five members, one of whom is to be a legal practitioner of not less than seven years standing and one of whom is to be a licensed land broker. This clause follows substantially the constitution of boards under the provisions of the present Land Agents Act and the Land Valuers Licensing Act.

Clause 50 provides for term of office and removal of members of the board. Clause 51 provides for the procedure of the board. Clause 52 contains the usual provisions as to validity of the acts of the board and the immunity of its members. Clause 53 provides for allowances to members of the board. Clause 54 permits the board to obtain legal assistance. Clause 55 prohibits a person carrying on business or holding himself out as a land broker unless he is licensed but, following the present situation, this does not prohibit a legal practitioner carrying out work in the practice of his profession.

Clause 56 provides for applications for licences. Clause 57 sets out the qualifications that are required for a person to be entitled to a licence as a land broker. Any person at present licensed as a land broker will automatically be entitled to receive a licence if he is still regarded as being a fit and proper person. The clause also preserves the rights of persons who have qualified for licences under the present legislation but who do not, in fact, hold licences. Under the Bill, applicants for licences will have to hold prescribed qualifications which will be based on

the present qualifications that, in practice, applicants are required to obtain before the Registrar-General will issue a land broker's licence. Clauses 58 and 59 deal with the term and renewal of brokers' licences. Clause 60 enables a licensed land broker to surrender his licence with the consent of the Land Brokers Licensing Board.

Clause 61 prohibits a person, for fee or reward, from preparing instruments relating to any dealing with land unless he is a legal practitioner or licensed land broker. This clause is along the lines of a similar provision in the present Land Agents Act. It will be noted that, in addition to the present provisions of the Land Agents Act, by subclause (2) the vendor's agent and a licensed land broker or a legal practitioner, or any other person in the employment of the vendor's agent, is prohibited from preparing any instrument (for example, a transfer) relating to the sale of any land by that vendor. However, pursuant to subclause (3), this does not prevent a solicitor or a licensed land broker who has been in the continuous employment of the agent from September 1, 1972, from preparing such a document. Subclause (4) prohibits an agent from procuring or attempting to procure the execution of a document whereby any specifically or generally prescribed person is requested or authorized to prepare any transfer, mortgage or other instrument. Subclause (5) makes void any clause in or appended to a contract whereby any person is requested or authorized to prepare any instrument in connection with the transaction to which the contract relates. This is designed to prevent touting for business on behalf of land brokers or solicitors and to make it more probable that the purchaser will engage a broker or solicitor of his own choice.

This clause makes a substantial change in the present conveyancing arrangements in South Australia. At present, instruments relating to a Real Property Act transaction may be prepared by either a solicitor or a licensed land broker. The legal costs are paid by the purchaser, who is entitled to expect to have his interests in the matter protected. Very often, however, the land agent who is handling the sale obtains the purchaser's signature to an authority for a named land broker to prepare the documents. All too often this land broker turns out to be an employee of the land agent. A charge is made for the documents of about the amount that would be charged by a solicitor for the same work, but the land agent collects the fee. The land broker has an irreconcilable conflict of duty. The purchaser is entitled to have some protection for the fee he has paid and, in particular, to have independent advice as to any traps in the transaction and whether he should proceed to settle. The land broker, however, must serve the interests of his employer, the land agent, whose interest it is to have the settlement proceed so that he may earn his commission. All too often the transactions find their way to solicitors or to members of Parliament after the damage has been done. It becomes clear that, had the purchaser had independent advice, the settlement would never have taken place. No-one should be placed in the situation in which the land broker now finds himself, and this clause is designed to ensure that a land broker is not placed in that position.

The Bill is designed to establish land broking as a semi-professional calling with independence, status and security. It will have its own licensing and disciplinary authority with the appropriate protections and rights of appeal. There has never been in the past any machinery for the investigation of complaints or the conduct of proper inquiries into the conduct of land brokers. There are proper trust account and audit provisions appropriate to such a calling. The severance of the tie with the land agents will provide the opportunity for the development of a clearer sense of responsibility to the parties to the transaction and, in particular to the purchaser. Ethical principles and standards of conduct suitable to the calling will be developed and will be underpinned by the surveillance of the Land Brokers Board. In this way there will be established by degrees a semi-professional, independent body of land-broking practitioners capable of providing the public with a genuine freedom of choice of whether to engage a solicitor or a land broker to prepare documents relating to Real Property Act transactions.

The provisions of the Real Property Act which at present deal with the licensing of brokers and the regulation of fees for Real Property Act work will be repealed in a subsequent Bill. Regulations will be made under the Real Property Act fixing the maximum fees which may be charged for Real Property Act work, whether performed by land brokers or solicitors. The fees will be fixed at the rates currently charged both by land brokers and by solicitors for this work. Suggestions that the provisions of this Bill would somehow increase the costs of Real Property Act work to the purchaser can therefore be seen to be completely false.

Part VIII, which concerns trust accounts and the consolidated interest fund, has as its purpose the setting up of a fund in lieu of the present fidelity bond system to protect persons who suffer from misappropriations or defalcations by agents or brokers. In the following comments relating to this Part references to an agent include references to a land broker. Clause 62 is formal. Clause 63 follows in substance the provisions of the present Land Agents Act and the Business Agents Act. It requires an agent to pay all moneys received by him in his capacity as an agent into a trust account and prohibits him from withdrawing money except for the purpose of completing the transaction in the course of which the moneys were received. The agent is required to keep a full and accurate account of all trust moneys and to keep them separately and at all times properly written up so that they can be conveniently and properly audited at any time.

Clause 64 gives protection to banks and is in similar terms to an existing provision in the Land Agents Act and the Business Agents Act. Clause 65 provides for the establishment by an agent of an interest-bearing account. An agent must, on or before each first day of July commencing on July 1, 1973, invest in an interest-bearing trust security the prescribed proportion of the lowest balance of all moneys in his trust account during the previous 12 months and in each period of 12 months thereafter invest such further sums as may be necessary so that the total amount so invested is not less than the proportion prescribed of the lowest aggregate of the balance of the amount invested and the balance of his trust account during that period.

The proportion of the trust account moneys that is to be invested is one-half, or such lesser proportion as may be prescribed by regulation, of the lowest aggregate of the balance of the account during the previous 12 months. Moneys invested in the interest-bearing trust security must be payable on demand so that, in the event of the moneys in the trust account being, because of the investment of the prescribed proportion in interest-bearing trust securities, insufficient to satisfy claims on the trust moneys, the agent may draw on the trust security for the purpose of satisfying all claims. These provisions are along lines somewhat similar to those applying to legal practitioners, except that the agent is responsible for all investment in the interest-bearing trust security that must be repayable on demand.

Clause 66 requires an agent to pay to the board all interest that has accrued to an interest-bearing trust security during the preceding 12 months. Where, for any reason, an interest-bearing trust security is realized, the agent is to pay to the board forthwith all interest that has accrued. The board must pay all moneys paid to it into the consolidated interest fund that may be invested in the usual authorized trustee investments. Interest derived from such investments also goes into the consolidated interest fund. Because the consolidated interest fund will not for some time build up to an amount sufficient to meet defalcations by agents, agents will be required, pursuant to clause 5 (9) of the Bill, to pay an annual sum of $20 during the intervening period before the consolidated interest fund is considered to be sufficient. This amount is less than the usual annual premium that agents at present pay to insurers for a fidelity bond of $4,000.

Clause 67 exempts from liability the board or an agent for any acts done in compliance with Part VIII. Clause 68 refers to fiduciary defaults on the part of agents and empowers the consolidated interest fund to be applied for the purpose of compensating persons who suffer pecuniary loss from a default on the part of an agent. In cases where an agent has made payment to a person in compensation for loss and the board is satisfied that the agent acted honestly and reasonably, and that it is just and reasonable to do so, the board may accept a claim from the agent in respect of that payment by him. The consolidated interest fund is to be applied only in respect of defaults occurring after the commencement of the Act. Clause 69 provides the manner in which the board shall deal with claims. Clause 70 authorizes a person who has suffered pecuniary loss in consequence of a fiduciary default by an agent to take action in the Supreme Court to establish whether he has a valid claim in the event of the board's disallowing it.

Clause 71 empowers the board to call for documents relevant to any claim. Clause 72 provides that the amount of a claim shall not exceed the actual pecuniary loss suffered by a person, less any amount that he has or may be reasonably expected to receive otherwise than from the consolidated interest fund. A person whose claim has not been settled within 12 months from the day on which it has been lodged is entitled to interest at the rate of 5 per cent from the expiration of that 12 months. After the board has fixed a day by

which claims must be brought in respect of fiduciary defaults by a particular agent, the amount of claims on the consolidated interest fund is not to exceed more than 10 per cent, or such other proportion as may be prescribed, of the balance of the consolidated interest fund. The clause further provides for the board to apportion the amount available between various claimants if that amount is not sufficient to satisfy all claims in full; further, the clause provides that, with the approval of the Minister, the board may make further subsequent payments to any person whose claim is not satisfied in full.

It is pointed out that, at present, the only moneys available to satisfy claims against a land agent who has defaulted is, apart from any moneys or assets which he may himself have available, the amount of his fidelity bond, which is $4,000. This has, more often than not, proved to be insufficient to meet claims for misappropriation. Clauses 73 and 74 enable the board, where any payment has been made out of the fund, to recover that amount from any person who is liable for the default. Clause 75 provides for payment out of the consolidated interest fund of the cost of administering that fund and for moneys recovered by the board to be paid into that fund. Clause 76 requires the board to keep proper accounts of all moneys and to have those accounts audited at least once in every calendar year by the Auditor-General.

Part IX, which relates to investigations and inquiries, deals with the powers of the Land and Business Agents Board in relation to matters affecting land and business agents and of the Land Brokers Licensing Board in relation to matters affecting land brokers. The powers of each board are similar. Clause 78 provides that the board may, on the application of any person or of its own motion, inquire into the conduct of any person licensed or registered under the proposed legislation. The clause provides, by subclause (3), the cases in which the board may take disciplinary action and, by subclause (2), empowers the board, where proper cause exists for disciplinary action, to reprimand, impose a fine not exceeding $100 or cancel the licence or registration. Apart from the imposition of a fine, these provisions follow the present scheme of the Land Agents Act. It has been thought appropriate to empower the board to impose a fine, because there are cases which, being more serious than simply calling for a reprimand, are not sufficiently serious to justify the cancellation of a licence or registration.

Clause 79 provides that the board shall give to the person licensed or registered who is affected by an inquiry notice of the time and place when the inquiry is to be conducted and gives such person an opportunity to call, or give evidence, to examine or cross-examine witnesses and to make submissions to the board. This follows the present procedure set out in the Land Agents Act. Clause 80 gives the board power to summons witnesses to give evidence or produce documents and to answer relevant questions and provides that failure to comply with the lawful requirements of the board shall be an offence punishable in a court of summary jurisdiction. This provision has its counterpart in the present Land Agents Act. Clause 81 gives the board power to make an order as to costs of an inquiry and provides for the recovery in a court of summary jurisdiction of a fine or costs ordered. Clause 82 gives a right of appeal to the Supreme Court against any order of the board. Clause 83 empowers the board or the Supreme Court where an appeal has been instituted to suspend the operation of the order of the board. Clause 84 empowers the board to request the Commissioner of Police to make investigations. Clause 85 gives the board power to authorize a person to inspect books, accounts, documents, etc., and to make copies thereof. Clauses 81 to 85 are similar provisions to those already in the Land Agents Act.

Part X deals with contracts for the sale of land or businesses. Clause 86 which deals with obligations in relation to offering vacant subdivided land for sale has its counterpart in section 66 of the Land Agents Act. Clause 87, which renders voidable a contract into which a person was induced to enter by unreasonable persuasion on the part of a vendor, has its counterpart in the present Lands Agents Act. Clause 88 provides for a cooling-off period. The purchaser may, not later than two clear business days after the contract, or document which may become a contract, has been executed by the vendor or the purchaser, whichever is the later, rescind the contract.

It also provides that no deposit or other moneys shall be received until the period for rescission has expired. To the ordinary man in the street, the purchase of land or a house property is usually the biggest financial transaction which he enters into during the course of his life. Even where no undue persuasion is used, a salesman will sometimes use every reasonable means of encouragement to persuade

potential purchasers to buy a property and forthwith to sign an offer or contract to purchase. Many contracts are so signed immediately after the purchaser has inspected a property and without any proper opportunity for reflecting on the financial consequences to him of so signing, or to investigate or check the title as to identity of the land or to receive advice about the condition of the property. The clause will not apply in relation to persons who, generally speaking, are qualified to look after their own interests. Where the purchaser is a body corporate, or an agent, or registered manager, or registered salesman, a licensed land broker or legal practitioner, he will not have the benefit of the provision. Again, where the purchaser, before executing the contract, has received independent legal advice on the purchase of the land or business, he will not have the benefit of the provision.

With regard to auction sales, it would be impracticable for the cooling-off period to be applied. The holding of an auction is usually made known some time before it occurs. The salesman is not involved in inducing a particular person to buy as he is in the case of a sale by private treaty. The purchaser usually has ample opportunity to consider the nature of the transaction and his financial and other responsibilities if, at the subsequent auction, he is the successful bidder. Clause 89, in effect, provides for the abolition of instalment purchase contracts, except that an amount by way of deposit may be paid in a lump sum or in not more than two instalments towards the purchase price before the day of settlement. There has, unfortunately, been a number of instances where instalment contracts (that is, where the purchaser does not obtain title until he has paid the full price in a considerable number of instalments over a period of years) have been entered into very much to the detriment of the purchaser. Although it is possible for the purchaser to enter a caveat on the title, in fact many purchasers do not realize that they have this right and many others simply refrain from doing so.

Consequently, although the purchaser may have paid almost the whole of the purchase price, his name does not appear on the title and the original vendor can deal with the land without the knowledge of the purchaser. Instances have occurred where the vendor has mortgaged many allotments of land sold on instalment contracts. He has failed to keep up the mortgage payments and the mortgagee has exercised his rights and sold the land. The original purchaser has thus lost both the money he has paid and the land which he was purchasing. Clause 90 provides that, before any document which is intended to constitute a contract or part thereof for the sale of any land or business is executed by the purchaser, the vendor shall annex to that document a statement signed by or on behalf of the vendor containing particulars of mortgages, charges and prescribed encumbrances affecting the land or business which is the subject of the sale and also particulars of all mortgages, charges and prescribed encumbrances that are not to be discharged or satisfied on or before the date of settlement.

In the event of circumstances arising where it is impracticable for the vendor to annex the statement, he is required to serve it personally or by registered post at least 24 hours before the contract is executed so as to become binding on the purchaser. In addition, an agent shall, before presenting to a purchaser for execution, any document that is intended to constitute a contract, make all prescribed inquiries and do all such things as may be reasonable to obtain particulars of all mortgages, charges and prescribed encumbrances and shall deliver a statement of such particulars with a certificate that the particulars disclose all mortgages, charges and encumbrances which are prescribed and which affect the land or business which is the subject of the proposed sale as have been ascertained after reasonable inquiry. If a purchaser suffers loss by non-compliance with the provisions of this section he may apply to a court for an order awarding such damages as in the opinion of the court may be necessary to compensate him for his loss arising from the default or, alternatively, it may make an order voiding the contract and such other orders as may be necessary to restore the parties to their respective positions. It is a defence to such proceedings that failure to comply with this section arose notwithstanding that the person alleged to be in default exercised reasonable diligence to ensure that such requirements were complied with.

At present it is usual to refer in contracts to any registered mortgages or encumbrances which affect the land, the subject of the sale. There are, however, a number of other orders and charges which can affect the land and which are not required to be registered on the title. In some instances, these would be known only to the vendor and the purchaser would have no easy way of ascertaining whether or

not they exist. It is intended that the prescribed encumbrances should only relate to matters of which the vendor knows, or ought to know, and it is pointed out that the agent is only responsible to disclose mortgages, charges and prescribed encumbrances as have been ascertained after he has made the prescribed and other reasonable inquiries.

This clause serves an important purpose. It is well known that the system of conveyancing in South Australia differs very materially from the traditional English system and from the system obtaining in the other States. In the other States, the parties are referred to solicitors at a relatively early stage in the transaction. The agent finds a purchaser, brings the parties together and negotiates the terms of the transaction. The parties then go to their solicitors for formal contract documents to be prepared and exchanged. During this process, the vendor and purchaser are represented by different solicitors whose duty it is to protect the interests of their respective clients. Generally speaking, the solicitor for the purchaser will satisfy himself by requisitions to the vendor's solicitor that there is no encumbrance or restriction on the use and enjoyment of the premises, before settlement takes place. This conveyancing system provides the maximum protection to the parties and minimizes the danger in particular of the purchaser paying out his money and acquiring a defective title or a title which is affected by some restriction as to use or enjoyment.

For this protection, however, the parties have to pay fees which are substantially higher than the fees payable on a land transaction in South Australia. The South Australian system is much simpler and cheaper but, unfortunately, does not provide the protections which exist where both parties are represented by solicitors. In South Australia, the land agent tends to carry the transaction through to the stage at which the Real Property Act instruments must be prepared. These are then prepared by a land broker or solicitor who not infrequently acts for both parties. The system is inexpensive but the protections given by the more formal and elaborate system of having the parties separately represented and by the exchange of requisitions is lost. Certain of the provisions of this Bill are designed to endeavour to give the public of South Australia more of the protections which are enjoyed under the more formal conveyancing system without the loss of the economies inherent in the South Australian system.

This clause is an important provision in this regard. It seeks to protect the purchaser against the danger of paying for land which is subject to encumbrances or restrictions which affect its value and utility. As there is no separate representation of the parties and no requisitions in most cases, it is thought to achieve this result by imposing on the land agent an obligation to take reasonable steps to ascertain the existence of such encumbrances and restrictions and to disclose them to the purchaser. It is intended to prescribe by regulation certain inquiries which must be made by the land agent in order to discharge his duty. It is believed that the provisions of this clause will greatly reduce the number of cases in which purchasers suffer loss and often crippling loss as a result of paying the purchase price for a house or other real estate, only to find when it is too late that the title is defective or the land is subject to encumbrances or restrictions which greatly reduce its value.

I come now to Part XI. Clause 91 provides for the keeping of registers, which is in accordance with the present legislation. Clause 92 provides for the publication of lists of licensed and registered persons under the Act and provides for evidentiary matters. Clause 93 provides for proceedings by or against the board, and clause 94 is an evidentiary provision. Clause 95 prohibits a person from being simultaneously licensed and registered as a salesman or a manager under this Act, or being simultaneously registered both as a salesman and as a manager under the Act. The responsibilities and obligations of managers, as such, and salesmen are quite distinct, and it would be inconsistent with the responsibilities of a manager for him to be also registered at the same time as a salesman and nominally responsible to a manager. This clause will not prevent a manager acting as a salesman, as he does now.

Clause 96 gives a court power to cancel or reprimand a licensed or registered person or the director or manager of a body corporate who is a licensed land agent. Similar provisions are contained in the present Land Agents Act. Clause 97 makes it an offence to make a false representation in connection with the acquisition or disposal of any land or business. Many of the complaints regarding licensed land agents, registered salesmen, licensed business agents and registered business salesmen under the existing legislation relate to false representations made. Such representations have been made usually with the intention of inducing a person to buy the land

or business. In some cases the representation has been found to have been made by the vendors of the land or business, and it is considered reasonable that not only persons licensed and registered should be subject to the prohibition but also other persons who are involved in the acquisition or disposal of any land or business.

Clause 98 provides that a person who desires to sell a small business shall, before the contract or agreement for the sale of the business is signed or a deposit is paid, give to the intending purchaser a statement in the prescribed form containing prescribed particulars in relation to the business. A "small business" means any business which is to be sold for less than $30,000 or such other amount as may be prescribed. If a statement is not given, omits any material or particular or is false or inaccurate, any contract or agreement for the sale of the business shall be voidable at the option of the purchaser for a period and until the expiration of one month after the purchaser obtains possession of the business. There has been a considerable number of cases where misrepresentations have been made as to the turnover of small businesses. Inspection of the books has failed to reveal a misrepresentation of the true position. It is not until after the purchaser has entered into possession and has had time to assess and see for himself the actual turnover that the misrepresentation comes to his notice. The provisions of this clause should protect purchasers against the unscrupulous or careless vendor but will not affect the honest person who is disposing of a small business.

Clause 99 extends liability of a corporation for offences against the Act to directors and other persons in control of the affairs of the corporation unless they prove that they did not consent to or have prior knowledge of the commission of the offence, and also imputes to the corporation intention or knowledge of any officer or servant of the corporation. Clause 100 extends liability for an offence against the Act on the part of one member of the partnership to other members of the partnership unless they prove that they did not have prior knowledge of the commission of the offence or did not consent to it.

Clause 101 is procedural. Clause 102 provides that, where a person who is licensed or registered under the Act has been reprimanded within a period of five years on three occasions, his licence or registration shall be cancelled. There is a similar provision in the existing Land Agents Act. Clause 103 preserves the usual civil remedies that a person may have against an agent. Clause 104 prohibits contracting out of liability in respect of misrepresentation. There is a clause to similar effect in the existing Land Agents Act. Clause 105 provides for service of documents under the Act. Clause 106 is the usual financial provision. Clause 107 empowers the Government to make regulations for the purposes of the Act. It is along the lines of the present regulation-making powers in the Land Agents Act, and it adds a power to prescribe a code of conduct to be observed by persons licensed or registered under the Act.

Dr. EASTICK secured the adjournment of the debate.

MARKETING OF EGGS ACT AMENDMENT BILL

Second reading.

The Hon. J. D. CORCORAN (Minister of Works): I move:

That this Bill be now read a second time.

This measure, which amends the principal Act, the Marketing of Eggs Act, 1941, as amended, provides for a number of quite important changes relating to the composition of the South Australian Egg Board, the qualifications of voters at elections and the general powers of the board. In addition, opportunity has been taken to effect other amendments to the principal Act, the need for which has been demonstrated over the years. The nature of the amendments proposed suggests that the most convenient way of dealing with them would be by a consideration of the clauses of the measure in some detail.

Clauses 1 and 2 are formal. Clause 3 amends the interpretation section of the principal Act (section 2) by:

(*a*) inserting a definition of "declared organization", the need for which will be demonstrated in connection with the explanation offered in relation to clause 7;

(*b*) inserting a definition of "eligible candidate", the need for which will be shown in connection with the explanation of clause 7;

(*c*) striking out the definition of "licensed collector", which will become redundant;

(*d*) simplifying the definition of "producer" so that it accords, in terms of the number of hens necessary to qualify as a producer, with the appropriate Commonwealth Acts (previously there was no difference of one hen and that difference caused some confusion);

(*e*) inserting a definition of "producer agent"; and

(*f*) making provision for an appointed day from which day the reconstruction of the board shall take effect.

Clause 4 merely empowers the Minister to fix a day as being the day on and from which the board shall be constituted in the manner provided for by this Bill. Clause 5 substantially amends section 4 of the principal Act which provides for the composition of the board. At present the board comprises six persons appointed by the Governor, of whom three are producers elected by producers, two are persons knowledgeable in the business of marketing eggs, of whom one must have the ability to represent the interests of retailers of eggs, and one is the Chairman, who, in the terms of the present Act, must not be connected with the industry. The composition proposed by the present Bill will be six persons, three elected by producers and three appointed by the Governor, with both the Chairman and the Deputy Chairman appointed from those appointed by the Governor.

There is, as will be seen, a change of emphasis on the background of the three non-elected members of the board, and this reflects the experience of the activities of the board over the past years and also the view of the Government as to the likely future activities of the board. Put shortly, as with all statutory bonds of this nature, there is a clear need for the board to involve itself in all aspects of egg marketing including, if necessary, entry into fields of processing eggs. It is essential for the board to involve itself in these matters if it is to operate for the benefit of producers. To a large extent, in the case of primary products, the future problems of marketing assume ever-increasing importance. It is not sufficient that a good quality egg be produced: it must also be marketed in such a way as to give the best return to the producer as well as the best value to the consumer.

The net result of this approach is to raise some questions as to the future position of representation by the trade on the board, particularly whether the competitive position of the board may, to some extent at least, be inhibited by the specific appointment of outside trade representatives. This is, of course, not to deny the valuable contribution that was, in the developmental stages of the board, made by such representatives. For these reasons, then, no limitation relating to the background of the three members appointed by the Governor is now proposed.

Clause 6 again makes a change in qualifications for voters at elections for the three members who comprise half the board, in that the number of hens that must be kept in order to qualify for a vote has been increased from 250 hens to 500 hens. The number of hens that must be kept to qualify for a vote was originally fixed at one-tenth of the number of hens that must be kept to support a viable commercial enterprise. On current figures, this number is now about 5,000 hens, since it seems appropriate to maintain this relationship, so the new voting qualification has been increased to one-tenth of 5,000; that is, 500. In addition, provision is made here for the nomination, by firms or partnerships that in their capacity qualify as voters, of a person to vote on their behalf. The mechanics of this nomination are dealt with by the amendments proposed by clause 7 in relation to the re-enacted section 4b.

Clause 7 also proposes the enactment of a new section 4c, which imposes two further and important qualifications for nomination as a condition for election as a member of the board. The first qualification is that the candidate, or the firm of which he is the nominee, markets through the board or an agent of the board at least 10doz. eggs for each leviable hen. The reason for this is clear: in the terms of the present marketing arrangements it is quite lawful for a producer to market no eggs at all through the board or only some of his eggs; for example, all or some of his eggs could be sold interstate. It is patently absurd that such a person should be eligible for election to a board that he himself has, in his own business practices, rejected. In passing, it might be mentioned that eggs retained or disposed of for hatching are for the purposes of this provision regarded as having been marketed through the board.

The second qualification is, in effect, that the proposed candidate shall not hold an executive or administrative position in an organization declared by the Minister for the purposes of this section. An organization that may be declared is one that has amongst its objects or functions the marketing, processing or otherwise dealing with eggs. This limitation is, I suggest, consistent with the proposal to ensure that the activities of the board are not inhibited by direct representation of trade interests at that level. The grounds for this proposal have been mentioned in relation to the explanation of clause 5 of this Bill.

Clause 8 provides for three-year terms for elected members, being the same period as was previously provided. However, to ensure some continuity in membership of the board, as reconstructed, it is proposed that the first

members will be elected for either two, three or four year terms to be decided by lot. Thereafter, all terms will be for three years.

Clause 9 is, in effect, consequential on the proposals already discussed. Clause 10 makes formal provision for the Chairman or, in his absence, the Deputy Chairman to preside at a meeting of the board. Clause 11 is a provision that will enable the board to make appropriate superannuation arrangements for its employees.

Clause 12 repeals section 18 and section 18a of the principal Act and enacts a new section 18 in their place. Former section 18 prevented the board from establishing an egg floor, except in certain limited circumstances. It is now proposed that the board's powers to establish an egg floor will not be so restricted but that it will be obliged to give advance warning of its intention to persons likely to be affected. At proposed new section 18 the board has also been granted a plenitude of power to carry out its functions. Clause 13 is merely an amendment consequential on the removal of references to licensed collectors. Clause 14 amends section 19 of the principal Act, which deals with the licensing of agents of the board. The special provisions relating to persons holding a licence to export eggs from the Commonwealth have been removed, as these provisions are now redundant and provisions providing for an appeal against a decision of the board to cancel a licence of an agent of the board have been inserted.

Clause 15 enacts a new section 20 in the principal Act in lieu of the former section 20, which provided for the licensing of collectors of eggs. Although the form of the proposed new section 20 is new, in fact the provision gives full effect to a concept that has developed over several years. Under section 23 of the Act, the board has power to exempt certain producers from the obligation of delivering their eggs to the board, and the effect of this exemption has been to allow these producers to sell direct to the public. In many cases the exemption provided required the producer to stamp and grade his eggs with the board stamp. In the Government's view, it is desirable that this situation should be regularized and producers in this category should have their status properly recognized. An amendment proposed in relation to section 23 will give all exempted producers a period of 12 months in which to apply for producer agent licences and it is the intention that such licences should be freely available to former exempted producers.

Clause 16 repeals and re-enacts section 21 of the Act, which relates to the obligation of a producer to sell his eggs to the board. The re-enactment, which is self-explanatory, provides for amendments that are consequential on the provisions relating to producer agents. In addition, in proposed new subsection (3) the expression "merchantable quality" has been spelt out in somewhat greater detail. This clause also inserts a new and quite important provision as proposed section 21a. The board is increasingly concerned at the number of unbranded eggs that are appearing in some retail stores. On inquiry, it is alleged that these eggs were produced by persons who were not producers within the meaning of the Act; that is, they were obtained from persons who kept 20 or fewer hens. However, there is some suggestion, to put it no higher, that many of the eggs have, in fact, been improperly purchased from producers. Accordingly, this provision makes it an offence for a storekeeper to have in his possession, for sale, unstamped eggs. This will leave untouched the right of the true non-producer to dispose of his eggs direct to the public.

Clause 17 amends section 23 of the principal Act, which has been adverted to earlier in relation to clause 15. This section can now serve its original and quite proper purpose. Subsection (4) of this section, a general exemption provision, is proposed to be repealed, as in practice it has been found quite difficult to police. In lieu of this it is proposed that the board will grant particular exemptions to cover these cases. In place of this repealed subsection, a subsection providing for a period of transition so that former exempted producers may obtain producer agent licences, has been enacted.

Clause 18 makes amendments to section 24 of the Act that are consequential on the amendments already discussed. Clause 19 amends section 30 of the Act, which relates to payments to producers to the end that the board will be able to make premium payments to encourage the production of eggs with desirable characteristics. Clause 20 is an attempt to deal with a perennial problem that faces those concerned with orderly marketing schemes, that of section 92 of the Constitution. Suffice it is to say that within the limits laid down in *Harper* v. *The State of Victoria,* the most recent High Court decision in the matter, it goes as far as it can to control this interstate traffic in eggs.

Clause 21 is an evidentiary provision which in effect throws on a defendent in proceedings

the onus of proving that he is not a producer as defined. Since the facts on which a person is deemed to be a producer are peculiarly within his knowledge, this seems a reasonable burden to impose. Clause 22 amends section 34 of the principal Act that sets out the regulation-making power and in general the heads of power sought to be inserted reflect the growing interest of the board in marketing and presentation of eggs and egg products. The other amendments to this section relate to formal matters in connection with elections under the Act and also increase the maximum fine that can be imposed under the regulations from $100 to $200.

Clause 23 repeals section 35 of the principal Act, which in its latest amended form gave the Act life until September 30, 1973. It is, in the Government's view, quite unreasonable to give such an apparently limited life to a statutory board that is expected to engage in commercial and *quasi* commercial transactions and dealings and such a limitation could in one sense at least inhibit its activities. Clause 24 amends the schedule to the principal Act and has the effect of slightly altering the boundaries of the electorates, to the end that they will, as far as possible, contain a similar number of units. On the basis of existing units, the electorates, if the amendment is agreed to, will be comprised as follows: electoral district No. 1, 131 units; electoral district No. 2, 136 units; and electoral district No. 3, 147 units. This compares with the old figures of 85, 163 and 166 units.

Mr. FERGUSON secured the adjournment of the debate.

CIGARETTES (LABELLING) ACT AMENDMENT BILL

Second reading.

The Hon. L. J. KING (Attorney-General): I move:

That this Bill be now read a second time.

The purpose of this short Bill is to correct an incorrect cross reference that appears in the principal Act at paragraph (*a*) of section 5. In fact, the reference in question was correct when the Bill was introduced. However, in its passage through Parliament a further clause was inserted immediately after clause 1, which necessitated the consequential renumbering of the clauses. In the nature of things, the alteration of the reference in question would have been made without formal amendment. In this case, the need for it was overlooked when the final print of the Bill was prepared for the assent of His Excellency the Governor.

Although in the context of the Bill the intention of section 5 is clear, in the Government's view the matter should be put beyond doubt. Clause 1 is formal. Clause 2 is included to ensure that the principal Act and the Act proposed by this Bill will come into operation on the same day. Clause 3 effects the necessary amendment.

Mr. MATHWIN secured the adjournment of the debate.

OMBUDSMAN BILL

Adjourned debate on second reading.

(Continued from September 28. Page 1699.)

Mr. EVANS (Fisher): I have pleasure in supporting the second reading of this Bill, but I wish to refer to some aspects of it with which I do not necessarily agree. I will refer, first, to the remarks of members who have in the past agreed with my attitude on these areas of concern. The move to appoint an ombudsman was started in this country in 1963, and he was referred to in different newspaper headlines as "Parliamentary Commissioner", and by many other titles. In the *West Australian* of August 9, 1963, Alex Harris said: "The ombudsman is a non-political trouble-shooter." That is one definition that could be used to interpret this man's duties. An article by Arthur Richards in the *Courier-Mail* of Friday, May 15, 1964, states:

> So many bureaucrats are ruling us that we need an ombudsman—urgently . . . He is everybody's benevolent Big Brother, everybody's Mr. Fixit.

I do not necessarily agree that he will fix all the problems that arise between the bureaucratic system and citizens in the community. However, there is no doubt that it is his duty to rectify some of those problems. A report by Robert Pullan in the *West Australian* states:

> More and more people are becoming subject to arbitrary decisions by Government, Ministers, tribunals and officials whose powers may be legally uncontrollable and often very wide.

That is also true. In 1966, the member for Mitcham, who is now the Deputy Leader of the Opposition, moved a motion to have a Select Committee appointed to investigate the desirability of having an ombudsman in this State. That motion was defeated. The then Attorney-General, who is now the Premier, did not support the motion. In 1969 the member for Heysen referred to such an appointment in this House, and a press report of July 2, 1969, states that the then Leader of the Opposition (now the Premier) and the Premier (now the member for Gouger) were approached in relation to the appointment of

an ombudsman. Under the headlines "No need for ombudsman—Hall and Dunstan", the report states:

Both the Premier, Mr. Hall, and the Opposition Leader, Mr. Dunstan, agreed today that South Australians do not need an ombudsman—an independent official to protect the public from bureaucratic actions. Appointment of an ombudsman was advocated in the House of Assembly yesterday by a Government backbencher, Mr. McAnaney.

But Mr. Hall and Mr. Dunstan said today this was a job that could be done by M.P.s in this State. Mr. Hall said the Prices Commissioner could act for members of the public on a number of matters that an ombudsman would deal with. Mr. Dunstan said he doubted the value of an ombudsman.

A little later that year I moved a motion that, in the opinion of this House, the creation of the office of ombudsman was desirable. Some pressure was exerted on me from within my Party not to proceed with such a move but, seeing that the then Leader of the Opposition (Hon. D. A. Dunstan) said he did not favour such an appointment, I believed the pressures were not as great as they would otherwise have been. As I had only four or five supporters in my Party, it was agreed that I could continue with the motion but that I would have little chance of success. That is possibly why I found the progress a little easier than it would otherwise have been.

During the period between the moving of the motion and the vote being taken on it, the Australian Labor Party discussed the matter on a federal basis in another State and decided that it supported in principle the appointment of an ombudsman. This gave my motion every chance of success, even with the few supporters (only four) that I had in my Party. My Leader suggested that such a person could be classified as a super inquisitor to intimidate public servants. I deny that that was ever my intention in moving the motion. I was pleased to learn that the then Leader of the Opposition (Hon. D. A. Dunstan) and his Party had changed its approach and supported such an appointment.

I was extremely disappointed that my Party and Cabinet, which had to set in progress the wheels to appoint such a person, did not proceed with the appointment, despite Parliament's having agreed that, in the opinion of this House, such an appointment was desirable and, indeed, that it should be made. It was up to Cabinet to find the necessary finance and to put in progress the machinery to enable such an appointment to be made. Had that happened, we would have had an ombudsman by now. Then, some of the injustices that have occurred would have been rectified, and some other injustices that have occurred would at least have been investigated. However, the State was denied that opportunity, even after Parliament's direction that it was desirable.

At that time the member for Edwardstown moved an amendment to the motion, which showed he believed that the appointment of an ombudsman should be made on the same basis as I believed it should be made. I should like briefly to refer to his remarks, and those of the then Leader of the Opposition but, before doing so, I refer to what the Attorney said in 1970. He said he agreed in principle that Parliament as a whole should agree to the appointment of such a person and that he understood what I said: that an ombudsman would have an important part to play in the function of the House. He was referring, of course, to the point made by me that Parliament as a whole should support the appointment. In 1969, the then Leader of the Opposition (Hon. D. A. Dunstan), at page 2397 of *Hansard*, said:

What is more, if an absolute right were given to members of Parliament to obtain files in all cases, this would often put Administrations in a difficult position, because an Opposition of any kind might see fit to obtain the files and have them published for political reasons rather than to obtain a remedy for constituents. This would be a difficult position in which to put a Government. Therefore, it seems to us, upon reflection and after examining all the proposals elsewhere, that the best proposal is to appoint a Parliamentary commissioner with power to make investigations in cases referred to him by members of Parliament: that is, where members of Parliament have taken up matters and been unable to obtain a remedy, they could refer them to the Parliamentary commissioner. He would have power to call for the files . . . It is important that such a Parliamentary commissioner be someone whose independence is above reproach.

The only way that can be achieved is by both sides of politics agreeing in both Houses to such an appointment. The then Leader continued:

In these circumstances, it would be satisfactory to have such a commissioner only if he were appointed with the unanimous approval of both sides of the Parliament. It would not be impossible to find someone of that kind, but he would have to be someone who had the confidence of both sides; he should not merely be a nominee of the existing Executive Government.

However, the present Bill provides that it should be a Government appointment. No provision is made that the officer concerned

should be approved by both sides of politics in both Houses. The relevant clause, clause 6, provides:

(1) For the purposes of this Act the Governor may, subject to this Act, by notice published in the *Gazette* appoint a person to be the Ombudsman.

That is the wrong approach and not the approach that the then Leader took in 1969, nor was it the approach of the then member for Edwardstown (Hon. G. T. Virgo), who on November 12, 1969, moved the following amendment:

To strike out "ombudsman" and insert "a Parliamentary commissioner, appointed with the concurrence of both Government and Opposition, and having the duty and power to examine Government files, send for papers, persons and documents, and to report to Parliament on any administrative action or decision by a public servant about which a member of Parliament complains to him".

However, the Bill provides now that the complaint will not have to go through a Parliamentarian, yet the then member for Edwardstown said that the Labor Party's intention (and this was agreed to by members of the House) was that complaints should go through Parliamentarians, so that all normal channels had first been followed. That was the intention of the Labor Party at the time, but the position is now different, with Parliamentarians being left out.

I object strongly to this, as I believe that a person who has a complaint should first present it to a Parliamentarian. The then member for Edwardstown in 1969 said what he thought should be the situation with regard to dealing with complaints. He referred to the Highways Department. I have had problems in this connection involving land acquisition. I am not so much concerned with the Highways Department now, but I had problems when my own Cabinet was in power and the Hon. Murray Hill was the Minister of Roads and Transport. In 1969, the then member for Edwardstown said:

The important factor associated with his operations is that he would act on complaints received by members of Parliament and would present his report to Parliament.

At that time, he also agreed that a complaint should go to a Parliamentarian first. He continued:

I should not like the present proposal to be proceeded with, because it is too wide for the Government to give effect to.

My proposal at that time was only that it was desirable that an ombudsman should be appointed in this State. I did not attach any strings, as I thought that Parliament should decide what form this appointment should take and what powers the ombudsman should have. In 1969, the then member for Edwardstown said:

I believe that, if Parliament considers that such an office should be set up, reasonable terms of reference should be stated. The member for Onkaparinga said that the Highways Department was engaged in a large volume of business and that this would increase in future. I share his views that the transactions taking place between that department and the public leave members of Parliament who become involved in them somewhat apprehensive about whether people are treated fairly.

The situation has not changed. He continued:

Many times I have asked questions about the Metropolitan Adelaide Transportation Study plan under which property has been purchased by this department, but I have never been able to say truthfully that I believe the house owner has received a fair and reasonable price for his property. This situation, which leaves much to be desired, is an aspect that the Parliamentary commissioner should investigate.

That situation still applies, too. He continued:

In my investigations I have gone as far as I can go, but eventually I run up against a brick wall over or around which I cannot go.

That is exactly what happens to Parliamentarians in some aspects of their investigations. One reason for this is that we cannot have access to files from departments. I think that is fair enough, for I do not believe that the average member of Parliament should be entitled to see departmental files, because that could create many difficulties and cause much embarrassment to both Parties. I support what the Hon. G. T. Virgo said in 1969. We need powers to investigate the actions of the departments, particularly in relation to the acquisition of land.

The Engineering and Water Supply Department is involved in matters relating to the Hills catchment areas. Members have heard me refer to cases in the Hills where I believe people have been unjustly treated. If I am wrong or if my constituent is wrong, an ombudsman will find that out. On the other hand, if an injustice has occurred there is a chance that the error will be rectified. An ordinary citizen has few redresses in our society and little chance of getting justice for himself. With an ombudsman, perhaps he will have a greater opportunity of getting justice. I now refer to two specific cases where I believe an ombudsman could help. Under the Bill, the ombudsman has many powers and there are many actions he can take, but in

particular I believe he can recommend *ex gratia* payments. Clause 25 (2) provides:

In the case of an investigation to which this section applies in which the ombudsman is of the opinion—

(*a*) that the subject matter of the investigation should be referred back to the appropriate department, authority or proclaimed council for further consideration;

(*b*) that action can be, and should be, taken to rectify or mitigate or alter the effects of the administrative act to which the investigation related;

(*c*) that the practice in accordance with which the administrative act was done should be varied;

(*d*) that any law in accordance with which or on the basis of which the action was taken should be amended or repealed—

he can recommend that—

(*e*) that the reason for any administrative act should be given; or—

and the next one is the important one—

(*f*) that any other steps should be taken.

Under paragraph (*f*) the ombudsman could recommend that an *ex gratia* payment be made where the law did not allow for compensation in the case of an injustice perpetrated by an application of the law. I interpret it that way. If I am wrong or if the Attorney-General thinks that is not the case, he can explain the position when he replies to the debate.

I now turn to a matter that I have previously raised in this House by way of question and that I now raise also by way of a letter to the Minister of Community Welfare—the case of a Mr. Morgan, who had his motor car stolen and considerable damage done to it by three wards of the State. I applied to the Minister to take up the matter with Cabinet as there was no basis for a claim in law by that person who had lost an asset, his only real pride and joy, his motor car. Today, I received a letter from the Minister.

Mr. Millhouse: I hope it was a helpful one.

Mr. EVANS: It states:

Further to your letter of the 13th ultimo, the Minister directs me to advise that Cabinet has considered your application for compensation for damage to Mr. Morgan's motor vehicle but has decided to make no payment.

As a Parliamentarian, I would not hesitate to refer that sort of reply to the ombudsman. I know he could not ask for Cabinet papers and minutes—and that is right: I do not believe Cabinet information should be made available, but he could investigate all other aspects of the claim.

Mr. Clark: What about Party papers?

Mr. EVANS: They would be automatically excluded.

Mr. Venning: What about a little law and order?

Members interjecting:

The SPEAKER: Order!

Mr. EVANS: The three boys who stole that motor car were wards of the State under the care and control and in the custody of the State, and therefore were the State's responsibility. The ombudsman can say to the Government, "I recommend an *ex gratia* payment to that person." The Government does not have to take any notice of that request or recommendation; it does not have to pay it but, the ombudsman having made the recommendation, on which no action was taken, that is as far as it would go. I can imagine the reaction of the present Minister of Roads and Transport to a Government from my side of the House which did not agree to pay money to the individual concerned who had been unjustly treated.

I now refer to another case, concerning the Engineering and Water Supply Department, where on May 2 of this year I directed the matter to the attention of the Minister of Works. It concerned a water main that had burst adjacent to a property at Torrens Park. The water main was the property of the Engineering and Water Supply Department. I will now read to the House portion of the letter that I directed to the Minister of Works on that matter:

On the 27th of last month, I was contacted by Mr. and Mrs. Battersby of 14 Highland Avenue, Torrens Park, complaining of the damage that had been done to their property by water escaping from an Engineering and Water Supply burst main. I went to inspect the premises that evening while the employees of the Engineering and Water Supply Department were rectifying the fault. Unfortunately, this was the second occasion that this has occurred at exactly the same location. On the previous occasion, on April 8, at approximately 9.30 a.m., the damage was extensive. During discussions with the Battersbys, they told me that they had contacted your department, and your department had denied liability, as it was claimed it was an "act of God." I personally don't think God laid the water main. I still do not think He did. The letter continues:

It is of interest to note that on April 8 there was a total power failure in the city of Adelaide, and on the 27th at approximately the time the main burst, a grader collided with a stobie pole, interrupting the power supply in the immediate vicinity of Torrens Park.

The Engineering and Water Supply has put the blame on the Electricity Trust, claiming it was an act of God. The first time it happened because, when the pump restarted, it placed more pressure on the main and the main burst. It did extensive damage and flooded the basement and rooms of the house; it washed up tons of earth against an asbestos fence, that had to be propped up by the owners, and to this day it is perhaps still propped up, for all I know. It washed away part of their retaining wall, put mud all over the lawn and a considerable amount of damage was done. After letters and telephone calls, eventually on August 11 the Battersbys received a letter from the Engineering and Water Supply Department stating:

Your claim for damages against the department has now been referred to the Crown Solicitor's Department so that it may be determined whether this department will accept liability for the alleged damages to your property or not.

But, even to this day, nothing has happened—after six months. Let someone do some damage to Government property and see whether the Government will wait six months! Let us see what the result will be then. It is just not good enough for John Citizen to be pushed around by Government departments. In any case, he has no faith in Government departments; he believes he has no hope of getting justice from them. There are many other cases known to me to which I could refer. Some of them I have referred to previously, dealing with the same type of case as those I have just mentioned. But we still do not have the opportunity to rectify some of the injustices that occur between John Citizen and the Government departments. It is not only a matter of having the fault rectified: it is the timing. It is wrong that someone should have to wait for up to a year to get the Government departments to take action. I know that those few members who supported me previously hold the same point of view as I do on this matter—that John Citizen is the one we must consider.

In 1969, when I first moved a motion to appoint such an officer, five members on my side of politics were willing and able to support me. Perhaps some Cabinet members would have supported me, but they could not do so because of a majority decision in Cabinet. In 1970, with 20 members on this side, I had only six supporters. It will be interesting to see what happens in future. I was told that it would be an impossible cause, and that is was a Socialist move: if it is, I am a Socialist. I believe strongly in this appointment, as do those who support me. It will be interesting to see how many of those who voted against this appointment have changed their minds, because of their affiliation to a different group that believes that this is a progressive move. I hope there will be a change of heart by some people now, because they realize that John Citizen is being knocked down and trodden on all the time. Some people believe in having power but realize, after exercising it, that there can be pitfalls when they are on the receiving end. I seek leave to continue my remarks.

Leave granted; debate adjourned.

ADJOURNMENT

At 5.33 p.m. the House adjourned until Tuesday, October 17, at 2 p.m.