HOUSE OF ASSEMBLY

Tuesday, October 24, 1972

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

ABSENCE OF CLERK ASSISTANT

The SPEAKER: I have to inform the House that, in accordance with Standing Order 31, I have appointed Mr. J. W. Hull, Second Clerk Assistant, to act as Clerk Assistant and Sergeant-at-Arms during the temporary absence on account of illness of Mr. A. F. R. Dodd, Clerk Assistant and Sergeant-at-Arms.

PETITION: LAND BROKERS

The Hon. L. J. KING presented a petition signed by 18 persons stating that land brokers had handled conveyancing documents in South Australia since 1861 with satisfaction to the public and that there was widespread concern that the proposal to introduce new legislation, which would provide that land brokers be not allowed to prepare such documents if they were employed by the land agent making the sale, would increase costs to the public, cause people inconvenience, and create difficulty for a number of land brokers in obtaining employment. The petition stated that land brokers were presently personally bonded under the Real Property Act, this already safeguarding the interests of the public. In addition, the Real Estate Institute of South Australia Incorporated believed that the proposed change was a first step towards removing all conveyancing work from land brokers, making this work the sole preserve of members of the legal profession (as was the position in other States). This would mean a further drastic rise in cost to people seeking to buy houses. This change was proposed at a time when there was a growing demand in other States to emulate the South Australian system to reduce the high costs of this work in those States. Therefore, the petitioners prayed that the clause that would not allow land brokers to prepare documents of a transaction if they were employed by the land agent making the sale be deleted from the Bill.

Petition received.

QUESTIONS

PETROL PRICES

Dr. EASTICK: Can the Premier say what progress has been made in determining petrol prices for retail outlets in South Australia? The Premier will probably be aware that this morning's newspaper indicates that several retail outlet personnel are trying to arrange for an increase in their profit margin as a result of the difficulty they are encountering in maintaining their price structure. The Premier will also be aware that, at the same time, several retail outlets are displaying signs stating that they will give a discount of 3c a gallon off the normal price of petrol. In view of these two completely different situations, will the Premier comment on the present position?

The Hon. D. A. DUNSTAN: I have had a report from the committee appointed to inquire into the submissions made by petrol resellers, and I have a report from the Commissioner for Prices and Consumer Affairs, in accordance with the terms of the Prices Act. Both of these reports are now being considered. The situation is extremely complicated. For many years, the major oil companies in Australia have proceeded with uneconomic marketing practices, and have sought to have taken into account the losses occasioned by those practices, by having far too many petrol reselling outlets for the amount of economic demand in the community—

Mr. Millhouse: Who made this judgment?

The Hon. D. A. DUNSTAN: That judgment is made by the Commissioner for Prices and Consumer Affairs and is admitted by every oil company. The companies have sought to have their trading results taken into account, given the fact that there are uneconomic marketing practices. For some time the Government has indicated to the oil companies that they cannot expect to continue to have losses in uneconomic marketing practices taken into account. If companies pursue gallonages regardless of costs, they cannot expect the costs to be considered in fixing maximum prices. I expect to have discussions with the oil companies shortly, before a final determination is made, and I shall also be having further talks, after I have seen the oil companies, with the petrol resellers' organization. I expect that a determination on the matter will be made within about three weeks.

PARLIAMENT HOUSE

Mr. CLARK: Will you, Mr. Speaker, take action to prevent further pollution by election propaganda of the main front door of Parliament House? When I entered Parliament House this morning, I noticed two stickers on the front door reading, I think, "Tonkin for Kingston". I understand that this is Commonwealth election propaganda. I have never

heard of Mr. Tonkin before and, no doubt, after December 2 he possibly will not be heard of again, but I deplore such propaganda being used to deface the front door of Parliament House.

The SPEAKER: I was not aware of (nor at any time have I given permission for this) stickers being placed on the front door to the entrance of Parliament House. I will most certainly ensure that action is taken to remove them, and I sincerely hope that no honourable members here would encourage such a practice.

SERVICE PAY

Mr. MILLHOUSE: In the temporary absence of the Minister of Labour and Industry, can the Premier say what offer, if any, on service pay the Government authorized the Minister of Labour and Industry to make at the meeting to be held at the Trades Hall at 12.30 today or, if no offer was made, what was the purpose of the meeting? The newspaper this morning reported some remarks of the Premier about the upper limit set by him to which the Government could go in granting increases in service pay to Government workers. The report also indicated that some meeting was to be held at the Trades Hall at which the Minister of Labour and Industry was to discuss the matter. As this is a matter of great concern to the community, I ask the Premier to let us into the secret about what is being discussed at the Trades Hall.

The Hon. D. A. DUNSTAN: What is being discussed at the Trades Hall is that the provision of service pay in South Australia be comparable with service pay granted by the Liberal Commonwealth Government, and the Governments of New South Wales and Victoria, to railway and other transport workers. The question being discussed is how that service pay affects existing service pay in awards in South Australia and in relation to various other over-award payments that are included in agreements registered subject to the relevant industrial tribunals. The discussions are necessarily complex, because different conditions apply to many workers, but at this stage of proceedings, and from the top of my head, I cannot tell the honourable member—

Mr. Millhouse: These things are not left to the Public Service Board?

The Hon. D. A. DUNSTAN: No. On several matters the Government asked for the assistance of the Public Service Board in working out the various possibilities. A problem exists in fitting the award structure in South Australia into comparability with that of other States, because some of the award structures are different. It has been about this that the discussions have gone on. Several unions have raised certain matters relating to their workers, because there were peculiarities in their award positions. As I expected, the negotiations have proceeded. The matter has been resolved with the agreement of the trade union movement and I have no doubt that tomorrow I shall be able to make a full announcement to the House, detailing the whole of the matters that have been dealt with.

Mr. COUMBE: Can the Premier say whether a group of unions with members employed by the Railways Department discussed with the Government their resentment at what they considered to be unfair treatment of their members and, if this is so, whether the further discussions held this morning between the Government and officials from the Trades Hall have overcome that anomaly?

The Hon. D. A. DUNSTAN: During discussions between the Government and representatives of the trade unions concerned, the matter was raised of how far, in any alteration to total over-award and service pay agreements, existing over-award payments should be taken into account. As far as I am aware, representatives of those unions have not expressed resentment to the Government on this matter. In the course of the negotiations certain matters were raised, especially, I believe, by members of railway unions that have members located at the Islington railway workshop, on the aspect referred to by the honourable member. That matter has been entirely resolved in the course of the discussions.

RAIL LINK

Mr. KENEALLY: Will the Premier say whether any delay in the construction of the Tarcoola to Alice Springs rail link has been caused by any action of his as Premier of South Australia?

Mr. Gunn: Are you—

Mr. KENEALLY: For the benefit of the member for Eyre—

The SPEAKER: Order! The honourable member for Eyre is out of order in interjecting.

Mr. KENEALLY: In the House of Representatives on Wednesday, October 18, the Commonwealth Minister for Shipping and Transport (Mr. Nixon) stated:

In the last Budget, the Commonwealth Government committed $54,000,000 to building a standard gauge railway from Tarcoola to Alice

Springs. With great regret I say to the honourable member for the Northern Territory that at the present time this matter is being held up by the Premier of South Australia. It was my wish to introduce into the Parliament before it rose a Bill in respect of this project. It is now apparent from a letter that we have received from the Premier of South Australia that he will not permit us to fulfil our obligation at this point of time. I must apologize to the honourable member for the Northern Territory. I can only hope that the Labor Premier of South Australia will see better sense in the short term and will permit us to get on with this railway, which is of national importance and will contribute to national development. I am sorry that I must convey that bad news to the honourable member for the Northern Territory. I have no doubt that he will inform his constituents of this fact when he returns to the Northern Territory. He will be able to tell them the reason why I am unable to introduce that Bill into the Parliament.

I want to know whether these accusations have any basis in fact or whether, as I suspect, they are a blatant attempt to make political capital at the expense of a Labor Government—

The SPEAKER: Order! The honourable member is commenting. The honourable Premier.

The Hon. D. A. DUNSTAN: I am at a loss to understand the statements by the Minister for—

The Hon. G. T. Virgo: Shipping and Transport they call it, but we call it something else: propaganda—lying propaganda.

The Hon. D. A. DUNSTAN: —Shipping and Transport, except on the basis that the honourable member has assigned to that gentleman, because the most recent communication that passed between the Government of South Australia and the Commonwealth Government on this matter was a letter from me to the Prime Minister on September 27. I intend to read that letter and to table all the correspondence, because it will make perfectly clear that what Mr. Nixon is saying is completely and deliberately untrue.

Mr. Millhouse: Oh, come on!

The Hon. D. A. DUNSTAN: The honourable member says "Come on", but he has not heard the letter read yet. He always prejudges things.

Mr. Millhouse: I was—

The SPEAKER: Order! The honourable member for Mitcham is entirely out of order, and I will not tolerate his continually interjecting when Ministers are giving replies. The honourable member will conduct himself in this House in accordance with the rules that he helps to make.

The Hon. D. A. DUNSTAN: The letter states:

Dear Mr. McMahon, Thank you for your letter of August 24, 1972, concerning the proposed agreement between the Commonwealth and the State of South Australia in relation to the railway from Tarcoola to Alice Springs. Further consideration has been given to the matters which have been the subject of discussion in correspondence. With regard to minerals, I advise that no objection is now raised to the provisions of clause 4 of the proposed agreement, which provides that a grant of Crown land by the State shall be without reservation of minerals. Concerning clause 5, consideration has been given to your comments. However, it is regarded as a matter of importance that there should be some undertaking in the agreement on the part of the Commonwealth that such part of the existing Port Augusta to Alice Springs railway as lies between Port Augusta and Marree should be continued in operation. But noting your remarks concerning the position of the Commonwealth if the line was operating on an uneconomic basis, the State would be satisfied if a provision were inserted to the effect that the Commonwealth will continue to operate the line between Port Augusta and Marree for so long as such operation may be reasonably necessary in the interests of persons who may need to use the line, or for the welfare of the State, but only while such operation may be carried on economically. It is suggested that if any dispute arose as to whether such operation was reasonably necessary in the interests of the public or the welfare of the State or could be carried on economically, such dispute should be the subject of arbitration. Where the Commonwealth and the State failed to concur in the appointment of a single arbitrator, the dispute should be referred to two arbitrators, one to be appointed by the Prime Minister for the time being of the Commonwealth and one by the Premier for the time being of the State, following the scheme of other agreements between the Commonwealth and this State.

It is agreed that operations on so much of the Port Augusta to Alice Springs railway which lies between Marree and Alice Springs should be continued to such extent and in such manner as the Commonwealth thinks fit. The State has no objection to the rescission of paragraph (*f*) of clause (1) of the agreement approved by the Northern Territory Acceptance Act, 1910-1952, of the Commonwealth, upon the condition that the agreement ensures that the State and its citizens will be provided with facilities for the transport of passengers and goods at rates not exceeding those for the time being in force on the Railways Department with regard to similar facilities. I should be grateful to be informed as soon as possible whether you agree with the above proposals, so that appropriate amendments to the draft agreement may be prepared by the State and Commonwealth officers.

Members will see that all that was asked for was that the benefits of the agreement made

with the Commonwealth Government, for the transfer of the Northern Territory, but providing Commonwealth responsibility for transport from South Australia, would be maintained, but maintained on terms that were in no way onerous, difficult or ungenerous to the Commonwealth Government. Our proposals ensured that the constituents of the district represented by the member for Eyre were not left without transport while it was possible to operate the line economically in the interests of those people and of South Australians generally. However, this letter represents the last communication between this Government and the Commonwealth Government on that matter, and I have not had another word from the Commonwealth Government since then. How can it be said that South Australia is holding up this agreement? I now table the whole of the correspondence on this matter, and I leave Mr. Nixon to stand up publicly for the untruths he has told.

WASTE DISCHARGE

Mr. GROTH: Has the Minister of Works a reply to my recent question about industrial waste discharged at the St. Kilda rubbish dump?

The Hon. J. D. CORCORAN: I understand that the Salisbury council does not restrict the types of waste disposed of at the St. Kilda rubbish dump. The Chief Chemist of the Engineering and Water Supply Department will carry out a sampling programme to detect whether pollution of the marine environment is occurring.

ADELAIDE MEDICAL SCHOOL

Dr. TONKIN: Will the Minister of Education obtain a report from the University of Adelaide on the current state of facilities for medical training at the Adelaide Medical School? Several people have made representations to me regarding the state of these facilities, and this matter was brought to the public's attention in a recent article in the *Advertiser* by Stewart Cockburn. This school has always enjoyed the highest possible reputation overseas and, since there seems to be a strong danger that this reputation is becoming a little tarnished, I think it calls for the most urgent consideration and for a reassurance on the matter if necessary.

The Hon. HUGH HUDSON: Before the report appeared in the paper, and before a letter was received from a staff member, no approach of any description had been made by the university to me on this matter. Certainly there was an agreement that the quota for first-year and second-year students at the University of Adelaide Medical School should rise temporarily from 120 to 135 in order to ensure that there would be a greater potential for staffing the Flinders Medical School when the time came than would otherwise be the case. That situation may have caused some overcrowding; I do not know. Also, there may have been delays in replacing members of the staff who have resigned; again, I am not privy to that information. However, I will certainly take up the matter with the Vice-Chancellor of the University of Adelaide and obtain what information I can on the matter.

Dr. TONKIN: Can the Minister of Education say why the recently appointed Professor of Human Physiology and Pharmacology at the Adelaide University Medical School resigned from his Chair less than one week after his appointment? Considerable disquiet has been expressed in the community about a man with high academic qualifications replying to an advertisement calling for applications to fill a position, his subsequent appointment to the position, and his need to resign from his appointment only a few days after he had agreed to accept it, although this matter may not be linked with the provision of suitable facilities at the Adelaide Medical School or with the adequate staffing of that school. I point out that great expense was involved in flying the professor out from America to fill the position.

The Hon. HUGH HUDSON: The honourable member has demonstrated some of the difficulties experienced by tertiary institutions in trying to replace staff members who have resigned. I should have thought that the honourable member would be aware of several reasons why a person who had been offered a position turned it down subsequently. It has not been unknown for an academic, for example, to apply for a position, be offered it, and then use that offer to negotiate a higher salary from the institution at which he is already located.

Dr. Tonkin: I don't think that was so in this case.

The Hon. HUGH HUDSON: Possibly, but other reasons may have been involved. There may have been a family reason or perhaps the man's wife and children objected to moving to another country. However, I am willing to ask the university whether or not it knows of any reason that can be made public. I imagine, however, that the university may not be fully aware of the reason for the

resignation or, if it is aware, it may be a private reason that cannot be made public. I should have thought that the honourable member, before asking for a public investigation and before bringing this matter to public notice by asking this question in the House, would consider it more appropriate for a private inquiry to first be made to determine whether this was a case that deserved to be brought to public attention.

SPENCER GULF POLLUTION

Mr. BROWN: Has the Minister of Marine a reply to a question I asked on September 27 about pollution of the northern waters of Spencer Gulf?

The Hon. J. D. CORCORAN: I have asked the Director and Engineer-in-Chief and the Director of Marine and Harbors to set up an inquiry into sources of pollution in Spencer Gulf. In addition, I have asked the Premier to take steps to institute negotiations with Broken Hill Proprietary Company Limited at Whyalla with a view to amending clause 7 of the Broken Hill Proprietary Company's Steel Works Indenture Act.

COOBER PEDY WATER SUPPLY

Mr. GUNN: Has the Minister of Works a reply to the question I recently asked about the expenditure of $30,000 on the desalination plant at Coober Pedy?

The Hon. J. D. CORCORAN: The additional sum of $30,000 will be spent on the general upgrading of the reverse osmosis plant at Coober Pedy. This will include the provision of a fourth bank of modules which will increase the maximum practical output of the plant from 16,000gall. a day to 21,000gall. a day. Such increase in capacity will not permit an increase in the present quotas but will provide a limited margin for increases in population and tourism.

SITTINGS AND BUSINESS

Mr. EVANS: Can the Premier say when the Government expects the House to rise?

The Hon. D. A. DUNSTAN: At this stage of proceedings I expect that it will be towards the end of November, but there has not been a final decision on the date: it depends on what progress we make with the legislation before the House.

BEACH ACCESS

Mr. CARNIE: Has the Minister of Roads and Transport a reply to my recent question about beach access at Sleaford Bay?

The Hon. G. T. VIRGO: Fencing recently carried out by the Highways Department at Sleaford Bay has not denied access to the beach, as this is still available via gazetted road reserves to the east and south of the access track previously used. The Highways Department was obligated to fence this portion of road reserve together with the western boundary as part of the original agreement to acquire the land for road purposes. Fencing on the western boundary has been completed. The track previously used by visitors to the area was, in fact, across privately owned land and the fencing carried out was done with the consent of the present owners, Mrs. M. A. Kelly and Mr. T. Turner. I understand that statements have been made by Mr. Kelly in a subsequent issue of the *Port Lincoln Times* clarifying the position, but presumably the honourable member did not see it.

REPLIES TO QUESTIONS

Mr. BECKER: Can the Deputy Premier say when I may expect replies to my questions of October 10 concerning the State Budget (*Hansard*, page 1866) and petrol reserves (*Hansard*, page 1878)? Can he also say what is the reason for the delay in replying?

The Hon. J. D. CORCORAN: The honourable member will get replies when they are available to me. These questions have been sent to the Treasury and I will follow them up to see whether or not the replies can be expedited. However, I do not think there has been any undue delay. Indeed, I think there was a fair bit of research to be done in relation to the question on the State Budget. I think the honourable member is aware that members of the Treasury staff are fairly busy on matters of importance.

EGG PRODUCTION

Mr. WELLS: Will the Minister of Works ask the Minister of Agriculture to investigate allegations made by the Housewives Association, according to a press report at the weekend, that South Australian eggs by the thousand are being buried? I would have expected that a country member of the Opposition would ask questions on this matter, but it has again been left to members of the Australian Labor Party to look after country interests.

The SPEAKER: Order! The honourable member is commenting.

Mr. WELLS: I will not comment beyond that point. Does the Minister know whether these allegations are correct and, if they are, why such a state of chaos in the egg industry has been allowed to develop?

The Hon. J. D. CORCORAN: I will certainly ask my colleague for a report and I hope that I may have something for the honourable member tomorrow.

CATTLE TESTING

Mr. McANANEY: Will the Minister of Works ask the Minister of Agriculture to make a statement on any change in the Government's policy on brucellosis and tuberculosis testing of cattle in South Australia?

The Hon. J. D. CORCORAN: On Thursday last I replied to a question from the member for Rocky River on this matter. The reply was compiled from information received from the Agriculture Department through the Minister. I think that that reply set out the problems that have arisen and the sum that has been devoted to the brucellosis and tuberculosis control of cattle in this State this year. I think that the sum was $107,000 last year and, from memory, this sum has been increased to $130,000 this year. Although there has been this increase in the sum made available by the State Government, the amount provided by the Commonwealth Government has been reduced. Yesterday week, the Minister of Agriculture met with other State Ministers and the Commonwealth Minister at the Agriculture Council meeting, and all State Ministers impressed on the Commonwealth Minister the need to continue with the programme to eradicate brucellosis. I think that the present situation is that all State Governments are awaiting the outcome of that meeting; in other words, the Commonwealth Minister was to go back to his Government (and indeed to Treasury officials) to see whether or not additional funds could be made available to the various States in order at least to maintain the programme originally mounted in this State, or to improve it. I will check with my colleague to see whether that is the case. If that is the position, while we await a decision from the Commonwealth Government we cannot very well say exactly what further steps we can take.

Mr. McAnaney: I referred to tuberculosis as well.

The Hon. J. D. CORCORAN: As far as I know, that is being dealt with at an increased rate. It seems to me that the Commonwealth Government intends to eradicate that disease completely and then to turn to the eradication of brucellosis. However, this Government and the department believe that the need to eradicate both diseases is extremely important.

Mr. RODDA: Can the Minister say what fee is being charged a head by veterinary surgeons for strain 19 brucellosis inoculations? Graziers have expressed concern that, under the new scheme of land holding, stockowners having to arrange for brucellosis inoculations for their stock understood that the fee to be charged would be 50c a head whereas, under a programme currently being undertaken in my district (and, I presume, in the Minister's district), the fee is 75c a head.

The Hon. J. D. Corcoran: By the veterinary surgeons?

Mr. RODDA: Yes. I should be pleased if the Minister could clarify this matter and say whether the free list does not now operate and whether the fee has been increased from 50c to 75c.

The Hon. J. D. CORCORAN: The honourable member will be aware that I replied to a question asked in the House last Thursday, and again today, dealing with a specific statement of policy in respect of the Commonwealth Government's programme of eradicating brucellosis. I pointed out that, at the meeting of the Agricultural Council, held on October 16, the New South Wales, Queensland, Victorian and South Australian Ministers impressed on the Commonwealth Minister the need for this programme to continue at its previous level and, in fact, to be accelerated if possible. We are still awaiting a reply from the Commonwealth Minister, who promised to refer the matter to the Commonwealth Government to see whether or not an alteration could be made in order to continue the programme. I understood that 50c a head was to be the fee charged by veterinary surgeons, and I know nothing of an increase to 75c. Whether or not this purely and simply involves the prerogative of individual veterinary surgeons, or whether it represents a general instruction, I do not know. However, I will certainly take up the matter with my colleague and obtain a report for the honourable member as soon as possible.

LUCINDALE SCHOOL

Mr. RODDA: Will the Minister of Education examine the request of parents to have the installation of fans at Lucindale Area School urgently completed? I am told that the fitting of fixtures associated with installing these fans at this school is completed, except for the fitting of switches. As the Minister knows, like many other schools in the State, the Lucindale school has many timber frame classrooms and, with the onset of summer, conditions in these rooms are extremely hot.

The parents at Lucindale would appreciate the Minister's using his good offices to have this work completed forthwith.

The Hon. HUGH HUDSON: I am glad that this is a legitimate question and not one where the honourable member may have been considered as acting as agent for the member for Gouger. I will look into the matter for the honourable member.

DUNCAN INQUIRY

Mr. VENNING: Has the Attorney-General a reply to my recent question whether two detectives from the United Kingdom are still in this State working on the Duncan case?

The Hon. L. J. KING: The Chief Secretary has supplied the following report:

> The police officers from the United Kingdom are still in South Australia. On October 6, 1972, a full report of this investigation, together with all relevant statements, was forwarded through the Chief Secretary's Department to me seeking legal opinion on certain aspects of this case. Any further action will depend on the legal opinion received on the matters raised.

I have studied the report of Detective Chief Superintendent R. W. McGowan concerning inquiries into the death of Dr. Duncan. I am of opinion that there is insufficient evidence to enable any person to be charged with an offence arising out of Dr. Duncan's death. The Crown Solicitor shares this opinion. An opinion has been obtained from independent counsel (Mr. R. G. Matheson, Q.C.), and he is of the same opinion. The Commissioner of Police has been informed of these opinions.

BARLEY

Mr. WARDLE: Will the Minister of Works ask the Minister of Agriculture to discuss with the Manager of the Barley Board the matter of trucking barley away from drought-devastated areas? I have received from a constituent in the drought-stricken area (namely, the Mallee area generally) a letter stating that No. 3 Clipper variety barley at least has been trucked away from these areas. In fact, I understand that only three or four days remain in which this grain can be purchased from the silos, as it looks as though the silos are to be cleaned out in readiness for the 1972 harvest. However, as the Minister will understand, there will be no 1972 harvest in the Copeville, Galga, Cambrai, Apamurra, and Mannum areas, to name only a few. It seems rather unfortunate, therefore, that this valuable grain, which is needed by pig raisers, and by farmers for seed for their 1973 crop, should be taken away from the area when it is needed there now.

The Hon. J. D. CORCORAN: I will refer the matter to my colleague and bring down a report as soon as possible.

EDUCATION COST

Mr. GOLDSWORTHY: Can the Minister of Education say what is the estimated cost a student of educating children in Government primary and secondary schools, and what factors are considered in assessing this cost? When I asked a similar question some time ago, in his reply the Minister was a little indefinite, as he was unsure of the factors that would be considered (buildings, recurring expenses, and so on) in assessing education costs.

The Hon. HUGH HUDSON: As the honourable member will know, I am not able to give the precise information off the cuff. I presume that this week the Commonwealth Government will make an announcement about the Australian average with regard to the cost of educating a student in Government primary and secondary schools. As I said last evening, the South Australian cost a primary school student is between $265 and $270, and the cost a secondary school student is $495. These figures are calculated differently from those in the Auditor-General's Report, since the costs of the Education Department that are peculiar to the running of schools are the costs that are considered. For example, the costs of teacher training are ignored. Transportation costs are also ignored because these are confined mainly to country areas. Oddly enough, book allowances are not ignored, even though they are paid across the board to students of independent and Government schools. I think that I should not give a completely detailed reply on this matter until the Commonwealth Government has made an announcement, but I will call for a detailed report for the honourable member and let him have it as soon as I can.

BRIGHTON ROAD

Mr. MATHWIN: Has the Minister of Roads and Transport a reply to my recent question concerning the resiting of stobie poles away from street corners on Brighton Road?

The Hon. G. T. VIRGO: Stobie poles along Brighton Road will be relocated as necessitated by road widening, and this work will be done by the Highways Department in advance of actual construction work. In all instances every effort is made to have poles sited as far from corners as possible for safety reasons.

However, where branch lines are taken down side streets from the electricity main it is necessary to have at least one pole close to the corner, as overhead lines are not permitted to span private property.

RAILWAY DEBTORS

Dr. EASTICK: Has the Minister of Roads and Transport a reply to my question of September 28 whether any Ministerial or Treasury instruction has been issued concerning sundry debtor control in the Railways Department?

The Hon. G. T. VIRGO: On April 28, 1972, the Railways Commissioner directed that any credit accounts, no matter how apparently responsible the firm might be, must be put on a cash basis immediately they became two months in arrears in their payments, or else a bank guarantee obtained, which, in no case, must be exceeded. These instructions are being observed.

LOCAL GOVERNMENT

Mr. PAYNE: Can the Minister of Local Government say whether it is true that Labor's election policy threatens councils? An article in this morning's *Advertiser,* referring to a speech by Mr. McMahon to the New South Wales Local Government Association, quotes Mr. McMahon as saying that the Labor approach amounts to "do what we say with local government or you don't get the money".

The Hon. G. T. VIRGO: I do not know what prompted Mr. McMahon to make such a ridiculous statement. It is completely untrue, and I believe that I have sufficient faith in his integrity to be able to say that he knew it was untrue.

Mr. Millhouse: A bit more election propaganda. Are you getting worried? This is the second burst.

The Hon. G. T. VIRGO: I know that members of the Liberal and Country Party, the Liberal Movement, and other existing parties are all concerned, and they are justified in being concerned. It is a fact of life that most elections in the past 20 years have been won by the Commonwealth Liberal Government by misrepresentation.

Mr. Millhouse: Oh, I see!

The Hon. G. T. VIRGO: In fact, often we find that after the election that Party has to correct mis-statements made before the election. I should have thought that Mr. McMahon would be more original, because on September 18 this year an article appeared in the *Advertiser* headed "Whitlam would abolish councils", and that statement was attributed to the Premier of New South Wales. Mr. McMahon cannot be original: he has to select what he can from what was said by Sir Robert Askin. Mr. McMahon gave Sir Robert Askin $15,000,000 a few weeks ago to get him on side, so no doubt he should in turn provide the Prime Minister with some political propaganda.

Mr. MILLHOUSE: I rise on a point of order, Mr. Speaker. Are you going to allow this Chamber to be turned into an election meeting for the benefit of the Labor Party? I take the point of order that the reply given by the Minister to the inspired question (and when I say "inspired" I mean a Dorothy Dixer) has no relevance to this State. It is only relevant to the Commonwealth election. In the interests of decorum, I ask you to prevent the Minister from continuing.

The Hon. Hugh Hudson: You are getting worried!

The SPEAKER: Order! I understand that the honourable member for Mitchell asked the honourable Minister of Local Government about the attitude of his Party towards municipal elections. I listened intently and I considered that the question was in order, but I must uphold the objection of the honourable member for Mitcham, because I think the honourable Minister has strayed somewhat from the original question asked by the honourable member for Mitchell. I do not know whether the honourable Minister of Local Government misunderstood it. I ask the honourable Minister to confine his remarks to the question.

The Hon. G. T. VIRGO: I may have strayed a little, but I believe a point has to be made, and perhaps it is not unreasonable to stray because of the interjections. The important point is the fact that in South Australia we are trying to assess the attitude of councils to a redistribution of boundaries, and public statements such as that attributed first to Sir Robert Askin and now to Mr. McMahon can do nothing but harm to councils. They are utterly untrue, and furthermore—

Mr. MILLHOUSE: Mr. Speaker, I renew my point of order. In spite of your admonition, the Minister is simply continuing in the same strain.

The Hon. G. T. VIRGO: I am not.

The SPEAKER: Order! The honourable Minister was making a statement in relation to an investigation of local government boundaries. The point arises whether or not Ministers should comment in replying to questions.

If honourable members would observe the same rules of procedure it would make my position much easier. I ask the honourable Minister to confine his remarks to the matter so far as it relates to South Australian councils.

The Hon. G. T. VIRGO: I was trying to do that before the member for Mitcham became upset and repeated his point of order. In South Australia we are trying to assess the opinions of councils by instituting a committee of inquiry into boundaries.

Mr. Mathwin: And withholding other—

The SPEAKER: Order! I ask the Minister to ignore completely the interjection from the honourable member for Glenelg.

The Hon. G. T. VIRGO: I am delighted to ignore not only the interjection but also the honourable member. I make one point in conclusion: the member for Mitchell referred to the fact that yesterday the Prime Minister spoke to the New South Wales Local Government Association. I understand that Mr. Whitlam will give members of that association the truth either today or tomorrow.

FILM CLASSIFICATION

Mr. MILLHOUSE: I should like to ask the Attorney-General a question strictly relevant to the business and welfare of this State. Because of the letter he has since received from the father concerned, has the Attorney anything to add to the reply he gave me last week about film classification? Many weeks ago I asked the Attorney-General a question about R classification films and the opportunities that persons under 18 years of age had to get into theatres, irrespective of law. I think it was last Thursday that the Attorney-General told me he had a reply, and I asked him for it. I understand that subsequently (or perhaps even before giving the reply) the Attorney sent a copy of it to the parent concerned, whose name I had given the Attorney. The parent has now been in contact with me and is most perturbed and upset about the reply. He has shown me the letter dated October 19 that he has written to the Attorney-General, and I shall quote the following sentences from that letter to make the explanation of my question clear:

You have seen fit to make an angry reply in which you place heavy blame on me; in which you absolve the theatre management concerned from any blame; and in which you decline to recognize any significant problem in the administration of a law which I and many of my friends believe, as a result of experience, to be full of loopholes in practice . . . In my opinion you have twisted my words and misrepresented my attitude and actions . . . Whilst acknowledging your difficulties, I nevertheless appealed to you to see what you could do to tighten up the administration of the system. I repeat this request, and in doing so express regret that you have seen fit to turn a genuine request for help on a matter of public concern into a manoeuvre for political advantage.

Mr. Jennings: That's written by Millhouse, on behalf of the father.

Mr. MILLHOUSE: I could not write nearly so well. It is a two-page letter and those are the only two extracts that I desire to read to explain my question. I give this opportunity to the Attorney to retract at least some of the things that he said in his reply and to say why he said them in the first place.

The Hon. L. J. KING: The reply to the first part of the question is that I do not retract anything I said in the course of the reply. To reply to the question about why the statements were made, I think I can best commence by reading the letter I wrote to the father concerned. It states:

Thank you for your letter of October 19. My reply to Mr. Millhouse was, of course, neither angry nor malevolent. It did, however, make clear my entire disapproval of your course of conduct in the matter. It is most important that all proper measures be taken to police the Restricted classification and it is also of the utmost importance that parents take their responsibility and co-operate in this regard. The statements attributed to you in my reply are all based upon the report of the police officer as to the conversation which he had with you. I have refrained from mentioning your name in connection with this matter as I am concerned with the issues and not the individuals involved. I am, however, quite prepared to table the police report in the House if you question the accuracy of the statements attributed to you. I do not understand the reference to "manoeuvre for political advantage." It was not I who raised the matter in the House.

I intend to read to the House the police report on which the reply was based and, if the member for Mitcham has the authority of the gentleman concerned to request that it be tabled, I am willing to table it. However, I do not intend to disclose the gentleman's name unless I am asked to table the report, but I should be willing to do so if that is the course desired by the honourable member and the gentleman who has communicated with him. In view of the statements that the member for Mitcham has read from the gentleman's letter to me, I shall read the police report, without mentioning the name. The report, from Inspector Mathews of the South Australian Police Force, states:

Sergeant Daly of the Vice Squad has made inquiries in respect of the question asked by Mr. Millhouse, M.P., of the honourable Attorney-General, relating to the admission of a 15-year-old girl to an R certificate film.

The inspector then mentions the identity of the father of the girl, and I omit that sentence. Wherever the name appears I shall use the expression "the father". The report continues:

When first contacted by the sergeant, the father declined to allow his daughter to be interviewed. He claimed she was not aware of his course of action when he contacted Mr. Millhouse, and she was annoyed when she learned that he had done so. When advised that little could be done about his complaint until the child substantiated her admission to the theatre, the father stated that he "felt I may have been irresponsible in my actions." He claimed surprise and was anxious that his complaint had reached such a stage. It was also put to him that his daughter's boy-friend would have to be interviewed. The father then raised the point that a court appearance by his daughter could expose her to undue embarrassment. He claimed he was in a predicament and could not allow his daughter to be interviewed until he had discussed the matter with her and his wife. On Wednesday, 20th inst., the father telephoned Sergeant Daly and advised that his daughter was willing to give a statement, but he was reluctant to allow this to happen.

I do not mention the next sentence, because it may help to identify the father. The report continues:

Additionally, the father did not wish to involve his daughter's boy-friend in an offence which, "in all probability I assisted in the commission of." He then advised that he would contact the honourable Attorney-General and ask him to advise the House that the father of the girl does not want any action taken. He also intended seeking legal advice. On Thursday, 21st inst., he again telephoned Sergeant Daly and stated, "It would be imprudent to allow you to interview my daughter or her boy-friend, as the lad would in all probability be charged also." He also read to the sergeant a letter which he claimed he was forwarding to the honourable Attorney-General, requesting no further action and for the House to be advised accordingly. He rounded off his remarks with the statement, "I can't involve the kids in circumstances of my making." Sergeant Daly did not press the issue any further. In respect of the system adopted at Wests Theatre for admission to R certificate films, Sergeant Daly interviewed the Manager, Richard Francis Lawless, at the theatre. He also inspected a number of clearly defined signs in the foyer, advising that the film currently being shown was an R classification, and that persons between two years and 18 years would not be admitted. A similar sign, clearly visible, was on the glass front of the ticket office. Mr. Lawless was questioned in the presence of his solicitor, Mr. Arthur Cocks, concerning precautions taken to prevent persons under 18 years gaining admission. In general, he advised that he personally checked persons in ticket queues prior to each screening. As patrons arrive at the ticket office they are again screened by the ticket seller. Any person giving the impression of being under 18 years, is requested to provide proof of age, generally in the form of a driving licence. In some instances a birth certificate has been produced. Where a patron cannot produce evidence of age, he is requested to sign a form headed "Certificate of Age" (copy attached). If a request is made for the issue of multiple tickets for the current session, the patron has to present all other members of his group at the time. Where advance bookings are made for the Saturday afternoon and evening shows, the purchaser of multiple tickets is always asked whether all patrons are over 18 years of age. Patrons are further screened by the check girls on the foyer side of the entrance doors to the theatre. Sergeant Daly has reported that he is of the opinion that Mr. Lawless is doing all that is reasonably necessary to restrict persons under the age of 18 years from entering his theatre to view R certificate films.

I simply say that to suggest that it would have been adequate to deal with this matter as the father suggested to the police, simply by telling the House that the father of the girl did not want any action taken although the name of the theatre had been mentioned in the House in an adverse and, as it turned out, wholly unjustified way, is to my mind quite wrong. It was clear to me, when this complaint was investigated and shown to be unfounded, that I had a clear duty to inform the House of the true circumstances applying so that the name of the theatre and its management would be cleared. It was also clear to me that I had a responsibility to inform the House of the contents of the police report: in other words, I had to inform the House of what the father had said to the police.

I regret that the gentleman concerned saw fit to write to me in the terms in which he did, because that was also totally unjustified. I then gave him the opportunity by a letter of October 20, which I have just read to the House, not to take the matter any further, so that it would be unnecessary for me to read to the House extracts from the police report. However, for reasons best known to that gentleman, he has not taken advantage of that opportunity and, for that reason, I have found it necessary, regretfully, to read the police report to the House. I do not want to take this matter any further but, if the gentleman concerned or the member for Mitcham challenges my veracity regarding statements made by this gentleman, I shall have no alternative but to table the police report, including the name of the gentleman concerned. I do not wish to do that,

but I am not willing to have my own integrity questioned in this House.

Mr. MILLHOUSE: Is the Attorney-General satisfied that the present system of prohibiting entry to such films to persons between two years and 18 years is working satisfactorily?

The Hon. L. J. KING: On the information I have from the Inspector of Places of Public Entertainment, I think that the system is working as well as can reasonably be expected. I think that in some respects there are problems; there have been isolated reports of people under the age of 18 years viewing Restricted classification films from outside the fence of a drive-in theatre, but my inquiries suggest that this is not a general practice and that it was certainly not so general and common as to create a substantial problem. I have been unable to substantiate the suggestion that anyone under the age of 18 years has been admitted to a theatre other than in the case referred to by the member for Mitcham. No doubt this occurs from time to time, and I can only say that the information I have from the Inspector of Places of Public Entertainment is that theatres are observing the restrictions and are doing their best to ensure that people under age do not gain admission. I am confident that, with the continuation of that surveillance and (I emphasize this) the cooperation of parents, the system will work satisfactorily. I think that the investigations of the police into the case that has been raised by the member for Mitcham have confirmed, at least in the case of that theatre, that all reasonable precautions are taken. Whilst I would not for a moment suggest that never has a child between the age of two years and 18 years gained admission to a theatre where a Restricted classification film has been showing, I think that on the whole the system is working satisfactorily.

NATURAL GAS

Mr. COUMBE: About a month ago I asked the Treasurer a question regarding the royalties that will be paid to South Australia in respect of the supply of natural gas from the fields in the north of the State to the Australian Gas Light Company in New South Wales. Has the Treasurer a reply to that question?

The Hon. D. A. DUNSTAN: I regret that I do not have a reply at this time. However, the honourable member would be aware that, while an agreement in substance has been reached, it has not as yet been finalized and presented to me for approval, nor has a licence been issued for a gas pipeline. I will ask for the information sought by the honourable member and I am sorry that I do not now have it.

BELAIR NATIONAL PARK

Mr. EVANS: Will the Minister of Environment and Conservation give an assurance that, if additional car parking bays are developed within Belair National Park, all possible precautions will be taken to screen them from the view of neighbouring residents? It is reported in today's press that a bus system may be introduced through Belair National Park, so that sightseers and visitors to the park may park their cars in car parks and be transported to picnic areas in the park or take a scenic tour through the park without taking their own private vehicles. Although I consider that is a wise decision, it would be unfair to local residents if, from their windows, they had to look at large car parks fully occupied during most weekends and public holidays. Will the Minister give such an assurance before any moves are made to develop these car parks?

The Hon. G. R. BROOMHILL: The point made by the honourable member is valid and I assure him that the point he has raised will be considered before any positive decision is made.

Mrs. STEELE: Will the Minister consider having buses that traverse national parks use propane gas? In the interests of preventing air pollution by diesel and petrol fumes emanating from buses that will use the parks, I thoroughly agree that private cars should be parked in a specific area and buses used to take people through the area. This method has been instituted in some of the great American national parks, such as Yellowstone and Yosemite, people being discouraged from driving their cars through the parks and, in fact, being forced to leave their vehicles in parking areas close to the entrance of a park, thence being taken through the park in open buses propelled by propane gas. This system has been introduced because, unlike cars which contribute to air pollution, the use of buses propelled by propane gas eliminates pollution of any kind. Therefore, if the suggestion made by the member for Fisher is implemented, will the Minister further consider modifying the system of using buses in parks so that they may be driven by propane gas?

The Hon. G. R. BROOMHILL: I shall be happy to consider the suggestion, although I point out that it is not intended to ban cars

from the park altogether. The scheme, if implemented, may be a way of reducing the number of cars that enter the park and of catering for people who merely wish to travel through and see the park. The suggestion came from the Director of National Parks, who, having recently returned from a national parks conference in the United States, saw this scheme operating there. The real problem that arises as a result of cars travelling through parks is not so much one of pollution as one of damage that is caused when cars are regrettably driven off the roads into what people may consider to be a convenient and shady spot. However, if we can reduce the number of cars entering the parks, I shall be happy to consider the suggested scheme and also, if it seems to be a useful suggestion, to consider what the honourable member has said.

MEDICAL STUDENTS

Mr. VENNING: Has the Attorney-General a reply from the Chief Secretary to my question of October 10 concerning medical studentships?

The Hon. L. J. KING: I have a table that sets out the studentships granted to medical students who are still studying, and the number of years that assistance has been granted. I seek leave to have the table incorporated in *Hansard* without my reading it.

Leave granted.

STUDENTSHIPS

Year of Award	Number of Studentships Granted	Tenure of Studentship Assistance	Year of Commencement of Hospital Residency
1967 ..	1	5 years	1972
1969 ..	2	3 years each	1972
1970 ..	3	1 x 2 years	1972
		2 x 3 years	1973
1971 ..	3	2 x 2 years	1973
		1 x 3 years	1974
1972 ..	3	1 x 2 years	1974
		2 x 3 years	1975

The Hon. L. J. KING: Subject to Ministerial approval being granted for a further year's hospital residency, the following number of doctors will become available for country allocation in the years stated:

1973	1974	1975	1976
1*	7*	2	2

* Three students undertaking hospital residency this year (1972) have already received approval to undertake a second year of residency in 1973.

MURRAY BRIDGE HIGH SCHOOL

Mr. WARDLE: Has the Minister of Education a reply to my recent question about the future use of the old Murray Bridge High School and grounds?

The Hon. HUGH HUDSON: It is intended to use the solid building at the vacated Murray Bridge High School as a regional education centre. The Department of Further Education also wishes to use part of the premises. I understand that the high school council has expressed a willingness to retain a managerial role in respect of the schoolgrounds. The council's views have not yet been officially formulated, but I understand it is to have a meeting on Thursday of this week to set out its proposals, which will then be forwarded to the Director-General of Education for consideration. The Acting Deputy Director-General of Education (Mr. Barter) and the Assistant Superintendent of Primary Education (Mr. Nunan), together with an architect from the Public Buildings Department, are visiting Murray Bridge today, after which discussions will take place. It is considered that any alterations should await the appointment and recommendation of the regional superintendent, who will establish the Murray Bridge regional office.

JUVENILE OFFENDERS

Mr. GOLDSWORTHY: Has the Attorney-General a reply to the question I asked on September 21 about setting up in one of the established hospitals a centre for treating teenage offenders in need of psychiatric treatment?

The Hon. L. J. KING: The modern psychiatric hospital, with its emphasis on informal admission and open wards, does not lend itself to the treatment of patients considered to be a security risk. It is for this reason that Z ward at Glenside Hospital will be closed and a security hospital for adult mentally disordered offenders built adjacent to Yatala Labour Prison. Although both Glenside and Hillcrest Hospitals will retain a closed ward for patients requiring greater supervision and control, it will not be desirable or practicable for a small part of such a closed adult ward to be set aside for the care of the very small number of juveniles of the type referred to in the question. It is the policy of the Mental Health Services to develop an efficient psychiatric service to the Community Welfare Department, which is responsible for the custody and control of juvenile offenders. This service will provide psychiatric treatment for those who require it, but the need for a special security hospital for juvenile offenders will be kept constantly under review. In the meantime, the department has increased the psychiatric

services for young offenders by increasing the number of psychiatrists on a part-time basis. At present, two psychiatrists are working on a sessional basis with the department and negotiations are at present being considered in relation to a further two psychiatrists being appointed on a consultative basis to four of the youth-training centres. The department is also developing facilities to handle children committed by the court who need psychiatric services and who are also required to be held in detention. The responsibility of developing these services is that of the Community Welfare Department but there is close liaison and action with the Mental Health Services on this matter. Another committee on this matter is not needed, as the matter is subject to constant discussion and action.

AGRICULTURAL POLICY

Mr. McANANEY: So that there is no doubt in the minds of members that we on this side are not criticizing the Comonwealth Government's policy on agriculture, I ask the Minister of Works, representing the Minister of Agriculture, whether the Labor Party's policy is that endorsed by the Commonwealth member for Dawson (Dr. Patterson) or that endorsed by the Commonwealth member for Riverina (Mr. Grassby), and whether the policies of those two gentlemen are different from those of the South Australian Minister of Agriculture. I should like to know this so that I do not do the Government any injustice in the future.

The Hon. J. D. CORCORAN: I should like to know first what differences there are, if any, between the statements of the three people mentioned by the member for Heysen. I do not know what those differences are, and it is difficult for me to comment on something I do not know about. I do know that Dr. Rex Patterson is the shadow Minister for Primary Industry in the Commonwealth Labor Party, that Mr. Grassby, the member for Riverina, is a well-informed and prominent spokesman on agricultural matters, and that the Hon. Tom Casey, Minister of Agriculture in South Australia, is a well-informed spokesman on agricultural matters, but I am not aware of what difference there is in the statements of these three people. I should like the honourable member, if he can (and I emphasize "if he can"), to let me know what these differences are.

GEPPS CROSS ABATTOIR

Mr. HALL: Has the Minister of Works a reply from the Minister of Agriculture to my recent question about skin damage at the Gepps Cross abattoir?

The Hon. J. D. CORCORAN: My colleague states that some weeks ago the firm of G. H. Michell and Sons Proprietary Limited drew attention to the high incidence of damage to skins from the abattoir handled by the company, and efforts were made by departmental supervisors to effect an improvement in take-off. Further correspondence was received from the company stating that, in reference to lambskins in particular, findings on purchases of skins checked at the tannery had disclosed a continued high rejection rate. After the matter had been taken up with union officials arrangements were made with company representatives for an inspection of skins to be made at the tannery.

The union representative on the board, the acting secretary of the union, works general delegate, the works manager and the Minister visited the tannery at 8.30 a.m. on Thursday, October 5, 1972. An examination of the skins sorted for inspection confirmed the high rejection rate and, in addition to on-site discussions on ways to improve the position, a number of damaged skins was returned to the works for display to slaughtermen. Every endeavour will be made by management, with union co-operation, to bring about a better recovery of skins, and further joint inspections will be made at the tannery to follow progress made.

MOBILE POLICE PATROLS

Mr. ALLEN: Will the Attorney-General ask the Chief Secretary to consider providing additional mobile police patrols in the Flinders Range during holiday weekends? I understand that difficulty has been experienced by people connected with the tourist industry in the Flinders Range in obtaining police assistance because of the lack of communications and the distance involved. I have been told that 8,000 people were in the Flinders Range during the October long weekend. It is claimed that mobile police patrols would be useful during holiday periods.

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

GROUP LAUNDRY

Mr. CARNIE: Will the Attorney-General ask the Chief Secretary whether he has received a report from the Government Group Laundry concerning an investigation into the relative merits of the use of cotton or woollen blankets in hospitals, and, if he has, when the Stockowners Association (which requested the investigation) will receive a copy?

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

ANDAMOOKA POLICE

Mr. GUNN: Has the Attorney-General a reply from the Chief Secretary to my question concerning accommodation for the police officers at Andamooka?

The Hon. L. J. KING: My colleague states that the Police Department has for some time been concerned at the standard of the accommodation provided for police officers at Andamooka, and it was for this reason that the Police Department arranged for an inspection by officers of the Public Buildings Department when told that they intended visiting the area. The Chief Secretary has approved negotiations to proceed through the Public Buildings Department to provide separate quarters and recreation facilities for up to four single officers. This will enable the present building to be altered to provide the necessary facilities for police and court purposes.

CORRESPONDENCE SCHOOL

Mr. COUMBE: In the temporary absence of the Minister of Education, has the Minister of Works a reply to my recent question about a storeman for the Correspondence School at North Adelaide?

The Hon. J. D. CORCORAN: The need for a storeman at the Correspondence School was recognized by the Education Department, but it was not found possible to make financial provision in the Estimates for an appointment this year. However, the matter has now been re-examined and, by making economies in certain directions, it has been found possible to provide for an appointment to take effect from February 1, 1973.

UNEMPLOYMENT

Mr. EVANS: Will the Premier investigate the reported claim by the Payneham Town Clerk that the unemployment situation seems to be exaggerated? Today's *News* reports that the Town Clerk of Payneham (Mr. R. H. Williams) said that his council needed men to do work and thus use up the relief fund money made available by the State Government. Although 10 people were sent telegrams by the employment office to report for work, only five reported, and only three of those five were suitable for the work.

Mr. Mathwin: That's generally the case.

Mr. EVANS: A similar submission has been made to me, which I intend to investigate, that two people have full-time employment under a false name and obtain unemployment relief under their real name. Will the Premier try to ascertain how many people are really unemployed, and whether perhaps the unemployment figures are being exaggerated or whether people are seeking unemployment relief unnecessarily? Will the Premier particularly investigate the case reported by Mr. Williams of his council's not being able to obtain people to do work, so that the money allocated by the State for this purpose can be used?

The Hon. D. A. DUNSTAN: I will investigate the report, which I saw in the newspaper. From time to time administrative difficulties arise from the fact that the Commonwealth employment office gives the names of certain people to a council and recommends that they be employed. The honourable member will be aware that the circumstances of people who are registered for unemployment relief change from time to time. From the report, it would appear that it is by no means certain that all of the telegrams reached their target. I will investigate this matter. I have previously heard claims that the unemployment situation is not as bad in South Australia as is suggested by the figures released by the Commonwealth bureau. Investigations by my officers show that it is as bad as is pointed out, and that other people are seeking employment who have not registered for unemployment benefits. Because of the difficulties that face people who are unemployed, they are not always static in one spot waiting, like Mr. Micawber, for something to turn up. Consequently, some difficulty in communication can sometimes arise. I will get a report on the matter for the honourable member.

NUNJIKOMPITA SCHOOL

Mr. GUNN: Has the Minister of Education a reply to my recent question about equipment at the Nunjikompita school?

The Hon. HUGH HUDSON: The Nunjikompita school received a grant of $82.50 during the 1972 school year in lieu of the old subsidy arrangement. This grant is for the purchase of equipment, learning materials, and books. In addition, the Education Department gives assistance from time to time in the provision of equipment to small and disadvantaged schools. During 1971-72 a cassette tape recorder and four cassette tapes costing $66 were provided for Nunjikompita. The request for a radio was received early in June at a time when all funds had been expended, and therefore the radio could not be supplied at that stage. However, it is intended to supply a radio to Nunjikompita at a cost of $37 from similar funds which have been provided for this financial year.

BOWKER STREET LAND

Mr. MATHWIN: Will the Minister of Education consider developing all the land held by the Education Department in Bowker Street, Somerton Park, now that the Public Works Committee has reported against building a replacement school there for the Paringa Park Primary School? The Education Department holds 7½ acres of land in Bowker Street, Somerton Park, part of which, as the Minister well knows, has been developed under an agreement between the Government, the department, and the Brighton council. As it now appears that this land will not be used for the school, will the Minister consider developing the whole area, under a similar arrangement, to be used for organized sport in the area?

The Hon. HUGH HUDSON: The matter is already being considered. The honourable member may not know that I have already had conversations with the Town Clerk of the Brighton council about the matter. Before a final decision can be made, it is necessary to consider in detail the representations made to the department, mainly by the Paringa Park school committee, as a consequence of the decision of the Public Works Committee. These representations point out several deficiencies at the school and ask for appropriate action to be taken to remedy those deficiencies. I believe that we must be sure that those deficiencies can be completely remedied by redevelopment on the existing site before making a final decision about the full development of the alternative site. Moreover (and I make this clear from the outset), if it is possible to redevelop the Paringa Park Primary School on the existing site, I will certainly agree to an extension of our existing joint scheme with the Brighton council to cover the remainder of the Bowker Street land. However, as the Paringa Park Primary School has only one oval of a limited size on the existing site, part of the agreement would have to give some degree of priority to Paringa Park Primary School for the use of the land at Bowker Street. In addition, as this is Education Department land and as we are involved in meeting the cost of developing it, there would need to be departmental assistance for the council to meet the additional cost of providing changerooms and toilets. In those circumstances, I would also investigate the position of the oval area at Brighton High School. It might well be that that school could do with occasional access to an additional hockey ground. If some priority can also be given to Brighton High School with regard to that matter, in those circumstances I can see no difficulty in an appropriate extension of the existing joint scheme.

Mr. Mathwin: That land was given to the department by the Brighton council.

The Hon. HUGH HUDSON: The Brighton High School land was given by the council, but the Bowker Street land was not. If the council has any other land, even if it partly incorporates a road, we shall be only too happy to have it.

RAILWAY SLEEPERS

Mr. BROWN: Can the Premier say whether he could renegotiate with the Commonwealth Government the possibility of having it alter its thinking (if that is what we can call it) in letting the railway sleeper contract to Western Australia? In referring the Premier to the editorial in the *News* this afternoon, three matters disturb me. First, the contract let by the Commonwealth Government will cost $2,800,000 more than would a contract for concrete sleepers; secondly, it is an obvious political gimmick by the Commonwealth Government to safeguard Country Party seats in Western Australia; and thirdly, and more importantly—

Mr. Goldsworthy: Is this some more electioneering?

The SPEAKER: Order! If the honourable member for Kavel ceased to interject, I might be able to hear what the honourable member was saying, in order to determine whether the question complied with Standing Orders. It is rude of honourable members to interject when another honourable member is on his feet.

Mr. BROWN: Thirdly, and more importantly, I point out that the concrete sleeper contract was originally to benefit my district, and now we will be deprived of this industry in Whyalla and perhaps in Port Augusta and Port Pirie.

The Hon. D. A. DUNSTAN: The honourable member will be aware that the Government has put full submissions to the Commonwealth in relation to the needs of South Australia to develop the concrete-sleeper industry, as this would benefit employment in the honourable member's district and in other districts, such as that of the member for Murray where David Shearer Limited makes the necessary fixing equipment for concrete sleepers. These are two decentralized industries. It is very strange, and I cannot understand the basis of Mr. Nixon's decision, because he considered social factors that were then used to outweigh

cost factors in order to award the contract for timber sleepers. The other strange thing is that the contract for sleepers will not affect Western Australia, but will give employment to Victoria.

The Hon. G. T. Virgo: That's where Nixon's seat is.

The Hon. D. A. DUNSTAN: I had not caught up with that fact. However, I am at a loss now to know what further material can be placed before the Commonwealth Minister for Shipping and Transport, because it seems to me, and to the concrete industry of this State, that the case put was overwhelming, and it would be difficult to find additional facts in the face of the present decision. However, I assure the honourable member that we will not let up on this matter.

ADULT EDUCATION

Mr. McANANEY: Can the Minister of Education say what is the Government's present policy concerning adult education centres? People in my district are concerned that the activities of the adult education centre at Mount Barker and of centres in other areas have been restricted. Last evening, a council member at the adult education centre handed me a form indicating that the centre's estimated expenditure on normal courses would be $55,000 and that the budget allocation was $43,000, with the sum of $5,445 to meet other requirements. That seems to leave a considerable deficiency. Can the Minister explain how centres can keep within their budgets?

The Hon. HUGH HUDSON: I know that the Department of Further Education has been concerned to establish a budgeting system for each adult education centre, but I am not familiar with the details that have been developed. If the honourable member will be so kind as to let me have the document from which he has quoted, I will consider the matter and give him a reply later.

EDUCATION DEPARTMENT HOUSES

Mr. GOLDSWORTHY: Will the Minister of Education review the method of assessing rent for Education Department houses? I have been approached on this matter, but I believe that the rent is fixed in relation to the consumer price index and that rents are therefore increased annually but bear no relation to changes in salary.

The Hon. HUGH HUDSON: The assessment of rent for Education Department houses is part of the overall assessment by the Government for rents paid by public servants in general. For Education Department officers this involves an annual assessment according to the housing component of the consumer price index. This method of assessing the alteration in rents, which was introduced by the Hall Government, has been followed by this Government, with two main exceptions. First, no officer of the Government or of the Education Department can be charged more than 15 per cent of his income, or, in the case of a daily-paid or weekly-paid employee, 15 per cent of the award rate of that employee, ignoring any overtime payments he may have earned. That change was introduced last year. In addition, the Education Department now has a system whereby, if a house is substandard, the rent is reviewed. Also, all teachers pay only 80 per cent of the assessed economic rent of the dwelling.

Mr. Goldsworthy: Is that a percentage of their salary?

The Hon. HUGH HUDSON: No: 80 per cent of the assessed economic rent of the dwelling is paid. Teachers cannot pay more than 15 per cent of their salary in rent, but if 80 per cent of the economic assessed rent is greater than 15 per cent of their salary, the rent is reduced to the latter figure.

The Hon. J. D. Corcoran: There would be a few cases where they pay as much as 15 per cent.

The Hon. HUGH HUDSON: Quite. The honourable member will be aware that, in recent years, teachers' salaries have risen much more rapidly than has the rent they are charged for any house rented from the Education Department. In country areas of the State building new houses, especially to the standard that teachers are entitled to expect, is a costly procedure. Whereas a few years ago a house could be constructed for $14,000 or $15,000, the department now has to pay between $17,000 and $19,000. In most of the country areas of the State the cost of house construction is between 20 per cent and 30 per cent more than the cost in the metropolitan area. I assure the honourable member (and I hope he will be so kind as to pass this on to the person who has inquired of him) that the Government is not securing an economic return on the extra capital investment of about $500,000 that is made in teacher housing each year. The subsidy currently involved is probably the maximum that can be afforded in present circumstances, without taking from other Budget areas.

RADIO INTERFERENCE

Mr. RODDA: Will the Minister of Works have investigations made into problems that have been reported to me in the Willalooka area regarding radio reception, because of the powerline and its earthing? I have been told that people in the area cannot locate the fault and there has been some difficulty in getting experts to the area to solve the problem, which is disrupting radio reception. Because of this interference, constituents are denied the opportunity of hearing what is going on in the area.

The Hon. J. D. CORCORAN: I shall be pleased to have investigations made.

BOOLEROO CENTRE HIGH SCHOOL

Mr. VENNING: Has the Minister of Education a reply to my question about provision of an open-space unit at Booleroo Centre High School?

The Hon. HUGH HUDSON: The Booleroo Centre High School open-space unit was originally scheduled to be ready for occupation by February, 1973. Although construction has commenced, the latest advice is that, provided no further unforeseen delays occur in the building programme, the unit should be ready for occupation by mid-1973.

PUMP CLOCKS

Mr. WARDLE: Has the Minister of Works a reply to my question about the number of pump clocks that require to be changed because of the introduction of daylight saving?

The Hon. J. D. CORCORAN: The number is 27,000.

DENTIST REGISTRATION

Mr. MILLHOUSE: I ask a question of him who represents the Chief Secretary. I think it is the Attorney-General.

The Hon. G. R. Broomhill: It's about time you knew.

The SPEAKER: Order! The honourable member for Mitcham has the call and interjections are out of order.

Mr. MILLHOUSE: Will the Minister take up with the Dental Board the question of the registration of a dentist from a Commonwealth country who came to Australia expecting to be granted temporary registration? At a meeting last Friday evening I was introduced to a gentleman from an oversea country who told me that he was a dentist in his country, having practised there for many years, and that he came to Australia expecting to be able to obtain temporary registration and practise his profession here. Since arriving a few months ago, he has not been able to get a position that would be acceptable to the Dental Board as one for which temporary registration would be sufficient. There seems to be a stalemate, as he cannot get a job because he has not got registration, and he cannot get registration because he has not got a job. He has written letters to the Registrar of the board on February 10, April 26, and August 1, 1972. It seems from the earlier letters that he was encouraged to come here, expecting to get registration. If I give the name of the person to the Attorney, or to the Chief Secretary direct, can the matter be considered as one of urgency, because this man, who has a wife and three children, cannot get work?

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

SCIENTOLOGY

Mr. EVANS: Will the Attorney-General say whether the Government still intends to introduce legislation this session to repeal the Scientology (Prohibition) Act?

The Hon. L. J. KING: Yes.

MATRICULATION

Dr. TONKIN: Will the Minister of Education say whether action can be taken to assist young people, who, for various reasons, have had to leave school before completing their Matriculation year, to matriculate on a part-time basis? The requirements of part-time Matriculation are that persons may not undertake such study within a period of 33 months from their most recent period of full-time study or until they have attained the age of 21 years. It is a pity to discourage young people who genuinely wish to continue their study but cannot do so. The matter may possibly be covered by the concept of provisional Matriculation, and I should be grateful for the Minister's comments.

The Hon. HUGH HUDSON: Part-time Matriculation or provisional Matriculation is the only way in which one can matriculate by obtaining fewer than the five subjects required. That is the present arrangement. Any other student who wants to matriculate must tackle the full range of subjects and pass them at the one examination in order to do so. There is not the provision for supplementary examinations that prevailed previously. However, after waiting for a period of time (and the problem is where to set the time limit) a student can be admitted provisionally to a university, having passed in fewer than the full number of subjects, if the student shows a certain degree

of ability. For example, a student who is studying part time may study two Matriculation subjects and obtain one B pass and one C pass. In those circumstances, probably the university would admit that student provisionally. If we require students in their final year at school to pass the full five subjects in order to matriculate, it is a fine question as to when we can permit a changeover from that situation to one in which a part-time student can be admitted on the basis of a reasonable performance in, say, only two subjects. I will inquire into the matter further but I do not think the problem is easy to solve with current Matriculation methods.

WATERSHED REGULATIONS

Mr. McANANEY: Will the Minister of Environment and Conservation say whether he intends to introduce, this year, amendments to the Planning and Development Act regarding the minimum area of subdivisions in certain districts? Some time ago the Minister announced that such legislation was being considered and the Minister of Works was somewhat amazed at the statement. Will the legislation be introduced before Parliament adjourns?

At 4 o'clock, the bells having been rung:

The SPEAKER: Call on the business of the day.

SLAUGHTERING

Mr. RODDA (on notice): How many cattle and sheep respectively were slaughtered at the following abattoirs during the financial year 1971-72:

(*a*) Peterborough;
(*b*) Port Lincoln;
(*c*) Murray Bridge;
(*d*) Noarlunga; and
(*e*) Mount Gambier?

The Hon. J. D. CORCORAN: The following table sets out the position:

	1971-1972	
Slaughterings	Cattle	Sheep (inc. lambs)
(*a*) Peterborough	415	205,064
(*b*) Port Lincoln	3,891	258,027
(*c*) Murray Bridge	19,820	807,762
(*d*) Noarlunga	49,023	604,997
(*e*) Mount Gambier	3,875	74,059

DUNCAN INQUIRY

Mr. MILLHOUSE: In asking the second question on the Notice Paper, I express the hope—

The Hon. HUGH HUDSON: On a point of order, Mr. Speaker. No explanation is permitted in relation to a Question on Notice, nor is any further comment permitted.

The SPEAKER: The honourable member is grossly out of order.

Mr. MILLHOUSE (on notice):

1. What has been the cost, so far, of the investigations on the Duncan case by the two English police officers who have come here for that purpose?
2. How is that cost made up?
3. What is the estimated total cost?
4. Have those investigations yet been completed?
5. If not, when is it expected that they will be completed?

The Hon. L. J. KING: The replies are as follows:

1. The cost is $10,460.84.
2. The cost is made up as follows:

	$
Air fares	2,732.79
Cables	2.87
Salary and out-of-pocket expenses	7,725.18

3. The estimated total cost is approximately $13,000.
4. A full report of the investigation, together with all relevant statements, was forwarded to the Crown Law Department seeking legal opinion on certain aspects of the case and any further action will be dependent upon the reply received.
5. Investigations have been completed subject to any further action dependent upon legal advice.

Mr. Millhouse: You're pretty sensitive, aren't you?

The Hon. Hugh Hudson: No. You are grossly impertinent; if you behaved like this in court—

The SPEAKER: Order!

OSBORNE POWER STATION

Mr. Rodda, for Mr. HALL (on notice):

1. What was the average number of persons employed at the Osborne works of the Electricity Trust in each of the last three financial years?
2. What percentage decrease, if any, in power occurred at Osborne in each of those years?

The Hon. J. D. CORCORAN: The replies are as follows:

		No. of employees
1.	Year ended June 30, 1970	481
	Year ended June 30, 1971	443
	Year ended June 30, 1972	404
2.	Year ended June 30, 1970	36 per cent
	Year ended June 30, 1971	42 per cent
	Year ended June 30, 1972	53 per cent

PERSONAL EXPLANATION: ARTHRITIS ADVERTISEMENT

Dr. TONKIN (Bragg): I ask leave to make a personal explanation.

Leave granted.

Dr. TONKIN: On October 19, I asked a question in this House about a method of relieving arthritic pain advertised by Niagara of Australia Proprietary Limited. During the course of my explanation, I said that people who wrote in reply to the advertisement did not realize that they were to receive a catalogue of furniture. I used this description in the interests of brevity. However, to avoid any misunderstanding that may have occurred, I should further explain that people who write in answer to the advertisement are approached by consultants with literature, including a booklet that deals in an apparently authoritative way with the aging process, extolling the advantages of Niagara equipment. Indeed, a consultant approached a member of my staff, who was waiting for a bus in Melbourne Street, North Adelaide. He offered her this literature on the same afternoon. I am informed that it is the consultants who then deal with arthritis sufferers, actively selling the cyclotherapy equipment, which may be incorporated in beds and chairs, for considerable sums.

PUBLIC WORKS COMMITTEE REPORT

The SPEAKER laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Modifications to Lock to Kimba Pipeline and Construction of Branch Mains.

Ordered that report be printed.

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 17. Page 2100.)

Mr. MILLHOUSE (Mitcham): I do not much like this Bill.

The Hon. J. D. Corcoran: That means that it must be good.

Mr. MILLHOUSE: That is the sort of way the Minister of Works makes up his mind: he seems to be incapable of thought and merely reacts to other people. However, I put that aside as he is leaving the Chamber, and I say again that I do not much like this Bill because it sets up a dual system of courts in this State. The Bill, contrary to the statements made by the Minister in his second reading explanation, gives the Government the power to declare any offence to be an industrial offence and, if that has been done, either the complainant or the defendant in the case of such an offence may have the matter heard by the Industrial Magistrate. The Bill provides that an appeal from the Industrial Magistrate shall be heard not by the Supreme Court but by the Industrial Court. In other words, at the Government's whim and discretion, and without Parliament taking any further part in the matter, any offence can be declared to be an industrial offence and then either the complainant (and it would usually be the complainant) or the defendant can decide that the matter shall be heard by the Industrial Magistrate and that an appeal shall be heard before the Industrial Court rather than going through the normal channels of being heard before a magistrate and then being referred to the Supreme Court of this State in the case of an appeal.

The Minister was less than frank in his explanation of the Bill, and I now refer to his explanation, the first sentence of which is as follows:

> This Bill, which amends the principal Act, the Justices Act, 1921, as amended—

and up to that point I do not quarrel with him—

> provides for certain kinds of simple offence (which have an industrial flavour or an industrial connotation) to be declared to be industrial offences.

I must say that I was put on my guard when I heard such vague language being used. What does the Attorney mean by "industrial flavour"? What does he mean by "industrial connotation to be declared to be industrial offences"? I need only look at the Bill itself to find the real meaning that the Attorney had in mind. I refer to new section 4a, which provides:

> The Governor may from time to time by proclamation—

—not by regulation but by proclamation, so that it is completely out of Parliament's hands once the Bill is passed—

> declare any simple offence to be an industrial offence for the purposes of this Act and may by proclamation revoke or amend any such declaration.

There is no suggestion in the Bill of any industrial flavour or connotation. The Bill provides that any simple offence can be declared by the Governor to be an industrial offence. Such an offence may be common assault or any other offence. There is no limit to the power we are asked to give the Government in this way, yet the Attorney in his explanation referred to offences with an industrial flavour or with an industrial connotation. I now leave that point, which is my first complaint about the Bill and about the way the Attorney has introduced it.

I now wish to look at the situation that arises when an offence has been declared to be an industrial offence. This means that either the complainant or the defendant can then move to have the matter heard by the Industrial Magistrate, and this provision is contained in new section 43a. I cannot see why a person who may be charged with an offence should, willy-nilly, be hauled before the Industrial Magistrate rather than before an ordinary court of this State, yet that is the effect of this provision. As the Bill now stands, both sides do not have to agree to a matter being brought before the Industrial Magistrate, and the whiphand is with the complainant. It is sufficient for the complainant to wish the matter to go to the Industrial Court rather than the ordinary court. However, I do not believe that a person should be robbed of his right to be tried by the ordinary courts of this State, and I cannot understand why it should be necessary for him to be robbed of this right.

I know that it is the policy of the Labor Party for every matter regarding industrial activity to be heard by the Industrial Court, and that the status of that court has been upgraded. The size of the court has been increased, and the scope of this Bill goes much further than was admitted in the second reading explanation. It may be that almost all the complaints regarding breaches of industrial awards that are set down to be heard in the Magistrates Court will go to the present Industrial Magistrate (Mr. K. D. Hilton) for airing. I have no complaint about that, provided that it is with the consent of both parties (not only the complainant but the defendant as well) in all cases. That is what I believe should be done.

I do not oppose the second reading. After all, it was a Government of which I was a member that legislated for the office of Industrial Magistrate to be established. It was created as a result of an agreement with the then Opposition in this House, and we were happy to do it. I do not complain at all of the way in which Mr. Hilton, who was appointed by us, has carried out his duties. However, I do not believe it is right for us to force the hearing of such matters out of the ordinary courts to be heard before the Industrial Magistrate unless both parties consent to it, and certainly not when we leave the matter absolutely at large and in the Government's hands without putting any fetter on whether the matter is truly an industrial matter or not.

I hope I have made my position on the Bill absolutely clear. At the appropriate time, I will move amendments, which I have had the draftsman prepare, to provide that these provisions will take effect only if both parties to the proceedings are agreeable although, frankly, that will not cure what I regard as one of the defects of the Bill. However, I hope that the amendments will be a sufficient safeguard if either party has the right to say, "I want this matter to be dealt with in the Magistrates Court and not before the Industrial Magistrate." In due course, I will move those amendments.

Mr. McRAE (Playford): I support the Bill as do, it seems to me, all members of the industrial community. I do not see much merit in the argument advanced by the member for Mitcham. It is outrageous to suggest that a case of common assault would be dealt with by the Industrial Magistrate; it is not at present and there is no suggestion that it will be in future. Prosecutions for breaches of industrial safety, industrial health and welfare, and the like, are traditionally dealt with by Industrial Magistrates in other States and, in this State, will be dealt with by the Industrial Magistrate in future. That provision is inserted with the full consent not just of the Government and the unions but also of the employer organizations. The member for Mitcham knows that, when he was Attorney-General, this was the very proposition put to him which he accepted, because only the Industrial Magistrate is qualified to deal with complicated claims of this kind, involving a fairly intricate knowledge of industrial law.

All parties, both unions and employers, have grievous complaints to make about the sort of ignorance being shown by some of the magistrates in the Magistrates Court, and the magistrates are not at fault here: they have never had any occasion to deal with matters involving industrial law.

However, we have had ludicrous instances of magistrates openly saying to parties, "I know nothing of the law involved in this matter; I trust you can give me some assistance." That is a proper remark for a magistrate to make but hardly one to evoke confidence from the community, especially the industrial community. I concede the point made by the member for Mitcham about the wide scope of clause 4, but I think it must be treated with some common sense. The second reading explanation declares quite specifically that the sort of offence currently being dealt with by the Industrial Magistrate will continue to be dealt with by him. I think the honourable

member has constructed a whole series of imaginary complaints and then proceeded to build an argument on them, rather than looking at the realities of the situation.

Concerning the form of the notation of complaint, I do not think the Government has gone far enough: far from accepting the honourable member's criticism, I say that it ought to be the indisputable right of a person laying a complaint in an industrial matter to know that it will go before a judge who is competent to deal with it. With only about one exception, there is no magistrate in the whole of our magisterial system, apart from the Industrial Magistrate, who claims any expertise in industrial law. I stress again that, under this Bill and under the existing arrangements, the Industrial Magistrate is exercising powers under the Justices Act in the same way as is any other special magistrate. An appeal is quite properly dealt with by the Industrial Court, because this is an industrial matter.

The honourable member has imagined some conspiracy on the part of the Government to extend the principles contained in this Bill in some devious way, which I do not follow, into other areas, but that just is not so. It is perfectly proper for industrial courts to deal with industrial matters, in the same way as licensing courts should deal with licensing matters. Frankly, it is absurd to suggest that people who just are not qualified to deal with proceedings ought to be dealing with those proceedings. If we analyse his remarks, the honourable member is saying that a defendant, if he wishes, may ensure that an incompetent magistrate, rather than a competent magistrate, shall deal with the matter in question. That is how absurd the argument is. I think the speech made by the member for Mitcham is merely a reflection of the honourable member's continual vindictiveness towards the Government. His attitude certainly has no support from the industrial community, either on the employers' side or on the employees' side. I commend the Bill to the House.

Dr. TONKIN (Bragg): I echo the sentiments of the member for Mitcham. The member for Playford has said that all members of the industrial community support this legislation: perhaps they support the principle behind it (I would not in any way suggest that they did not), but perhaps they do not know exactly what the Bill spells out. I, too, am disturbed at the possible ramifications of this legislation. The effect is to take out of the ordinary courts (to take from the normal channels, so to speak) any offence which could in any way at all be called an industrial matter. One has only to call to mind some episodes in which certain union officials were charged with common assault during the course of an industrial dispute, and various actions taken recently in respect of Kangaroo Island, to see that a pattern is emerging, concerning both this legislation and other legislation previously before the House, to set industrial matters on one side where they will be separated from the ordinary courts and from action at common law. I am not an expert on this and do not pretend to be, but it seems to me that there is far too much discrimination now against the community as a whole in favour of people who may be involved in industrial disputes.

I believe that the common law is being quietly overridden in this and in other legislation. I remind members that the common law, despite all the things that have been said about it, is still an important factor that protects our way of life, and it is a factor for which I think most citizens are grateful, certainly for which the people concerned on Kangaroo Island are more than grateful. I agree with the member for Mitcham, too: I cannot see why only one party should be able to move a matter into the Industrial Court. The member for Playford says that it is outrageous to suggest that assault shall be dealt with in the Industrial Court. If this is so, why is it not spelt out more definitely in the Bill? I do not believe that it is impossible to spell it out. We are merely being reassured that the things that may happen cannot happen, but I should like it made absolutely clear that they cannot happen and, if it is not possible to provide for that in the drafting at this stage, I think it ought to be dealt with later. I concede that it should be the right of the person laying the complaint to stipulate that the Industrial Court shall be the jurisdiction in which the complaint is heard, whether it be at magisterial or judicial level. If this is because the magistrate has special knowledge, I agree, but if it is used as a loophole to avoid appearance in an ordinary court to some possible advantage I do not think this should be allowed. Although I am not happy with the Bill, I shall support the second reading for much the same reasons as the member for Mitcham has given. I believe it is part of an overall pattern to remove industrial disputes from the normal processes of law and order in the ordinary courts and I believe there must be some reason for doing so. This disturbs me.

Mr. COUMBE (Torrens): I support this Bill at the second reading stage. The members for Mitcham and Bragg have dealt eloquently with the common law aspects of the Bill and I now wish to speak on the equity of it. The Bill affects a recent amendment to the Industrial Code relating to the Industrial Magistrate, but here we look at the matter in relation to the parties to an industrial dispute. New section 4a provides:

The Governor may from time to time by proclamation declare any simple offence to be an industrial offence for the purposes of this Act . . .

There is no other definition. In the Industrial Conciliation and Arbitration Act there is a definition of "industrial disputes" and "industrial matters" but they do not tie up with the definition of "industrial offence". I object to the Government's being able to declare by proclamation that a certain matter shall be an industrial offence, because I believe this is a complete negation of a democratic Government. It means that an application is made, Cabinet makes a recommendation and His Excellency makes a proclamation. Once a proclamation is made it has the same effect as a regulation, but a regulation is subject to disallowance.

Under this Bill the Government will have an opportunity by proclamation to declare an offence to be an industrial offence and the case would then be taken out of an ordinary court of law and be heard by the Industrial Magistrate and an appeal would go to the Industrial Court. I believe that the member for Playford has oversimplified the effect of new section 43a (1), which provides that if a complainant so desires he may have the case heard in the Industrial Court. Subsection (2) provides that a defendant in certain circumstances may also have the case heard in the Industrial Court. If the parties, as is suggested, desire matters to go before the Industrial Magistrate, in all equity both parties should be required to agree on this course, and I therefore ask why the Government objects to both parties having the opportunity to put their signature to a document that would then allow them to appear in the Industrial Court.

This demolishes the rather specious argument put forward by the member for Playford. I think he would be the first, as a legal practitioner, to say that both parties should have an opportunity to either sign a declaration that the case should go to the Industrial Court or otherwise. I am not speaking on the foreshadowed amendments but I think this is a principle that we ought to consider fully. Other members have spoken on the question of common law but I am speaking entirely on the question of equity. I agree with what the Minister says about an ordinary magistrate hearing cases in remote country areas: it would be unfair for cases to be held up indefinitely awaiting a hearing by the Industrial Magistrate in a remote part.

Mr. GOLDSWORTHY (Kavel): I am not happy about this Bill for reasons similar to those advanced by other members of the Opposition. In his second reading explanation the Minister has said that new clause 4a provides:

The Governor may from time to time by proclamation declare any simple offence to be an industrial offence for the purposes of this Act and may by proclamation revoke or amend any such declaration.

That indicates that, at the whim of the Government, a simple offence may be declared an industrial offence. It is also at the whim of the Government to revoke any such declaration. A perusal of the Minister's second reading explanation does not throw any light on the matter. The Attorney-General points out that, in recent years, the Industrial Magistrate has been appointed and that certain matters have, by custom, come before him. The only significant statement I could find in the explanation was as follows:

. . . the time is ripe for some formalization of the present arrangements and an extension of these arrangements into a somewhat wider area.

Unfortunately, I do not know whether the member for Mitcham or the member for Bragg canvassed this point, as I was not here, but it seems to me that by that statement the Government intends to extend this provision into a somewhat wider area. In view of recent experiences in this State, we approach this provision with some scepticism. I await with interest anything the Attorney may say about the points raised.

In many cases, we believe that citizens have the right to take what action they see fit to take in the interests of justice. If, like some other measures, this legislation is designed to channel matters into the Industrial Court when members of the public should have recourse to justice in other courts, we shall not be happy with it. Although I am somewhat apprehensive about the wording of some clauses, especially clause 4, I am willing to support the second reading. The Bill also provides for all appeals to be transferred from the Supreme Court to the Industrial Court.

However, that provision does not seem as dangerous as new section 4a. Nevertheless, the implications of the Bill seem fairly obvious. I await with interest any further information about the matter.

The Hon. L. J. KING (Attorney-General): I think that only two points have been made about the Bill. First, it was said that the Bill did not define the offences that might be made the subject of a proclamation, conferring exclusive jurisdiction on the Industrial Magistrate. That is true. I think that substantial difficulties were encountered in attempting this task, and it is far better that the flexibility of the proclamation should be retained. As I have indicated in my second reading explanation, the Government intends that only offences with an industrial flavour or connotation shall be dealt with by the Industrial Court. That is the obvious common sense of the matter. I should have thought there could be no doubt about that in the mind of anyone except the member for Mitcham, but he seems to be able to see doubt in all types of matter that seem clear to others.

Mr. Millhouse: It's a shame you didn't make it clear in your second reading explanation.

The Hon. L. J. KING: I thought I made it perfectly clear.

Mr. Millhouse: You didn't. You hoped no-one would look at the Bill.

The Hon. L. J. KING: Would the honourable member prefer to make this speech, or would he like me to make it?

The SPEAKER: Order! The honourable member for Mitcham is entirely out of order. The honourable Attorney-General is replying to the debate, and honourable members are entitled to hear what he has to say. I will not continually call honourable members to order. I warn honourable members that the next time that this happens I shall not be so lenient.

The Hon. L. J. KING: As I was saying, we intend that only offences with an industrial flavour or connotation shall be made the subject of a proclamation under the Bill that confers exclusive jurisdiction on the Industrial Magistrate. The other point raised was that it should be necessary that both parties agree to a complaint's being dealt with by the Industrial Magistrate. That is contrary to the intention and policy behind the legislation. The intention is that, if the offence possesses the industrial connotation and flavour and has been the subject of a proclamation, it would ordinarily be dealt with by the Industrial Magistrate. It may be convenient to both parties that it should be elsewhere, especially in the case of country areas but, if either of them wishes to insist on his right to have it dealt with by the Industrial Magistrate, he should be entitled to do so. In other words, these will be industrial offences lying within the ordinary jurisdiction of the Industrial Magistrate, and a party should not be deprived against his will in those circumstances of his right to have a matter dealt with in the ordinary way by the Industrial Magistrate.

Mr. Millhouse: He could go before the Industrial Magistrate, even if he didn't want to?

The Hon. L. J. KING: Precisely, because the intention of the Bill is that, in these proclaimed offences, the court that possesses the jurisdiction will be the Industrial Court (the Industrial Magistrate). Therefore, either party will have the right to have the matter dealt with by the Industrial Magistrate; no-one should be deprived of that right against his will. If both parties agree, as a matter of convenience, they may have a matter dealt with by some other tribunal or magistrate, but that will be a departure from the normal course of events contemplated by the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Declaration of industrial offence."

Mr. MILLHOUSE: From what the Attorney-General has said, it is obvious that the Government has no intention, even at this stage, of saying what offences will be proclaimed to be industrial offences. We have heard not one word from the member for Playford or the Attorney-General as to the offences that will be proclaimed. However, we have the admission from both of these gentlemen that the clause as it stands here is as wide as the world. This could apply to any simple offence. No-one would have any redress if the Government proclaimed an offence which had not even (to use the delightfully vague term of the Attorney-General) an industrial connotation or flavour. We are putting ourselves entirely in the hands of the Government. However long or short may be the term of this Government, the Attorney-General cannot talk for future Ministers. We are being asked to give unlimited power to the Government to declare any simple offence to be an industrial offence, and all that we have received is an assurance from the Attorney-General that the Government will act sensibly.

This weak argument confirms my misgiving about this clause. The Government wants to have as much power by executive action as it can get, but no attempt has been made to define the offences. I am willing to approve of this clause if my subsequent amendment is accepted, because it will safeguard the individual who does not wish to go before the Industrial Magistrate.

Mr. McRAE: The Industrial Magistrate has now vested in him four sources of jurisdiction. The first relates to prosecutions for breaches of awards made under the present State Industrial Code and the proposed Industrial Conciliation and Arbitration Act, and for breaches of the present Act and the proposed Act. The second source relates to wage claims that do not involve prosecutions. The third source is an exercise of Commonwealth jurisdiction pursuant to the Commonwealth Conciliation and Arbitration Act. The fourth source relates to prosecutions for breaches of the industrial safety, health, and welfare provisions in the existing Industrial Code. It was the unanimous decision of the Select Committee inquiring into industrial safety, health, and welfare, that the Industrial Magistrate should hear proceedings in respect of breaches of various Acts, which cover a wide range. It was recommended that these Acts be repealed, and the Governor's Speech, with which His Excellency opened this session of Parliament, indicated that legislation covering industrial safety, health, and welfare would be introduced. Those lines bind the jurisdiction of the Industrial Magistrate, and it has never been suggested that they should be exceeded. It is the class of offence and not the specific offence that must be proclaimed.

Mr. GOLDSWORTHY: This clause does not state that the Government will proclaim a class of offence: it refers to "any simple offence". This clause gives the Government a power that it should not properly have, because in the past the Government has acted without the support of the public of this State.

Clause passed.

Clause 5—"Special provisions relating to industrial offences."

Mr. MILLHOUSE: I move to insert the following new subsection:

(3) Where a defendant is charged before a court, constituted of an Industrial Magistrate, with an industrial offence the defendant may, before any plea is taken, request that the matter be heard and determined by a court not constituted of an Industrial Magistrate and thereupon the court shall—

(*a*) forthwith desist from proceeding further with the hearing of the matter;

and

(*b*) adjourn the hearing to such time and place as it thinks fit, then and there to be heard and determined by a court not constituted of an Industrial Magistrate.

This provides that the complainant and the defendant must agree to the matter being heard by the Industrial Magistrate. If they do not agree, the hearing will be in the Magistrates Court. That is a safeguard against what could be an abuse of power. Anyone who objects to the matter being heard by the Industrial Magistrate (and I am thinking particularly of defendants) can go to an ordinary magistrate. I do not think this will happen in many cases but, where a power so wide is given, we should have regard to the rights of the individual to choose whether he will be dealt with in the Industrial Court or another court. Members opposite pretend that they are small "l" liberals and that they have regard for the rights of individuals. Let them show that that is so, because the only effect of the amendment will be to give a person the right to choose whether he will be dealt with in the Magistrates Court or in the Industrial Court.

The Hon. L. J. KING (Attorney-General): Whatever members on this side may wish to do, after witnessing the antics of the last few weeks the last thing we would wish to do would be to ape the honourable member's side. The amendment is curious, because the policy and intention of the new section is to provide that industrial offences are dealt with by the Industrial Court or the Industrial Magistrate, and if we provide that either party may deprive the Industrial Court of that, we are saying that one party may deprive the other of the right that the clause confers to have the charge dealt with by the Industrial Court.

Mr. Millhouse: But the Industrial Court can still be deprived of it.

The Hon. L. J. KING: If both parties agree to have the matter dealt with elsewhere, no-one can complain, but the amendment gives one party the right to deprive the other of the right to have the matter dealt with by the court charged with the responsibility of dealing with that type of offence. I oppose that. It is a direct contradiction of the provision and is not justified.

Mr. McRAE: I also oppose the amendment and shall give examples to show how absurd it is. I asked former Liberal Governments to amend the Industrial Code so as to

appoint an industrial magistrate, and the member for Mitcham, as Attorney-General, and the member for Torrens, as Minister of Labour and Industry, accepted that. The present Industrial Magistrate is a man of wisdom and authority in this matter, and I do not think members opposite disagree with that statement. I was in Mount Gambier on one occasion when a serious question of under-payment of wages arose. The award, which was an abattoir award, was complicated and the making of a decision required a person of some knowledge. The magistrate told the parties that he felt incapable of interpreting the award or the industrial law on which it was based, and he asked the parties to give him as much help as possible.

If a magistrate is in doubt, he must decide for the defendant. The present situation has provoked many complaints, and I shall give another example. An employer was charged with a serious breach of the Industrial Code, involving safeguarding machinery. The company had a record of accident-free production for 30 years. When the case came before a magistrate in Glenelg, it became apparent after half a day that he had never been on a factory floor. It was clear from his remarks that he could not dispense justice in the matter.

If either party wanted a fiasco, that party would need to say only that he wanted an incompetent person to hear the claim so that he could get away with the offence. That would be preposterous. The Government has had carried a provision that the Industrial Magistrate shall deal with certain matters, and it is not unreasonable that anything else should obtain, except in such circumstances as distance to be travelled.

The Committee divided on the amendment:

Ayes (17)—Messrs. Allen, Carnie, Coumbe, Eastick, Evans, Ferguson, Goldsworthy, Gunn, Hall, Mathwin, McAnaney, Millhouse (teller), and Rodda, Mrs. Steele, Messrs. Tonkin, Venning, and Wardle.

Noes (23)—Messrs. Broomhill, Brown, Burdon, Clark, Corcoran, Crimes, Curren, Dunstan, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King (teller), Langley, McRae, Payne, Simmons, Slater, Virgo, Wells, and Wright.

Pairs—Ayes—Messrs. Brookman and Nankivell. Noes—Mrs. Byrne and Mr. McKee.

Majority of 6 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (6 and 7) and title passed.

Bill reported without amendment.

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

That this Bill be now read a third time.

Mr. MILLHOUSE (Mitcham): I oppose the Bill. I believe that it is totally unfair that a defendant (and this has come out clearly in the debate) should be compelled to go before the Industrial Court instead of before the ordinary courts of this State. That is the effect of this Bill. I have not heard the Attorney less at ease in defending the provisions of a Bill than he was when he defended clause 5. Indeed, he was quick about it: he did not stay up for long. I have never heard a more absurd argument than that put by the member for Playford. In effect, what he has said is that every magistrate in this State except Mr. Hilton (the Industrial Magistrate) is not competent to hear such matters, and I simply do not accept that, nor does the Attorney accept that all magistrates are not competent to deal with any matter of an industrial flavour or connotation, whatever that is. I do not believe that; nor would any person with any intelligence. Of course, the member for Playford had to use such an argument: he had to strain out credulity to make any argument at all. I believe that it is wrong to force people to go before the Industrial Magistrate rather than before another magistrate, and that we should vote against the Bill as a whole.

The House divided on the third reading:

Ayes (24)—Messrs. Broomhill, Brown, Burdon, Clark, Corcoran, Crimes, Curren, Dunstan, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King (teller), Langley, McRae, Payne, Ryan, Simmons, Slater, Virgo, Wells, and Wright.

Noes (17)—Messrs. Allen, Carnie, Coumbe, Eastick, Evans, Ferguson, Goldsworthy, Gunn, Hall, Mathwin, McAnaney, Millhouse (teller), and Rodda, Mrs Steele, Messrs. Tonkin, Venning, and Wardle.

Pairs—Ayes—Mrs. Byrne and Mr. McKee.

Noes—Messrs. Brookman and Nankivell.

Majority of 7 for the Ayes.

Third reading thus carried.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ARBITRATION)

Adjourned debate on second reading.

(Continued from October 17. Page 2100.)

Mr. MILLHOUSE (Mitcham): I support the Bill.

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

LAND AND BUSINESS AGENTS BILL

Adjourned debate on second reading.

(Continued from October 12. Page 2056.)

Dr. EASTICK (Leader of the Opposition): This Bill is yet another example of the Government's wellknown tactic of criticizing by way of innuendo and of its ham-fisted and over-restrictive attempts at consumer protection, as well as of interfering with an existing practice which, rather than improving that practice, can only make it more costly. The Opposition does not deny that the Bill contains some worthwhile measures, including a series of registration requirements that will eliminate difficulties that have existed in the past. The Bill also seeks to improve the situation regarding fidelity bonds or the need to ensure that funds are available in certain cases. However, apart from benefits such as these, we see here the Big Brother attitude which has been exhibited by the Government many times and which, by its interfering nature, will result in higher costs to the people that the Government claims to help.

Although we shall have little to say about those matters that the Opposition considers warrant support, I point out that the provisions concerning land brokers and the matters well publicized in respect of members of the Real Estate Institute and others will be considered closely. Once again, we see advantageous measures clouded by measures that will definitely not be an advantage to the community. The Attorney-General has not been able to cite one practice of land brokers and of people employed by land agents that is contrary to the best interests of the people concerned. If he could cite such practices, we might be persuaded to adopt his attitude to this matter. However, in the 111 years of the activities of the Real Estate Institute, not one major problem has been known to arise whereby people have suffered under arrangements made with a land broker or with a person undertaking land brokerage activities on his principal's behalf.

The vague criticisms made by the Attorney-General have suggested malpractice and skulduggery and have implied that agents and brokers are working in cahoots with each other, trying to fleece the public. However, we have been unable to find, nor has the Attorney-General suggested, one instance of malpractice taking place in this State. The Attorney-General said:

> 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.

Mr. Mathwin: He can't cite an instance.

Dr. EASTICK: Not one. Although individuals have occasionally been taken to court in respect of real estate activities, I repeat that there is no indication of the existence of many reprehensible acts which this Bill seeks to prevent. What price will be paid for this protection that the Attorney-General is so diligently trying to give the purchaser of a block of land or a new house? Although the Attorney-General intends to peg prices at a certain level, obviously these measures will involve increased costs, because no solicitor or land broker can undertake the kind of activity visualized without a resultant increase in the price structure. It has been put to me that, with regard to the promotion of subdivisional undertakings, in future only those promoters who are able to promote the undertaking totally will be able to proceed with subdivisions. Only those people who have enough money for the whole project will be able to do this work, and it will not be possible for outside money to be brought in, as has been the case in the past. I will refer to this matter in more detail later.

Experts in the field who have made a close study of the South Australian system and the systems operating in all other States have concluded that South Australians would pay five or six times as much as they pay now if the system were changed. They say that our system is the envy of the other States. The Attorney-General has said that the price will not increase. However, information forthcoming from people who have undertaken a survey in this and other States shows that these figures are likely to be reached, notwithstanding the present intention of pegging the cost of the transactions. I do not think that the Attorney will be able to convince the public that the alterations he proposes will not result in an increase in the cost of conveyances, if this legislation is forced through the House in the same way as legislation was forced through the House earlier this afternoon, with little consideration of matters put forward by the member for Mitcham that should have received support. The Attorney cannot deny that freedom of choice, which he so righteously puts forward as the major benefit to be gained from

this legislation, already exists. Under the present legislation, people can go to either a solicitor or a land broker.

Much has been said about the survey conducted on behalf of the real estate organization. We have heard statements by the Attorney-General and others to the effect that what was said by the person who undertook this survey was of little or no import. I am referring especially to Paul R. Wilson. Let us consider briefly his qualifications. He is the Acting Head of the Department of Sociology at the University of Queensland. He has been described as a Ralph Nader type of fighter for consumer protection. One of his most recent efforts has been in connection with the $25 instant divorce kit in respect of which he has obtained a tremendous amount of publicity throughout Australia, because of the success of the kit in reducing the cost of divorce by making available this information to the community. Dr. Wilson has written several important books on social issues, his latest book being *Australian Social Issues of the 70's*, which was published in July this year and which is available to members, in the Parliamentary Library. The foreword to this book states:

The Australian debate on social and economic issues has been enfeebled for many years by the reluctance of academics to enter the market-place of politics. This reluctance often stemmed from a pessimism, a feeling that even if universities were to proffer their ideas they would just be ignored. All political parties must take some blame for this state of affairs. Their policy makers have not been sufficiently prepared to seek out ideas, to encourage basic research and to take criticisms of their own formulations . . .

Australia has built too many walls around the fields in which her available experts work . . . The level of public debate on public issues—hitherto appallingly sterile in Australia—can only be raised by public inquiry in its widest sense. I believe this book will prove a valuable contribution to that aim.

That foreword is signed "E. G. Whitlam, Canberra, May, 1972". In the Report on the Proposed Changes in Law Relating to Land Transfers in South Australia, under the heading "Summary", Dr. Wilson states:

In my opinion, the present admirable system of allowing land brokers to handle all documents necessary for the completion of property transfer is a system which should be modelled by other Australian States. For over a century, the South Australian public has enjoyed conveyancing fees which are only one-quarter to one-fifth of those charged in other States. In addition, the purchase and selling of property documentation is conducted more quickly and more efficiently than in any other Australian State.

The new Land Agents Act which Mr. King has proposed has much to recommend in it. The "cooling-off" period (providing it does not extend beyond a period which would encourage speculation) is a real advance in consumer protection as are other sections of the Act.

I point out that some people in the community do not entirely agree with what Dr. Wilson says about the cooling-off period. The report continues:

However, I totally disagree with the proposal to prohibit the preparation of documents by a broker who is in the employ of the selling agent. Such a proposal, if implemented, must lead to an increase in conveyancing costs and assist solicitors in controlling land transfers, as they do in other States. This would work very much against the consumer's interests.

It is hard to understand why it is necessary to change the present arrangement regarding land brokers when the South Australian purchaser has enjoyed a service which his counterpart in other States would envy. I can find no valid reason why land brokers attached to land agents' offices are under pressure to ignore their clients' interests. On the contrary, they are under less pressure than independent land brokers. The record in South Australia of no reported cases of malpractice by a licensed land broker employed by a land agent during the past 111 years substantiates this point and demonstrates how well the system has worked.

Under the heading "Specific remarks" the report states:

In my opinion the proposal to prohibit the preparation of documents by a broker who is in the employ of the seller's agent is not advantageous to the consumer in any way. If the proposal is implemented, licensed land brokers attached to agents will have to set up their own offices and their increased overheads must mean that brokering charges will rise. At the present time conveyancing costs are held down partly by the competition between brokers attached to land agents and independent brokers. The independent brokers obviously have to keep their charges in parity with agents' brokers in order for their business to survive. The argument that under the existing system the purchaser is given no real freedom of choice is not valid. At the moment the purchaser can choose between an independent broker, a broker attached to a land agent, or a solicitor. Under the proposed legislation, the purchaser would have only two choices—an independent broker or a solicitor. If the object of the proposed legislation is to direct the purchaser to his conveyancing alternative, then this can simply be achieved by a signed statutory declaration (independent of the property contract), which states that the purchaser has been advised by his agent that he has the right to go to any of the three alternative channels which now conduct conveyancing. In this way the purchaser's freedom of choice is protected without restricting his rights to use an agent's broker.

The report refers to other matters, and then continues:

Even if a few cases of negligence or error are reported in the future, that would not be sufficient to change or condemn the present system. Such cases would have to be compared to the number of similar cases occurring amongst solicitors conducting conveyancing in South Australia and in other Australian States. To my mind it is inconceivable that now, or in the future, land brokers would have a worse record than other groups handling land transactions. An impartial observer might have to agree with the argument that one man, whether it be a broker or solicitor, should not handle the affairs of the two principal parties involved in a land transaction. However, this argument assumes that there is some conflict of interests between the vendor and purchaser.

What is the legal view on this matter, and how was it made known to people employed as land brokers and land agents? Page 2 of the *Legal Journal* contains a report of a meeting held on April 24, 1972, of the Council of the Law Society that indicates that the society intended to tighten the control of legal work performed by unqualified persons for reward whether indirect or direct. Obviously, members of the Real Estate Institute and other interested persons would have seen in that report some problems looming for them. Indeed, on the same page the report states:

Lawyers have become even more aware in the intervening period of the way in which the present law permits unskilled attendance to legal matters which the lawyer is specially fitted to undertake by reason of his training at university and in articles of clerkship and practical experience in the profession.

That is not denied, but it highlights the way of thinking, and it would be proper for the institute to be concerned about these public statements. An article in *Rydge's Journal* of February, 1972, prepared by Jeremy Webb, under the heading of "The unbusiness-like business of law" states:

As far as set fees are concerned price cutting is very much frowned upon, although it is not uncommon for cut-rate deals to be offered by solicitors to real estate companies for conveyancing work and other organizations buying large slabs of a solicitor's time.

Those conditions may apply to the Eastern States, but they also concern the present legislation. It indicates that on a $50,000 estate the legal fees would be about $500, and the legal fees for the sale of a $50,000 house would be at least $300 in New South Wales, yet this work is often completed by a clerk within two days. I do not suggest that there is any professional impropriety, but it is necessary to realize that considerable documentary evidence is available of the greater costs involved in the Eastern States. I believe that the Attorney-General foreshadowed his intention some time ago concerning this legislation. It has been said that in May-June, 1971, a decision was made by the Land Agents Board that the Attorney-General should give his attention to these matters, but there seems to be some confusion about the number of members of the board who were present when that decision was made and whether all members of the board were aware of the minute that was sent to the Attorney-General.

How much say did the board have in this proposal and how much say did some members of the board have in this matter? Did they initiate the action or were they asked to comment on the document that came forward? Basically, this measure is similar to the 1969 Bill, except for the addition of Part VII relating to land brokers. The 1969 Bill did not pass. The inclusion of Part VII has caused most concern in the community, because it disrupts existing arrangements and the chance for people who have been associated in the past to proceed indefinitely, and it interrupts the financial advantages that have been so much a part of our system. More particularly, it will erode further the opportunity in the rural areas for a person who now provides the whole service of land agent and land broker, because it will be necessary for that person to decide whether to be registered as a land agent or a land broker. It will conceivably reduce by half the opportunity available to provide a service to the community and obtain a just return for his work. It will take away from some communities the opportunity to have a person providing such service, because possibly they will be unable to maintain their interests at the reduced income available.

I do not deny the opportunity that this Bill gives to bring about a satisfactory registration system for land brokers, but, while the Attorney contends that there will be a conflict if the land broker is allowed to continue the present relationship, there will be, in the semi-professional sphere, a genuine desire to maintain the licence rather than maintain his job, and therefore he would not place himself in the position, suggested by innuendo, of thinking first of the land agent employing him and, secondly, of the person he was serving.

I have referred to the opportunities now available to the purchaser and I have said that he has sufficient choice. It should be appreciated that many prospective buyers do not have a broker to whom to refer the work and they may not know how to get one. In these cases the land agent, after pointing out that a

broker is needed, solves the problem by nominating a broker. If the purchaser does not like to go to that broker, he has the opportunity to go to someone else. If, as provided for in the Bill, the land agent cannot nominate a broker who is in his employ, how will this difficulty be overcome?

Will the land agent give the purchaser a list of brokers from which he can take one out of the hat? Will the land agent have to use a rotating list so that no-one gets an advantage, or will the land agents be able to recommend an individual broker with whom he has had liaison, even though he does not employ him? Such a circumstance could lead to brokers trying to curry favour with land agents, even to the extent of financial inducement, and obviously such expense would be passed on to the purchaser. Nothing in the second reading explanation would overcome that situation effectively. In a letter dated August 3, the Attorney states:

The Land Agents Board, which has the responsibility of supervising the activity of land agents, has observed the undesirable consequences of this system over a period of years and has made the strongest recommendations to the Government to make it unlawful for an employee of the land agent to act as a broker in the transaction.

How does the Attorney substantiate this comment? Can he support the claim? I will be interested to hear that in his reply to the debate. He also states in the letter:

It is said that the proposal will increase the cost of the legal work associated with a land transaction. This is untrue. The brokers employed by the land agents charge fees which are the equal of those charged by fully-trained solicitors or independent land brokers for the same work.

The letter also states:

Comparison with legal fees in States which have different conveyancing laws and practices and *ad valorem* scale of charges is conventional are irrelevant.

Regarding the point that brokers employed by land agents charge fees that are the equal of those charged by solicitors, how is it that an independent observer like Dr. Paul Wilson can say that for more than 100 years the South Australian public has enjoyed conveyancing fees that are only one-quarter to one-fifth the fees charged in other States? Dr. Wilson says that, in his opinion, the present admirable system of allowing land brokers to handle all documents necessary to complete property transfer should be modelled by other Australian States. He also states:

It is hard to understand why it is necessary to change the present arrangement regarding land brokers when the South Australian purchaser has enjoyed a service which his counterpart in other States would envy.

I have made these points twice, because they are extremely important. I should like to direct attention briefly to other matters. On a much earlier occasion the Minister received a suggestion from the banking organizations, pointing out the difficulties associated with a system whereby individual land agents were required to set up trust accounts and, in turn, make available to the Land Agents Board the interest from those accounts. The organizations made representations genuinely and sincerely and they considered that the suggestion would have an advantage, in that a central fund would be available and the sum required was placed in that central fund in the first instance.

However, this Bill does not contain any provision that furthers the point of view of the banking organizations. In a letter of October 13, 1970, about a Bill for an Act to consolidate and amend the law relating to certain kinds of agent, to repeal the Land Agents Act, 1965-1964, and the Business Agents Act, 1938-1963, and for other purposes, the organizations stated:

These submissions are made on behalf of the Australia and New Zealand Banking Group Limited, the Bank of Adelaide, Bank of New South Wales, the Commercial Banking Company of Sydney Limited, the Commercial Bank of Australia Limited, Commonwealth Banking Corporation, the National Bank of Australasia Limited, the Savings Bank of South Australia, and the State Bank of South Australia. The banks have been advised that the above Bill was introduced into the House of Assembly on November 18, 1969, and that amendments to the Bill were moved by the Hon. D. A. Dunstan, M.P., on December 3, 1969. The banks have also been advised that the Bill lapsed after the first reading in the House and that it has not yet been re-introduced into the House. If it is intended to bring the Bill before Parliament again and proceed with the legislation, the banks respectfully submit that amendments to the Bill be made in respect of the following matters.

The point that I wish to canvass relates to Part VIII, which deals with the trust accounts of agents and the consolidated interest fund and which is of particular interest and concern to the banks. The letter continues:

The provisions of the Bill as presently drafted provide that agents are required to invest the prescribed proportions of their trust accounts in interest-bearing trust securities upon the condition that the moneys invested are repayable upon demand. The agents are then required to pay the interest and accretions that have accrued from the investments to the agents board. The provision in the Bill that

the interest-bearing trust security must be realizable upon demand means that agents will not be able to invest any moneys with the trading banks, as they are not able to repay such securities upon demand. This fact is of considerable concern to the banks. The banks realize that agents must have access to the funds in their trust accounts without undue delay in order to meet their commitments as and when they become due. In view of the above, the banks consider amendments should be made to the legislation so that the trading banks will not be excluded from the investments authorized by the Bill. It is submitted that these amendments should follow the form and procedure set out in the recent amendment to the Legal Practitioners Act relating to solicitors' trust accounts. If that precedent were followed, the agents board would be responsible for the investments of trust funds and could also be placed under the obligation to repay an agent's trust funds upon demand, if the funds are required to meet commitments. The agents board could also be given the same powers of investment given to the Law Society, which are understood to be the powers of investment provided for in the other States having similar legislation relating to solicitors' and stockbrokers' trust accounts.

The letter concludes with a draft of amendments relating to the investment of agents' trust funds suggested by the banks for the Attorney's perusal. Although a discussion was held on March 6, 1972, with the Crown Solicitor, a member of the Real Estate Institute and the State Manager of the Australia and New Zealand Banking Group, no consideration has been given to the request, as far as I can determine, nor has any comment been made to or contact made with that organization. I now refer to another point raised by an interested group regarding clause 61. The letter I have received states:

The Bill referred to in its present form is extremely good both for the public and for real estate in general. The higher educational qualifications that will be required, the fact that there will not be any part-time salesmen or managers after a period of 12 months, and the cooling-off period are fine examples of this. Our great alarm and concern, which we mentioned earlier, is centred upon section 61, subsections (2) and (3). This section prevents us from continuing our business which has been established in this area for many years. A great part of our business comprises general conveyancing and Real Property Act work, for example, the registration of marriages and deaths, transfers to joint names, preparation of mortgages, generally acting where asked in transactions by people who sell their homes privately, and also handling work for people and companies who have purchased homes through other land agents and who request us to handle the settlement. Most of these requests come from people we have acted for in the past. The section stated poses a direct and unnecessary threat to the entire land broking system from our viewpoint. Qualifications earned by hard study must, by this Bill, be peremptorily null and void. This section also denies the public of their freedom of choice and, as we are not a large organization and therefore have not employed a land broker, we will now lose a large proportion of our business that has taken a long time to establish.

This will apply to many businesses in this State. I have received one representation regarding the cooling-off period, and I draw attention to the view of the person concerned, who has been qualified since the 1930's. He states:

The proposal of Mr. King to have a cooling-off period after the signing of a contract for the sale and purchase of a piece of real property is most unwise, because a vendor and purchaser would not know if a sale had been actually made after the contract had been signed, and this could lead to all sorts of undesirable situations. Some of these would include:

1. A vendor could not definitely agree to buy another property which he may be strongly desirous of purchasing until his contract was valid.
2. A purchaser could be subject to pressure from outside interests to drop the purchase of the property he had agreed to buy and purchase another.
3. The proposed law would "play up" to some "jittery" type of buyers who often are a problem to themselves and everybody else.

These are the views of a person who has had a close and intimate knowledge of this industry. He continues:

I presume that, if the purchaser has the right to rescind his purchase of a property within 48 hours of his signing a contract, it would then be fair for the vendor to also have the right to cancel his contract within 48 hours, because the sale and purchase of a property has benefits to both vendor and purchaser and, presuming that this right of cancellation extends to both parties, then the difficulties that could arise if a cooling-off period is allowed, would be compounded.

He says that he is aware that many other persons share his own view on this matter. I do not wish to delay the House any further, but I will bring forward a series of amendments relating to this Bill for consideration in Committee.

Mr. MILLHOUSE (Mitcham): I support the second reading. I regret that I cannot support all that has been said by my Leader about what is the most controversial part of it, clause 61, relating to land brokers.

Mr. Evans: You are going to protect the profession?

Mr. MILLHOUSE: The honourable member asks whether I am going to protect the profession. I do not believe that that is involved

in the matter at all. As the member for Fisher has made that interjection, I point out that the provision will certainly not have any effect on me. Although I am a legal practitioner and, therefore, am entitled to practise as a barrister, solicitor, proctor and attorney, I have chosen to practise only as a barrister: I do not practise as a solicitor. Therefore, the type of work that is undertaken by a solicitor in regard to land transactions passes me by absolutely.

[*Sitting suspended from* 6 *to* 7.30 *p.m.*]

Mr. MILLHOUSE: I have made it clear that, as I do not practise as a solicitor, I have no personal interest in the outcome of this Bill. I have already said that I regret very much that I cannot agree with the point of view expressed by my Leader on clause 61. I have been most exercised as to how I should vote on this clause, and I have taken into account the many letters I have had and representations made to me against it. Virtually no-one has approached me to support the clause, and I am sure there is no great feeling in the community in favour of any change in the present system, nor is there a feeling that any change is necessary. Politically, therefore, it would be very much easier for me, and indeed for any member, to oppose clause 61 than to support it, because I believe that the overwhelming weight of opinion of those in the community who have given any thought to it is against that clause. We have only to think of the petitions presented, one by the Leader of the Opposition which had 30,000 signatures on it (I suppose you, Sir, go through them), and another by the Attorney-General, which carried 18 signatures.

Mr. Mathwin: I suppose he won't take any notice of it, though.

Mr. MILLHOUSE: No, he will not take any notice of it. As I remember, it carried 18 signatures of people against this clause. One can discount petitions to some extent and say that many people who sign them do not know what they are signing, but one cannot altogether dismiss a petition with so many signatures, and I am confident that the great weight of opinion in the community amongst those who have given any thought to this controversy, or who know anything about it, is against the clause. Yet in theory there is no doubt in my mind that clause 61 is desirable and will not have the ill effects which have been claimed for it.

Before going back to deal with clause 61, I have some general comments to make on the Bill. I have not compared it clause by clause with the Bill I introduced, as Attorney-General, in 1969. However, I believe it is very similar to that Bill except for the provisions regarding land brokers, the controversial provisions. It was bad luck indeed that we were not able to finish considering the Bill at the end of the 1969 session. That Bill, which was called the Agents Bill, was based on recommendations made to me by the Land Agents Board. I must say, because it annoyed me greatly at the time, that the board was extraordinarily slow in completing its consideration of the proposals, and I just could not get the Bill into the House. I could not get it from the board, have it drafted, and get it into the House in time to go through both Houses before the session ended. It was debated in this place on the last night of the session and we dealt with the first 47 clauses.

I refer to one in particular. I looked it up today for old times sake. It was clause 41 of that Bill, which was passed, and it had the marginal note "Preparation of instruments". It is in substantially the same form as section 63 in the existing Land Agents Act. It is significant that every member of the then Opposition, the Labor Party, voted for that clause. There was no suggestion then of doing what the present Government proposes to do. Unfortunately, we were hung up on, I think, clause 48, which deals with inducements to buy subdivided land. The then Opposition did not consider it was strong enough and, as we had reached the last night of the session, we had to let the Bill go, which I very much regret. If the Bill had got through in 1969 perhaps we would not have this Bill before us now. I mention that little bit of history only to remind all members that Labor members did not have the scruples about land brokers then that apparently they have now.

This Bill sets up not one board but two boards. We have the Land Agents Board already, so it merely continues that, but sets up a new board, the Land Brokers Board. I am sure the Land Brokers Board will be simply the Land Agents Board with a broker on it. That is obviously the intention of the legislation. We have done it before, and I suppose it is not a bad thing, but I say in passing that the number of boards that we have in South Australia under various Acts is proliferating all the time and we will soon need a tribunal such as exists in the United Kingdom, to oversee them all.

Mr. Mathwin: Either that or a carpenter.

Mr. MILLHOUSE: Yes, to put them all together. How very clever! Part X changes the law quite significantly in some respects. I think that in concentrating on clause 61 we are in danger of overlooking the very important changes in the law to be made by Part X, which relates to contracts for the sale of land or businesses. However, I am sure we can rely on our friends in the Upper House to scrutinize Part X most carefully. I am thinking particularly of those with legal qualifications. I am pleased that the Attorney-General has a number of amendments to make to some clauses in Part X. These are, I understand, as a result of the work of the Law Society, and with those amendments, which have been circulated, I am content.

I do not think it is necessary for me to go through the various clauses in detail. However, I suggest that honourable members should look at clause 87, and also at clause 88, which deals with the cooling-off period and which has had curiously little opposition. I am not altogether struck on it. I know that on the one occasion I have sold a house I was jolly glad when the purchaser signed the contract and I knew I was safe. If I had had to wait another 48 hours I would not have been too pleased about it. However, that is by the way.

Mr. Langley: Who did the documents?

Mr. MILLHOUSE: I got a land broker to do the documents, or at least the agent arranged it all.

Mr. Langley: Did you just sign the papers and not look at them?

Mr. MILLHOUSE: I had a good look at them myself. I did not altogether abdicate my responsibility. I am looking to see whether there is an amendment to clause 88 (5).

The SPEAKER: The honourable member is not in order.

Mr. MILLHOUSE: There is no amendment, so I draw attention to something that seems rather curious. There may be an explanation, and I might not have understood it. In clause 88 (5) "business day" is defined as follows:

"business day" means any day except a Saturday or a public holiday . . .

Therefore, presumably "business day" means a Sunday, or maybe there is an explanation for it.

The Hon. L. J. King: The Acts Interpretation Act or the Holidays Act covers it; I'm not sure which.

Mr. MILLHOUSE: I thought there might be some explanation. I had not looked it up but, on the face of it, it does look rather strange, and perhaps the Attorney-General can deal with that when he replies. I will not say any more about Part X but, as I say, it does alter the law significantly. I come now to clause 61, the clause concerning which there has been so much controversy. What is the history of this matter? I need not go through it in detail, because I think it is pretty well known to most members. The legal profession, most unwisely, opposed the introduction of the Torrens system. The profession of a century or more ago opposed the Real Property Act and said it would have nothing to do with this work. It was therefore necessary to provide in the Real Property Act for specially qualified persons, who were not solicitors, to do the work under it and, as a result, we have the provisions in, I think, section 271 and section 272 of that Act for the licensing of persons as land brokers.

That is how the occupation of broking began, as I understand it. I am sure that the profession, ever since, has regretted its intransigence. Of course, as far as I can see, it is as broad as it is long: if the profession had not taken the attitude that it took, it would undoubtedly have been larger than it is to cope with the volume of extra work that would have been entailed, and no individual would necessarily have been any better off. However, that is how we got the separate calling or occupation of land brokers. I will say this, even though I support clause 61 in its amended form (or as I believe it is to be amended): on the whole, the present system has worked well in South Australia. There have been some troubles, of course, and I think that most legal practitioners could think of some cases where the work of preparing documents under the Real Property Act had not been well done. If one pressed legal practitioners, I think one would find normally that when they think of shoddy work in this field they are thinking of contracts which have been prepared by land agents and which have led, or almost led, to litigation; and, of course, these contracts are not covered by the provisions of this clause. But, let us face it, on the other hand some solicitors do bad work as well.

It is because the system has worked well that it is, I believe, all but politically impossible to alter it now, and I may say that I do not believe that clause 61 will get through Parliament in its present form. Theoretically (and this is why I support it), there is no doubt that every purchaser should have independent advice on such a matter as buying a house

property; it is a big transaction, and for most people it is the biggest transaction of their lives. However, I cannot even say (and I do not believe that the Attorney-General can even say) that the changes will mean any improvement in the protection that people get. Theoretically they should receive added protection but, as I say, the system has worked pretty well.

All that any of us can say in support of clause 61 is that the change ought to improve the standard of service to the public and be a further safeguard against malpractice. It may not even do this, but it should. When one has said that, one has said everything that can be said in favour of the change, given our experience of the last century or more. If we look at clause 61, we find that subclause (1) merely sets out that a person shall not, for fee or reward, prepare any instrument relating to any dealing with land unless he is a legal practitioner or a licensed land broker, and there is a penalty. Subclause (2) provides:

Subject to subsection (3) of this section—

and that is the saving provision which we will get to in a moment—

where any instrument relating to a dealing in land (other than a dealing in which the agent participates as purchaser of the land or mortgagor in respect of the land) is prepared by an agent, or employee of an agent, the agent and the person by whom the instrument was prepared shall each be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

I have read the subclause in the form in which the Attorney-General intends to amend it. As I say, I support this, for the reasons I have given. Subclause (3), however, which is one to which little attention has been paid, especially by those who oppose the clause, provides:

Subsection (2) of this section does not apply to the preparation of an instrument by a solicitor—

that will be changed to "legal practitioner" (one wonders how in drafting "solicitor" crept up in there; it is obviously a mistake)—

or licensed land broker—

(*a*) who at the time of the preparation of the instrument has been in the employment of an agent acting for a party to the transaction . . .;

(*b*) who was licensed as a land broker or admitted and enrolled as a practitioner . . . or was qualified to be so licensed, or admitted and enrolled on the first day of September, 1972; and

(*c*) who, where the agent in whose employment he is acting as a corporation, is not a director of the corporation . . .

This is a saving clause, and it means that no-one who is at present employed as a land broker by an agent, or who is in practice, will in any way be disturbed in the practice of his calling. He certainly will not be disturbed but he must, of course, stay with the same employer, if he is to continue to earn his living in this way, or go out on his own; he cannot go from one employer to the other. Therefore, with that qualification, I understand that no-one who is at present in this occupation will be disturbed by these provisions. The change will be in the future and will not affect those who are at present engaged in this occupation.

Proposed paragraph (*c*) would prevent a director of a corporation from acting as the broker, but that is not of much account. I suggest that those who oppose the clause should remember how little disturbance there will be of those who are practising at present. I know that some people who have approached me and asked me to oppose the clause have not taken subclause (3) into account when expressing their opposition. Much has been said (and the Leader said it again this afternoon) about the danger of an increase in costs if this clause is passed: I believe that that suggestion is almost groundless. I must concede that if brokers had to set up in practice on their own they might well have to have a staff and premises and, therefore, they would have overheads that they would not have if they were employed.

The Hon. L. J. King: Independent brokers have them now and charge the same.

Mr. MILLHOUSE: Yes, but others in future who go out on their own, or who start on their own, will have these overheads which they do not have at present and, to that extent, there will be an increase in overheads. However, that is a small consideration; it is certainly not a consideration that would lead me to think that there would be a great increase in costs to the public as a result. If this amendment were to be the thin end of the wedge (and many people believe that it will be and that it is a deliberate attempt by the legal profession to get the work back; I do not believe that that is the case), perhaps it would be dangerous. However, I do not believe for a moment that that is the purpose of this amendment; nor do I believe that it is the active aim of the profession.

It is necessary for one to point out that the system of charging for work in this State under the Real Property Act is not on a sliding scale dependent on the value of the property as

it certainly is in New South Wales and as I think it is in Victoria. It is because they have the sliding scale of charges that costs on these transactions in the other States become high and, indeed, substantially in excess of costs in South Australia, where the work is done by a legal practitioner or a broker. There is no prospect that I can see of our changing to a sliding scale of charges, so it is wrong to oppose this provision on the ground that it will greatly increase costs. It can, as I have said (and this has influenced me, although not sufficiently to vote against the clause), be said, "Why disturb a system which is working well because of a theoretical objection to it?".

It can be said that there is no public demand for a change and this is, I believe, a cogent argument against clause 61. On the other hand, I intend to support that clause, as I consider that in theory there is no doubt whatever that a person who is undertaking a transaction of this kind should be separately advised either by a practitioner or a broker. That is all I have to say on the Bill. I do not for a moment expect that other members on this side will take the view I have taken. I expect that most of them (indeed, all of them) will take the view that has been espoused by my Leader. However, having examined the matter in as detached a way as possible, I support clause 61 and the Bill generally.

Mr. MATHWIN (Glenelg): I support the second reading of the Bill, some aspects of which I believe to be highly desirable. I refer to the leading article in the *Advertiser* on Monday, October 23, part of which is as follows:

The Dunstan Ministry has shown a commendable determination to protect the interests of consumers in this State. Its legislation to achieve this has covered a wide span. In one section of the Land and Business Agents Bill now before the Assembly, however, these efforts seem to have been carried to excess.

Later, it states:

Some extravagent claims—that the Bill is a step to the transfer of all conveyancing to solicitors and that buyers will be saddled with enormously increased costs—can be disregarded. But the Bill does envisage some restriction of the individual's freedom of choice and departure from practices which have given public satisfaction for more than 100 years. The Government should drop its plan to do that.

Mr. Jennings: That's an authority, is it? Who wrote it?

Mr. MATHWIN: It is a better authority than is the member for Ross Smith.

Mr. Clark: That is rather debatable.

Mr. MATHWIN: I do not think it is.

Mr. Clark: Do you know who wrote it?

Mr. MATHWIN: No.

The SPEAKER: Order! The honourable member for Glenelg would do justice to the Bill if he spoke to it.

Mr. MATHWIN: I will try to do so, Sir. Part VII relates to land brokers. In this respect, I remind honourable members of a petition which was presented to this House and which was signed by 31,364 persons who objected to the clause which provides that a land broker or solicitor acting for a vendor must not be employed by the land agent.

The Hon. G. R. Broomhill: Do you think they all knew clearly what they were signing?

Mr. MATHWIN: I think we must take notice of people who sign petitions. If we do not, we lose everything. The Attorney-General has not pointed to one case in which a landbroker working with a land agent has been guilty of misconduct. I should have imagined that, if the Attorney had been able to illustrate one case to the House, it would have helped him to develop an argument. However, he has not seen fit to do so, and I therefore assume that he cannot point to one such case. I refer also to a report by a Mr. David Jones in the *Sunday Mail* of October 21.

Mr. Jennings: He's an authority, of course.

Mr. MATHWIN: Yes, and he is a well-respected member of the community. Indeed, I am pleased to have been associated with him. The report states:

If there had been cases of misconduct by licensed land brokers employed by land agents there might be some reason to break this relationship, but there had not been any known case of such behaviour over many years, he said.

Mr. Jones said this was a tribute to the ethical nature of land broking in South Australia and to the fact that land brokers recognized that they were always personally liable for their actions under the Real Property Act. The new provisions covering land brokers would hit the public and real estate people severely.

Mr. Jennings: What is Mr. Jones's position?

Mr. MATHWIN: He is the President of the Real Estate Institute of South Australia. On the same page of the *Sunday Mail* is a report referring to the threat of strike action, which would interest the Government very much. It would be interesting to see the reaction of the Government, which does all it can to stop strike action by any organization, to a strike by landbrokers.

Mr. Keneally: Are you sure they are not the Communist Party?

Mr. MATHWIN: They certainly are not. The Government is attacking a system that has operated in this State for over 111 years.

Mr. Langley: Does that mean it is good?

Mr. MATHWIN: I say it does. This system was started in 1861, and I should like to know why the Attorney-General is attacking this section of the community.

Mr. Venning: He can't tell us.

Mr. MATHWIN: No, he cannot. I should like the Attorney in reply to state cases of misconduct and to tell us the real reasons behind the whole exercise. This system is unique to South Australia. Is not the public being protected? I would say that it is. I have here a document that I am happy to table for the Attorney's information if he would like to read it. It states that every land broker in South Australia is registered by the Registrar-General under section 272 of the Real Property Act of 1886, and that every land broker is personally liable to the Registrar-General and, indeed, is bonded.

The Hon. G. R. Broomhill: Who printed that?

Mr. MATHWIN: Is the Minister asking whether that statement is correct?

The Hon. G. R. Broomhill: Who printed it?

Mr. MATHWIN: The Minister has a copy and can see for himself.

Mr. Jennings: Why are you reading it?

Mr. MATHWIN: For the honourable member's benefit, because I do not think he can read. The Attorney-General takes a rigid course with land brokers, but the land broker has to study in detail matters referred to in the Real Property Act. It is recognized that our present system is so good that demands have been made in other States for the adoption of a similar system in those States. Is the Attorney trying to protect the little man or is he trying to change to a cheaper system? Obviously, he is doing neither. If we consider the available figures, we will realize that for the transfer in another State of a property valued at $12,000, with a mortgage of $8,000, the fee is $404 in New South Wales and $304 in Victoria, whereas in South Australia it is between $50 and $60.

Mr. Jennings: There are Liberal Governments in those States.

Mr. MATHWIN: For property valued at $50,000, with a mortgage of $25,000, the fee is $878 in New South Wales, $694 in Victoria, and between $50 and $60 in South Australia.

Mr. Langley: The Attorney said that the fees would not change.

Mr. MATHWIN: In South Australia, whether the property is valued at $12,000 or $100,000, the actual cost is between $50 and $60. Therefore, I suggest that this State's system is the best and cheapest. The Government is always stating that it wants to assist the worker and the person on a lower income, but the Attorney is not doing it by introducing this sort of system. It is a fact that a land broker employed by a land agent helps to keep the cost down and speeds up the transaction. The purchaser is not forced to deal with that broker or with any other broker. When a purchaser of a property approaches the agent to transfer the property, the agent will say, "We have a broker here, and you can use him, go to another broker, or go to a lawyer." If the person wishes he can go to a solicitor, and this means that he has a freedom of choice now.

Mr. Langley: Is that what they say?

Mr. MATHWIN: The honourable member should know that what I have said is a fact.

Mr. Langley: It is not a fact: I bought a house and they didn't say that.

Mr. MATHWIN: I suggest that the honourable member did not take the advice given by his land agent, broker, or whoever he went to.

Mr. Langley: You said they say it.

Mr. MATHWIN: A purchaser may use a solicitor if he wishes, and he can please himself which broker he uses: it is for the individual to decide. Does the Attorney suggest that the new system will speed up the work? Of course it will not. In South Australia it takes between three weeks and four weeks to complete the average transaction, whereas in the Eastern States it takes between three months and six months. Everyone knows how frustrating it is to have to wait three months to six months for a transaction to be completed. If one asked the Attorney-General whether the new system would cause unemployment, he might say it would not, but we know that it will. Generally, land brokers are honest people and would rather lose their job than lose their licence. However, they are to be forced out and will have to choose whether to be a land broker or a land agent, so their livelihood may be in jeopardy.

If they decide to become a land broker, they may have to obtain another office, take staff with them, or employ other people, and this may cause some difficulty. They may have to reduce their present staff that they use in joint premises between two sections of the business, and this may cause many employees

to become redundant. I wonder why the Attorney is forcing this system on the public of South Australia, and on this section of the community? We know that the Government does not regard land agents as reasonable and decent people, and the names that land agents have been called have surprised me. I wonder whether the Attorney is pandering to his vanity by introducing this Bill, or is it the smug way in which the Government is using its majority in this House? That attitude may be changed soon.

The Government, in its efforts to impose more regimentation, is showing a typical Socialist attitude: it is saying, "Do what I say or you are in trouble", and that is a typical Big Brother tactic. The Government's thirst to control the people continues, and in the short time since I have been a member the number of boards and committees appointed and controls imposed has had to be seen to be believed. The empires that have been established in respect of the Builders Licensing Board and such other organizations are just too bureaucratic. It is the policy of the present Government to make everyone bend, to have them over the barrel and force them to do what they are told, whether they like it or not. The Government thrives on this sort of thing and on compulsion. It has the numbers in this place to do what it wishes.

That is the answer to the questions I have asked the Attorney-General, but I should be delighted if, when he replied to the second reading debate, he would make some accusations about just how many crook land brokers there are in South Australia and how many people who work in a joint land agent and land broker's office have taken down the public of South Australia. Why do the public want the protection that the Attorney-General is trying to foist on them by force, like a clucky hen foisting something on her chicks? Clause 61 is most unpalatable to most sections of the South Australian community.

Many matters need clarification, and I should like to bring a few of them to the Attorney's notice. Clause 22 deals with part-time operations, and a definition is needed of part time and a part-time employee. Is a part-time employee a person who works only at the weekend or in the evening, or a semi-retired person?

Another matter that will probably need flexibility on the part of the Attorney is the matter of the Land Brokers Licensing Board members. The Bill provides that the board shall consist of five persons appointed by the Governor, of whom one shall be a legal practitioner of at least seven years standing nominated by the Minister, one shall be the Registrar-General or his nominee, and three, at least one of whom must be a licensed land broker, shall be persons nominated by the Minister. I wonder whether the Minister has thought of nominating a person from the Real Estate Institute. This should be considered.

The other matter to which I should like to refer is the cooling-off period of two days, none of which shall be at the weekend. Most people, although not all, who go to buy land do so at the weekend. In fact, I understand that going around inspecting houses open for inspection and sites has become second only to the national sport of Australia in popularity.

Mr. Millhouse: What a ghastly occupation!

Mr. MATHWIN: I have been around at a few myself.

Mr. Millhouse: But you wanted to buy a house.

Mr. MATHWIN: Yes. A person could take an option on 24 or 25 properties if he got around them quickly enough. A handful of people could hold options on most of the properties that are for sale for the cooling-off period of two days, and this could have a disastrous effect on the whole business. This clause should be amended because it is dangerous. Certain advantages should be given both ways but this gives all the advantages to the purchaser, and it is a most dangerous provision that possibly could stifle the whole business, in that people could hold properties from Saturday to Tuesday, and on Tuesday he need not buy any. If he did that all these properties would then come back on the market. In the meantime, other people, who may well have liked the properties and may have bought them, would not be able to get options because they were held by someone else. I support the second reading, but I suggest that much work needs to be done in Committee. Many amendments must be moved, and I will say more about the matter then.

Mr. EVANS (Fisher): I support the second reading, but I raise objections similar to those that my Leader has raised. I should like to put my own interpretation on my main objection, which is to clause 61. I have no doubt that it is a first step by the legal eagles to take control of the brokerage system. The member for Mitcham has said that subclause (3) of that clause guarantees that anyone who at present is in full employment of a firm or organization will be quite safe.

Surely my colleague does not suggest that a person in the profession today must stay with the same employer for all time. If the employer goes out of business, or if he decides to retire in the case of a one-man operation, the employee must then go into business on his own or seek employment with a broker who is registered only as a broker, not as a land agent. For my colleague even to suggest that that is acceptable shows either that he has not given the matter any thought or that he is tending to drift towards his own profession, even though he does not practise in this field, as he has explained.

His tendency must be towards his own profession, and I do not blame him for that, but we represent the whole community. Backbenchers in the Australian Labor Party Government often claim in this House to represent the worker, but they will set the wheels in motion to increase for the average person that cost of transferring a house.

My. Payne: You didn't listen to your colleague.

Mr. EVANS: I did listen. I know that the fees that can be charged can be prescribed, but they can be changed easily. We know that the charges will be roughly the same for a few years, but the legal eagles who are hanging around will say that it is taking too long to handle a transaction. They will ask for increased fees and they will get them, because they can justify the amount of time that it takes them to do the work. In the other States the legal eagles take two or three times as long to carry out a transfer as do brokers here who act with agents. That is what will happen in this State, too. So, when the Attorney-General or his successor later increases the fees, we can refer back and say what the Government's intention was stated to be.

There is no reason at all to change the system; the Attorney-General has not given a reason, nor has the member for Mitcham, other than the theoretical reason that the same person should not act for two parties. In New South Wales fees are prescribed where legal practitioners act for both parties; so, even the legal practitioners themselves do not accept the theory when it is likely to benefit their own pockets. When the benefit is likely to go to another profession, the legal eagles want to ensure that the money is directed to their pockets. So, the Attorney-General's arguments are groundless. If there was any cause for complaint, a change in the system would be justified. If one asked whether any legal practitioners had overshot the mark in the last 111 years, one would be surprised at the number who had been barred from the profession because of malpractice. We have proof of that, although I do not wish to mention specific cases.

Mr. Payne: Isn't that straining the bounds of credulity?

Mr. EVANS: If the honourable member was now sitting on the other side of the House, I could imagine him saying, "What about young couples who are trying to arrange for the building of their own homes?" Of course, the honourable member is obeying the dictates of Cabinet, which is largely composed of legal eagles; he is supporting the Bill for the sake of the Party he belongs to. When the member for Glenelg referred to the 30,000 people who had signed a petition, a member opposite interjected, "Does that really matter?"

Mr. Clark: People will sign anything.

Mr. EVANS: I should like to see the honourable member sign a cheque for me. In replying to a question from the member for Kavel, the Premier (at page 1731 of *Hansard*) said:

> The proposal put by the Government to the Real Estate Institute was a proposal of the Land Agents Board resulting from its investigation of land transfer transactions in South Australia.

At that time the Premier viciously attacked some sections of the Real Estate Institute; his attack was nothing less than scandalous. The Premier was challenged to table a copy of the letter or document that he claimed he had received from the Land Agents Board. That board comprises a solicitor as Chairman, the Crown Solicitor, the Secretary to the Attorney-General, and one person representing the Real Estate Institute. At the time the document was supposed to have been passed on to the Government, the board member representing the institute was, I believe, overseas. All we ask is that the Government produce that document.

Regarding the Premier's accusation that some members of the Real Estate Institute are liars, I suggest that, if the Premier went home and looked in a mirror with the Attorney-General alongside him, he might perhaps see that some people have spoken untruths or evaded the facts. The Government was fully intent on introducing this Bill long before it was supposed to have received a document from the Land Agents Board. One would suspect that a request for the document was made by the Attorney-General or the Premier. There is no doubt

that the Premier's attack was callous, ruthless and cowardly. If the Premier wishes to prove that his attack was justified, he should produce the document. I should like to know whether a majority of the board members knew what would transpire. For a Premier to make that sort of allegation against a responsible body is shameful. He made the accusation that the institute had tried to stir up public sympathy for its cause before the Bill had been introduced. The institute should be thankful that it did so, because it would have had no time to do so after the introduction of the Bill. Experience in this place shows that a Bill is introduced one week and soon afterwards it is put through in one night. So, there is no time for people affected by legislation to make representations to the Government or to the Opposition.

Mr. Payne: That is not true.

Mr. EVANS: It is true, and the honourable member knows it. There is no chance of organizing any real protest about legislation in seven to 14 days, and members know that. I raised the same kind of objection when my Party was in Government. So, the Premier's attack was not justified, but the action of the Real Estate Institute was justified, because it sought to protect a profession that was acting satisfactorily.

Mr. Payne: For how long was the Companies Act Amendment Bill on the Notice Paper?

Mr. EVANS: It was on the Notice Paper for a long time. Is the honourable member willing for this Bill to be on the Notice Paper for another couple of weeks?

Mr. Mathwin: The Bill dealing with homosexuality came in and went through in one night!

Mr. EVANS: Two meetings, attended by many people, were held to object to the Bill now before us. At the first of those meetings only two people supported the Government's move, and the majority opposed it. The attendance at the meetings was so large that any politician would have been proud to have had such an attendance at a campaign meeting, even if a Party Leader was to announce his policy at it. There is much feeling in the community against the Government's move. The basis of discussions held before this legislation was introduced was found to be accurate. The matters that were feared have been raised and it is clear that the Government's intentions are the same as most people expected. Clause 61 is of most concern to people in the real estate profession. My Leader referred to the country operator in a small country town, which he served as agent, where such a person provides a service to his community. Most members have spoken in this House about decentralization and the need to encourage people to stay in country towns.

Many small towns can support only one member of the profession acting as both land broker and land agent and, in the past, such people have given satisfactory service. Is the Government encouraging decentralization by putting such people out of business? Indeed, that is what will happen. In some instances such people will no longer be able to exist and will have to move to a neighbouring town. Perhaps other people will be able to handle transactions in two towns where, previously, there have been sufficient transactions to keep more members of the profession active, and in other instances members of the profession will have to leave the area altogether. Also, the distances in the country are not as they are between Unley and Norwood, and those members of the profession who stay in country towns may have to cover areas over 100 miles apart.

Does the Government really believe that such a situation encourages decentralization? I do not believe that it does. I believe that Government back-bench members have been conned, that the legal practitioners in the Government ranks have convinced them that what is proposed entails no risk, because those concerned can go on working for the same agent. However, I do not believe that that is the case, and I ask Government members to think along those lines (especially those members who represent country areas and those members who pay lip service to decentralization), because this legislation does not encourage decentralization. True, there could be some justification in saying that we should include a clause to ban legal practitioners from handling transfers and matters regarding titles. There would be justification in saying that only land brokers are allowed to handle such transactions. I challenge legal practitioners to support such a move and to see what happens to them in their own fields of endeavour.

I do not believe that any person could quarrel with the clauses relating to the upgrading of standards and qualifications applying to salesmen. I support the major part of the Bill, because there is merit in it. However, regarding the land broker, the provisions applying to him are like his drinking a glass of milk with cyanide in it.

Mr. Mathwin: But not quite as quick in action.

Mr. EVANS: That is the situation we face.

Mr. Clark: It is hard to believe that anyone can say such a thing.

Mr. Payne: You say we were convinced. Who convinced us?

Mr. EVANS: The member for Mitchell has never listened to what I have said in this House, except this evening. However, he would know, if he did research, that I raised this matter in this House in the period immediately after his Government came into office in 1970, because I have always had the fear that this was one of the intentions of the Government, that this was something that both the Attorney-General and the Premier had in mind. I always believed that the Premier would attempt gradually to force the conveyancing of titles away from land brokers to members of the legal profession. I wish now to refer to people purchasing properties because, in the past, some salesmen have carried out actions that have been described as "misrepresentation" and I believe—

Mr. Payne: But never any brokers, not in 111 years, not one!

Mr. EVANS: If the member for Mitchell will stand up and name just one instance, I will shake his hand. If he can name one instance where a broker has been found to have carried out a malpractice regarding his profession I would be pleased to hear of it. Indeed, if the Attorney-General had only one instance to which he could refer, he would have hung his hat on it when introducing this Bill.

Mr. Payne: That is not his practice—

Mr. EVANS: Both the member for Mitchell and the Attorney know that there has been not one instance.

Mr. Payne: That is ridiculous. You know that that would not be so.

Members interjecting:

Mr. EVANS: Members opposite can interject, but they have a chance to research this matter and need only to name one occasion when malpractice has occurred. I believe that one of the main mistakes made when people purchase a property applies also to the purchase of second-hand cars: that is, prospective purchasers believe that they are engineers, architects and landscape gardeners; they believe that they know all there is to know about the purchase of a home, and they do not seek advice from experts in the field about such a purchase. In many cases, prospective purchasers have friends working in the field whom they could approach and they could ask them to look at a home that is being considered for purchase, but they do not do so.

Mr. Payne: They don't heed—

Mr. EVANS: True, there have been complaints about salesmen in the field, and I have never denied that problems occur, and I will not deny that, because I believe that is the case. For that reason I support those provisions that will upgrade the qualifications applying to salesmen. However, if prospective purchasers really want to be protected, they can be protected by seeking proper advice. Indeed, having regard to the total number of transactions that take place, there are few complaints even against salesmen and yet Ministers (and this applied to members on this side when in Government and the then Attorney-General, the member for Mitcham), have said that land agents are not fit even to be justices of the peace; that, in effect, they are second-grade citizens. However, the majority of people in that profession would be composed of the same type of people who compose any other profession. Perhaps a minority in the profession should not be justices, but that minority also exists in the legal profession as in any other profession. The cooling-off period is a matter that has been raised and areas of complaint have come to light regarding the 48-hours provided in the legislation as not appearing to be sufficiently long.

True, a minority could tie up several properties in one weekend. That fact does not seem important to members opposite, because it will have little effect on the Act, but how would such a situation affect a person trying to sell his property, and who has a genuine desire to sell? What if he loses the potential of another sale during that period? Such a person is just as important as a person buying a home. He is a citizen in our community and he must be properly considered and, under this legislation, we are not doing that. I will refer to this matter again later. It would be wrong for me to sit down without referring to the document to which my Leader also referred, the document researched by Dr. Paul R. Wilson, a person respected by most people in Australia as being vitally interested in the welfare and protection of the consumer or the purchaser. I shall refer to one or two points, possibly the same as those to which my Leader referred. There would be some justification for incorporating the report of Dr. Wilson in *Hansard* so that it could be kept for future reference. However, I shall take the first point:

In my opinion, the present admirable system of allowing land brokers to handle all documents necessary for the completion of property transfer is a system which should be modelled by other Australian States.

If the South Australian system were explained to the citizens of the Eastern States and a referendum taken, legal practitioners in those States would lose a considerable amount of business. I do not believe any member can justify the fees received by legal practitioners in the Eastern States for the conveyancing of titles. I am friendly with a person in that profession in another State, and he tells me that this comprises about 25 per cent of his week for about 50 per cent of his income. This is an example to show how much the legal profession in the Eastern States relies upon the transfer and conveyancing of documents in relation to properties. Why change our system? Dr. Wilson makes this point:

For over a century, the South Australian public has enjoyed conveyancing fees which are only one-quarter to one-fifth of those charged in other States. In addition, the purchase and selling of property documentation is conducted more quickly and more efficiently than in any other Australian State.

Why change that—just because of some pet hate someone has against land brokers or land agents? Is that the only reason? There can be only one conclusion drawn: this is the point of the wedge to push out brokers in the long term. I mean that quite sincerely. That is the main object of this legislation.

Mr. Payne: We set up a board to improve the status of the profession just so we can push them out?

Mr. EVANS: The honourable member refers to the board. It might be a little better than the previous one, but I wonder whether members of the legal profession would accept such a board to look after their own profession. I challenge the member for Mitchell to suggest that. Clause 49 provides:

(1) There shall be a Board entitled the "Land Brokers Licensing Board".

(2) The Board shall consist of five persons appointed by the Governor of whom—

(*a*) one shall be a legal practitioner of at least seven years standing nominated by the Minister;

Unfortunately, we usually need a legal practitioner, we are told, to be a chairman of a board. We will accept that. The clause continues:

(*b*) one shall be the Registrar-General or his nominee;

We will accept that.

Mr. Wright: I am afraid you will have to.

Mr. EVANS: I am glad the member for Adelaide makes the point that we must accept the weight of numbers inside this building, regardless of whether or not the man in the street is protected. Paragraph (*c*) provides:

(*c*) three (at least one of whom must be a licensed land broker) shall be persons nominated by the Minister.

We do not even go to the professions involved to ask the members whether they would care to nominate the person. We leave it to the Government to pick whichever one of its pets in the community it wishes to nominate. That is the only conclusion to be drawn from that clause. Only one of the professions to be directly adversely affected is to be included. The legal field has a representative automatically, as Chairman, and there is no guarantee that the other two members will not be legal men. There is no guarantee that they will not come from other professions, agents or brokers. There is every justification for having at least two representatives from the fields directly affected, other than legal practitioners.

Mr. Clark: Especially people who have been perfect for 111 years.

Mr. EVANS: The member for Elizabeth knows—

Mr. Clark: I am agreeing with you. Can't you hear me?

Mr. EVANS: —that, if one suggested setting up such a board for legal practitioners, every legal practitioner in the State would conduct the biggest campaign ever to say what a shocking thing it was that someone else would have all the say on their board. At this point of time theirs is the one profession in the community to have the sole say on their own board. They have the opportunity to protect their profession all the way down the line. In the main they help in the drafting of the legislation, theirs are the brains behind much of the legislation introduced, regardless of what Party is in power, and in the main they judge and adjudicate on legislation introduced. In the main they chair the boards operating under our Statutes. One cannot deny that that is the protected profession within our community, and that the man in the street is suspicious of such a practice.

When the member for Mitchell speaks of the board, I agree that it is better than the last board, but I say that due consideration has not been given to people in the broking and agency fields. I return to Dr. Wilson, now that the member for Mitchell has given me the opportunity to refer to something else. He says:

From a consumer's point of view, weakening land brokers to the benefit of solicitors would be disastrous.

There is no doubt that that is what is happening. My Leader referred to the clause in Dr. Wilson's comments to the effect that the proposed Land Agents Act has much to recommend in it. Most members accept that, and the people in the profession, the Real Estate Institute and the brokers, would agree. Dr. Wilson continues:

The "cooling-off" period (providing it does not extend beyond a period which would encourage speculation) is a real advance in consumer protection as are other sections of the Act.

That is the one point on which I would disagree with Dr. Wilson. I do not say that I am right, or that he is right, but I disagree with that comment.

Mr. Payne: You are really offering an authority if it suits you.

Mr. EVANS: If any member opposite thought I accepted all the comments from one of his colleagues, from the man in the street, or from any expert in any field, he would say straight away that I did not have an opinion of my own. I do have an opinion of my own at times. Dr. Wilson says:

However, I totally disagree with the proposal to prohibit the preparation of documents by a broker who is in the employ of the selling agent. Such a proposal, if implemented, must lead to an increase in conveyancing costs and assist solicitors in controlling land transfers as they do in other States. This would work very much against the consumer's interests.

That refers to the man whom we are supposed to be looking after, namely, the man in the street (the little guy), who needs the protection.

Mr. Clark: That's what the Bill is for.

Mr. EVANS: I would like the member for Elizabeth to stand up and prove how the man in the street is being protected under subclauses (2) and (3) of clause 61.

Mr. Clark: I'd like you to disprove it.

Mr. Payne: You said the same thing about the used car Bill. Ask people in the street what they think about that legislation now.

Mr. EVANS: If the honourable member reads the reports of Bankruptcy Court proceedings within the next two or three years, he may get an idea of its effect and have different thoughts about it.

Mr. Payne: I know how my case work on shonky used car deals has gone down.

Mr. EVANS: I have never protected any form of shonky operation, whether it involves politicians, used car dealers or land agents. However, one must use common sense and be cautious about what one is doing. In the main, I accept the proposals contained in this Bill but, if any Government member can tell me why a profession that has worked for 111 years satisfactorily and to the benefit of the community, financially and otherwise, should be interfered with, and why one person cannot act for two parties (apart from the theoretical argument advanced by the Minister), one might have second thoughts about the matter. The Attorney-General said that the man in the street is given the option of going either to the broker or to the solicitor, but at present he has a third choice. Why should he be denied that third choice? If there has been no malpractice in the past that can be proved, why is that choice removed? No-one can say.

The Attorney-General has not said why; he simply said that he believes that it is not right for the one person to act for two parties, yet members of his own profession in the Eastern States do just that. If there is no evidence to support the Attorney-General's statement, why must we expect the community to accept a provision that will act to its detriment? I believe that every member has received a copy of Dr. Wilson's submission and that, in the main, it is difficult to fault. I think Dr. Wilson is a man who would not support Liberal Party policy, yet, on the other hand, I think he would be ashamed of the Labor Government's trying to introduce provisions especially such as those contained in clause 61. If we could encourage the Eastern States to accept our system of having brokers working with land agents, gradually taking the work from solicitors, we would be doing a service to the community of Australia, especially to the young couples who, at the beginning of their married life, are trying to buy a home. I have the same objections virtually as those of my Leader and those expressed by members of the Real Estate Institute and of the broking profession generally. Although I support the second reading, I shall be supporting amendments aimed at remedying the faults that I believe exist in a Bill which, although in the main is satisfactory and commendable, has been ruined by one or two stupid clauses.

Mr. GOLDSWORTHY (Kavel): As indicated by one or two Opposition members who have spoken so far, with the possible exception of the member for Mitcham we support the second reading but with reservations, especially in respect of clause 61, which has been debated at some length. A question that I asked in the House recently about the introduction of this measure brought forth from the Premier

one of the most vitriolic outbursts that we have witnessed in this Chamber. I think it was rivalled in intensity only by the statement made by the Premier last session when he accused Opposition members, quite unfairly, of referring to the circumstances surrounding his birth, a matter of which I am completely ignorant. However, on this occasion it was one of the most vitriolic and unwarranted outbursts that I would want to hear in this Chamber. The Premier saw fit to call certain people in the community liars and—

The SPEAKER: Order! The honourable member has to speak to the Bill; he must link his remarks to the measure.

Mr. GOLDSWORTHY: I am referring to the Bill. I am referring to the introduction of this measure and to a question asked about it. I am referring to the comments that the Premier saw fit to make about certain people in our community who are vitally interested in this legislation. As I say, it was one of the most amazing outbursts that I would ever want to hear in this Chamber.

Mr. Becker: Disgusting!

Mr. GOLDSWORTHY: I thought it was a completely disgusting exhibition, especially as the people concerned could not protect their integrity and, indeed, from my contact with members of the committee of the Real Estate Institute, I believe that the Premier would want to think far more carefully in future before indulging in that sort of outburst. We have received submissions from the Real Estate Institute, and I do not intend to traverse the ground already traversed by other speakers in this debate.

Mr. Wright: What about your attacks on Jim Dunford?

Mr. GOLDSWORTHY: At no time since I have been a member of this House have I referred to any member of the community, whether it be Mr. Dunford or anyone else, as a liar.

Mr. Wright: Look in *Hansard*.

Mr. GOLDSWORTHY: I suggest that the member for Adelaide refer to *Hansard*.

The SPEAKER: Order! I suggest that the honourable member speak to the Bill.

Mr. GOLDSWORTHY: Mr. Speaker, I would invoke your protection in relation to interjections. Of course, interjections are out of order but when they are allowed by—

The SPEAKER: Order! I am here to decide what is out of order.

Mr. GOLDSWORTHY: I am merely seeking the protection of Standing Orders, which provide that interjections are out of order but—

Mr. Wright: You're out of everything!

Mr. GOLDSWORTHY: — if interjections are forthcoming I will try to ignore them. The Bill makes some desirable changes: it is interesting to note that, of about 107 clauses, the Opposition is objecting only to about four or five clauses. Therefore, there is much in the Bill to commend but it is especially to one clause, which has had considerable public airing, that my attention has been drawn, and we raise the strongest objection to that clause. I do not intend to take the bat on the legal profession, as did the member for Fisher; I do not intend to reflect in any way on the legal profession. My view has been influenced considerably not only by the letters we have received from responsible people and by reading the report of Dr. Paul Wilson: my view has been most profoundly influenced by my conversations with people in country towns in my own district who are involved in this sort of activity.

I frequently see in one of the larger country towns in my district one of the gentlemen involved in this matter, and I believe that the Bill will seriously inconvenience the people whom this gentleman and others serve. Having known gentlemen involved in these operations, the reputation they have enjoyed, their integrity, and the service they have given the public, I have been influenced to oppose clause 61. It is all very well for the Attorney-General to make vague accusations about malpractice. It has been stated tonight that there is no record of any malpractices having occurred or of any complaints having been received in this respect for 111 years. Government members may scoff at this assertion, but can they produce any evidence to refute that assertion, which is made confidently in Dr. Wilson's report and which has been referred to by some Opposition members? It is all very well for the Attorney to make these vague references to malpractice, but not one shred of evidence has been advanced to show that malpractices have occurred. Indeed, Dr. Wilson and others have stated confidently that no reported complaints have been substantiated over the past 111 years.

Having received correspondence from various people, I assert that it is abundantly clear to me that several points emerge, one of which is that the Bill as it stands threatens the livelihood of many people in the broking business in this State. One letter refers to about 200 land

brokers whose employment will be directly threatened if this legislation passes this House unamended. This aspect should not escape honourable members' attention, as those 200 people will be faced with immediate retrenchment. In some firms broking work is done by a broker in its employ. What will happen to such brokers? They will have to set up business on their own account or seek other employment. Although the Attorney-General has foreshadowed certain amendments to which I cannot now refer, they will not overcome this difficulty. It seems that a phasing-out process will occur. Another point that emerges from the correspondence is that the charges for these transactions in South Australia are significantly lower than they are elsewhere in Australia.

Mr. Carnie: "Significantly" isn't a strong enough word to use.

Mr. GOLDSWORTHY: I agree. The charges in this State are only a fraction of those imposed in other States. When in Sydney recently, I spoke to some friends who had shifted from one of Adelaide's outer suburbs to one of Sydney's outer suburbs. They told me that the price of real estate in Sydney is nearly twice that in South Australia. I was told also of the fringe accounts that must be paid on land transfers. The average suburban couple to whom I have referred received from a legal practitioner an account for $600 in connection with the purchase of and obtaining a mortgage on their average suburban house. We in this State have enjoyed a level of charges that is only a fraction of the level in other States. It is all very well for the Attorney to say that charges in this State will be held at the present level. Clause 107 provides that the board shall fix fees to be charged in connection with conveyancing work and other documentation.

The Attorney is expecting a fair bit of Opposition members if he expects them to accept that these charges will be held at their present level for any period of time. The member for Fisher says that salaries and wages arise for frequent review, and I agree with his comments in this respect, especially in relation to work done by the legal profession. It will be only a matter of time before the charges here sneak up to the level of those imposed in other States. When seeking salary rises, people often say, "Let us examine the position in other States." The salaries paid in those States are then used as a lever to ensure that one's salary or wage is increased here. I do not think that the Attorney's attempt to refute this point has any more validity than has his vague charge in connection with complaints regarding the preparation of documents in the last 111 years.

Some members have referred to various clauses in the Bill, and I need not repeat what they have said. This legislation is indeed a retrograde step in relation to the preparation of real estate documents. I have been approached by people not only from one major country town I represent but also from another town who are involved in this business and who, having built up an excellent reputation in their communities, are well trusted. The people in these towns like to go to their offices to conduct their business and to allow the agents to prepare and complete their documents. If land agents are prohibited from doing this work, much inconvenience will be caused to the public for no gain whatsoever. Although in Committee I will certainly oppose clause 61, and although I do not believe the Attorney has made out a case for the inclusion of certain other provisions in the Bill, I support the second reading.

Mr. VENNING (Rocky River): I rise half-heartedly to support the second reading. Having had much to do with land transactions over the years, I have difficulty in finding fault with the present system in this State. When one is on a good thing, one usually likes to stick to it. This evening, speakers have said (and I heard it reported in the news media) that those who deal in real estate are reasonably pleased with this legislation, except for some aspects of it. However, I find it difficult to understand why there should be a change in the *status quo,* because I believe that if there were anything doubtful about the present situation the effect of solicitors handling these transactions would make no difference: if anything shonky was to take place it would happen before the stage of asking solicitors to come in and do their part. I understand that more mistakes are made by solicitors handling land transfers than are made by land brokers, and this is another reason why I find it difficult to understand the suggested alteration. We have received much correspondence about this legislation in which certain points have been made, and I shall not canvass them again, because most of them have been referred to by previous speakers, all from this side.

The comments of Professor Wilson from Queensland have been repeated, and I could not help but think, when I heard him on

television, that it was like a breath of fresh air to hear someone from another State making the comments he made about our present system. It is not new to have someone come to this State, particularly from Queensland, and make such a remark. One such person said that, if Queensland had had such a Premier as Sir Thomas Playford, it would have put Queensland 100 years ahead of where it was. We have the best system in the Commonwealth, and I cannot understand why the Government should interfere in order to introduce a heap of red tape and make land transactions a more costly exercise for the people. I need to hear a good reason for this change, which is supposed to be of benefit to people of this State. The Government should legislate for the benefit of the people, and I should like to know at what stage this legislation will benefit the people of South Australia.

Generally, the main concern of people is not so much their avocation and conditions of working but what goes into the pay packet and what they can save. This Government is supposed to look after the little people but, since it has come into office, costs have increased again and again. We have a Prices Branch, but what has the Government done about prices? It is doing nothing to keep costs down, although we thought that this Government would take action to prevent costs from rising. I am disappointed in the Government's interfering with a system that is satisfactory. Comments have been made about lawyers, but they are like all people: some are good and some are not so good. In any profession we find people who may not maintain the high standards required. I was informed of a land transaction in my district this week. The land was advertised for sale, but one of the interested parties was a solicitor who slapped a caveat on the deeds of the land, and the land auction did not take place. After a certain time the caveat was taken off and the firm responsible for advertising the property put it on the market last week.

Mr. McRae: What's this got to do with the Bill?

Mr. VENNING: If there is any problem, a solicitor will not make any difference to the situation. I support the Bill at this stage, and hope that in Committee, because of the suggested amendments, clause 61 will disappear: otherwise this legislation has my support.

Dr. TONKIN (Bragg): I must say that I have been rather surprised during this debate to find that Government members, other than the Minister in charge of the Bill, have had so little to say about it. This seems to be another example of the Labor Government's perfect legislation—so perfect that the Government's back-benchers do not dare say anything about it, let alone criticize it. Perhaps some of them may be stimulated and take part in the debate: we hope that it will be a worthwhile part. Perhaps one of them will have the courage of his convictions, listen to people in this State, and put a point of view that is at slight variance (I cannot expect it to be at great variance) with the present Bill. There has been much comment and fear in the community about this legislation. The comment has been made generally that, although our present system has been very good, it is to be replaced. To replace it will cost money: it will not cost the Government money but it will cost people money, and that is what they fear. No one minds spending money if it is worth it, but is there any need to change the present situation?

I believe that some aspects of this Bill are reasonable. I think the fears that have been expressed relate mostly to the position of land brokers and their licensing. Many existing practices, by the passage of this Bill, will be regularized (if I can use that word) and covered by legislation, whereas previously they were covered by business practices and ethics, which for the most part are of an extremely high standard. It is uncommon to hear allegations of malpractices made against land agents and land brokers. When we considered legislation concerning the sale of used cars some time ago, everyone was ready, willing and able to give examples of sharp practices. However, it is rare to find any complaints that can be justified when considering the many real estate transactions that take place. I have no objection to some of the worthwhile features of the Bill that merely put into words some of the practices already operating.

There are several questions to which I should be pleased to have a reply from the Attorney-General. For instance, will the disclosure of mortgages, encumbrances and restrictions that will be required of a vendor have to be made every time the property is offered for sale, and does the Attorney think that perhaps someone will be able to build up a picture of a man's business and financial affairs? Will the cooling-off period really work successfully? I admit that a cooling-off period probably is not a

bad thing in many ways, but we should think of the problems that this will pose for land agents.

I foresee (although it may not be feasible) that a couple could go around and decide on four, five or six houses. The wife usually makes the decision when a couple are choosing a house: I could be corrected on that, but I think it is a big factor. As this man would have a cooling-off period, he would not have to pay a deposit but would merely have to sign. The agent would be precluded from doing anything further with the properties until the two-day period had passed. In that time, someone else may like the house and want to buy it. Such a person would not be able to take any action about the house and he would be stimulated to look elsewhere. Because this measure will increase competition, these people may well decide on something that they like second best, when they should not have to do that.

I should like to hear the Attorney on that matter. What I have explained could happen, and that would not be in the best interests of the buying public. The major cause of disquiet, as opposed to the practical problems that will arise, is the position of land brokers. I do not intend to canvass in depth the arguments that have been advanced already. The South Australian system has worked most efficiently and, even though the member for Kavel considers that we no longer need to quote the comment by Dr. Wilson, I wish to put on record again one part of it. Dr. Wilson states:

> The record in South Australia of no reported cases of malpractices by a licensed land broker employed by a land agent during the past 111 years substantiates this point and demonstrates how well the system has worked.

If that is correct, the South Australian system is efficient because of land brokers and the use of land brokers, who are well known and highly respected members of our community. They have protected both vendors and purchasers.

Mr. Mathwin: Do you think the Attorney knows that?

Dr. TONKIN: I think he does. I am certain that in the position he holds he ought to know it.

Mr. Mathwin: Why didn't he say so in his explanation?

Dr. TONKIN: I think that sometimes he keeps his tongue in his cheek, particularly when the matter affects his own desires, and obviously his desire now is to tie up land brokers to such an extent that they cannot function economically. He wants to put them out of business.

Mr. Hopgood: Do you want a prompter for all your speeches?

Dr. TONKIN: If the member for Mawson is looking for a job after the next election, when I have no doubt he will want one, I shall not employ him. I repeat that the use of land brokers in this State has benefited the people in their property transactions. This provision obviously will double the fees, and that is a major consideration. Is the proposed change justified or necessary? Nothing that the Attorney has said has convinced me that it is.

I think of the many retrenchments that will be necessary, but more particularly I think of the added expense that every person who buys a house or property from now on will bear. The only possible argument is that at present the purchaser should know that he has freedom of choice on whether to go to a solicitor, an independent land broker, or the agent's land broker.

Mr. Mathwin: He can do that at present.

Dr. TONKIN: That is the very point I am making. These proposed provisions will remove one of these choices.

The Hon. J. D. Corcoran: No.

Dr. TONKIN: If the Minister of Works thinks that is not so, I suggest that he should read the Bill instead of just sitting there. I consider that the objectives of clause 61 would be realized better by educating the public. Possibly, there is a duty on land agents to explain the position to prospective purchasers. While I agree that on occasions it is necessary to go to a solicitor or an independent land broker, I cannot see that, in most cases, it is not perfectly satisfactory for purchasers to go to the agent's broker.

I see no justification for the additional expense that will be involved in most transactions, and I see no reason why we should saddle the people of South Australia with this additional charge just because of a few isolated cases. The Attorney is using a sledgehammer to crack a walnut, or perhaps he is building a 30ft. wall around a paddock to keep in a lamb that in his eyes is a wolf. I support the second reading, only to find out whether the Attorney-General and the Government will, on this one occasion, develop a responsible sense of proportion.

Mr. McRAE (Playford): I support the Bill and intend to speak on clause 61, because it seems to me that this is the only clause that has provoked major debate between the Parties.

I have noticed throughout the evening that much verbal abuse has been slung at the legal profession, but I do not intend to answer that. I am used to it, both in this House and in the community at large. By the same token, I will not fall into the same trap and make similar observations about land brokers. The great preponderance of land brokers, as is the case with solicitors, are people of high ethical standards and great competence. There is no suggestion to the contrary and no such inference can be drawn from the Attorney's second reading explanation. Any member who suggests otherwise is completely wrong and has not read the explanation.

Clause 61 is important, because, linked with the clauses around it, it grants to land brokers a professional status they have not got at present. So far from decrying the profession of land broker and downgrading it in some way, the Bill seeks to give it an independent status. Private members' Bills have been introduced in this House in the last few years when similar professional bodies have sought professional status. I think the member for Davenport introduced such a Bill in relation to occupational therapists, and another such Bill dealt with chiropractors. That is an indication that there are semi-professional bodies in the community that seek the independence that is characteristic of a professional body. The honourable member who has just resumed his seat proudly belongs to the medical profession, and it is independence from reliance on outside parties that gives his occupation the rank of a profession.

Mr. Mathwin: Have the land brokers approached you?

Mr. McRAE: No. I am saying that the Bill provides land brokers with the very status that they would desire. Members should realize that there are many independent land brokers who are not employed by land agents. The point made by the Attorney-General in his second reading explanation is valid: if a broker is employed by a land agent, he has an immediate conflict of duty. The broker is an employee and therefore has the duty of carrying out the lawful directions of his employer, the land agent. Yet at the same time the broker is required by the Real Property Act to certify documents. Standard books of reference (for example, Jessup's books on land titles practice) state that certification is not to be taken for granted: not only must the technicalities be complied with but also the broker or solicitor must ensure to the best of his knowledge that the transaction is proper and free from irregularities. So, the broker employed by a land agent is faced with a conflict of interest, a few times a year at least.

I acknowledge that many transactions, perhaps even an overwhelming majority, are relatively simple and do not involve the sort of difficulty to which I referred, but the same can be said of most aspects of our commercial life. The complaints that reach members of Parliament and Ministers arise in all cases from the small minority of conflicts of interest that arise in commercial transactions, and this Bill seeks to eliminate that minority. Members opposite have pressed the Attorney-General to state specific cases, and I have no doubt that he will do that. I know of specific cases, but I do not intend to canvass them now, because I do not think it would achieve much. We are not here to decry land brokers any more than we are here to decry solicitors or anyone else.

Mr. Mathwin: But surely that is not a reason to alter the present situation.

Mr. McRAE: The point of the matter is this: can this broker, to whom we have given special status and recognition, carry out his duty to his client in all fairness when at the same time he may have a conflict of interest with his employer? The answer to that question must be "No". What does the land broker do when his job and his family are at stake or when his client's interests are at stake? If he is a man of principle, as the great majority are, his immediate action would be to give notice, but that would get him a long way! That is what he would have to face. I am sure the Attorney-General will mention specific cases in this connection.

This debate has been degraded to some extent by the tactics of the Real Estate Institute and members opposite; instead of looking at the position of the consumer, who should be our real interest, they have made this a slanging match against the legal profession and the Attorney-General. If a land broker employed by a land agent was faced with the conflict of interest I have referred to, he would have to balance the interests of his employer against the interests of his client. What would he do? Let us hope that the great majority of brokers would stand by their principles and resign, but I am afraid that that is a little too much to hope for.

Mr. Goldsworthy: What would happen if a solicitor's clerk were placed in that position?

Mr. McRAE: The solicitor would be dealt with and struck off the roll. In cases of malpractice, the legal profession is punished more severely than is any other profession. There is no midway position in the case of the legal profession. There is no caution: the man is struck off the roll.

Mr. McAnaney: What happens if a solicitor is a year behind in his handling of a case?

Mr. McRAE: That is an attempt to avoid the real issue and to have a slanging match against solicitors. However, I do not want to have a slanging match against anyone. I bring members back to the real crux of the issue that the Attorney-General put; the argument I am referring to has not yet been answered. How can the Real Estate Institute have the impertinence to suggest that in some way a land broker in that situation can give reliable advice to a client? He cannot. Furthermore, it has not been disclosed to the public that there is a hidden trap in the situation, because the land agent charges the client the full amount of the broker's rate but the agent does not pay the broker that full amount. The land agent therefore has a vested interest in retaining land brokers in their present status, as the agent can get the job done more cheaply because he does not have to pay an independent broker. He hands the client a list of charges, but the client does not realize that the agent receives not only his commission but also the amount by which the full amount of the broker's rate exceeds what the broker, employed by the land agent, is actually paid Many brokers receive relatively small salaries of $75 to $80 a week, but the full amounts gained from their brokerage work spread over a week would total several hundred dollars. So, land agents have a vested interest in maintaining the present position. Those are two real situations that have not been answered. If any member can answer the Attorney-General's arguments on those matters, I shall be interested to hear him. Up to date, I have not been convinced by the arguments advanced by members opposite.

Mr. Mathwin: You have advanced a shocking argument.

Mr. McRAE: That may be so. I shall keep my promise to make my remarks brief.

Mr. GUNN (Eyre): I support the second reading of the Bill but, like the member for Rocky River, I do so with some reluctance. The member for Playford dealt mainly with consumer protection. Every member wants to see reasonable legislation that protects the public but, when legislation has a detrimental effect on a large section of the community, one has to look at it realistically. The honourable member did not, in my opinion, advance any reason why we should not oppose clause 66.

Mr. Payne: Clause 61. Why didn't you do your homework?

Mr. GUNN: Clause 61. We have listened to the interjections tonight of the member for Mitchell, and they have not been very enlightening. One would expect him to make a contribution to the debate. He is very vocal, and we are waiting to hear what he has to say.

The ACTING DEPUTY SPEAKER (Mr. Burdon): I suggest the honourable member should bear that in mind, too.

Mr. GUNN: I am endeavouring to speak to the measure, and I have been side-tracked by the member for Mitchell. This measure, rightly, has caused much concern in the community. It will have the effect of causing the retrenchment of a number of people now legitimately employed in an occupation in which no-one has been able to quote any instances of malpractice. The Attorney-General did not do so in the second reading explanation, and we will be listening to hear whether he does so when he replies. The member for Playford suggested that he could, but he did not advance any instances where landbrokers had been involved in malpractice.

Mr. Simmons: What sort of people are to be retrenched?

Mr. Mathwin: I told you all about it in my speech. You should have listened.

Mr. Clark: You should have heard it!

Mr. Mathwin: I was delivering it.

The ACTING DEPUTY SPEAKER: Order! The honourable member for Glenelg has had his opportunity. The honourable member for Eyre.

Mr. GUNN: I was about to quote from an article that appeared in the *News* last week, in the real estate section. Headed "Fear of jobs", it states:

> The employment of about 350 real estate people will be affected if the Land and Business Agents Bill becomes law.

That is rather an interesting disclosure. The statement was made by the Secretary of the Real Estate Institute in South Australia, who said:

> The Bill as it now stood provided a person could not hold land agent's and land broker's licences simultaneously.

Like other members, I have been approached by land brokers who are also land agents.

Those people will be denied their livelihood. If the principal of a company holds a land broker's licence and conducts business as a land agent he will have to relinquish one of those offices. People in partnership will have to dissolve that partnership, which is a step in the wrong direction. People will have to set up in business on their own, and they might not be able financially to do so. They would have to get other premises, and office staff would be retrenched. Government members are always talking about unemployment, but people will be put out of work. It may be for only a short time, but it is significant.

One group of people wrote to me, and I believe to other members, and stated quite emphatically that their livelihood would be affected. The arguments advanced by the Attorney in the second reading explanation do not justify in any way the effect that the Bill will have on those people. All the information available to me and to other members points to our system of land transfer in South Australia as being second to none. I was interested to read an editorial in the Sydney *Sun* last week, and I shall quote this because it is pertinent to the matter under discussion. It is headed "Princely cut of your castle" and states:

Lovely weather for buying or selling a house. If you don't think so your solicitor does. Because he's living like a king at your expense on the deal. Just how well he's doing is shown in figures produced today by a university sociologist, Dr. Paul Wilson.

The Hon. L. J. King: We have heard his name before.

Mr. GUNN: The Attorney does not like to hear what Dr. Wilson has to say, but I understand that that gentleman sometimes subscribes to policies to which the Attorney and his colleagues subscribe. He has had some rather interesting things to say about this legislation. The article continues:

The law—according to Wilson—pockets $506 from the seller and $198 from the buyer of a $40,000 house with a $20,000 mortgage.

That is rather interesting. It continues:

In the same deal in South Australia the legal middle-man would get $50 from the buyer and a nice smile from the seller.

That is rather an interesting comparison. The article continues:

That's because South Australia has licensed land brokers instead of lawyers to do the job. And the brokers charge a set fee. They don't up the price for dearer homes as Sydney lawyers are allowed to do.

The same thing could happen here. The article continues:

Lawyers—who complicate almost everything they do with big words and bigger bills—say conveyancing is a complex job. Dr. Wilson says this is hogwash. He's right. Office girls can do the work, as they do in many Sydney solicitors' offices. Dr. Wilson draws the gapingly obvious conclusion that other States should introduce the South Australian system.

I agree.

Mr. Clark: Who was the author of that article?

Mr. GUNN: It was a quotation from an editorial in the Sydney *Sun*, and the honourable member is quite at liberty to read it when I have concluded my remarks.

Mr. Clark: I have heard enough.

Mr. GUNN: I want to draw one or two more comparisons.

The Hon. L. J. King: Who is the author of the document to which you are now referring?

Mr. GUNN: I think the Attorney has the document in his file. It is worth quoting. If one desires to purchase a house for $16,000 with a mortgage of $10,000 in New South Wales the total charge is $332 and in Victoria it is $260, but in South Australia it is between $50 and $60. Those are startling figures. I see no reason why we should change the present system. In my opinion, this is just the first step to force all this work eventually into the offices of the lawyers. There is no doubt in my mind that this is the beginning. It will be done step by step. It is all planned.

Mr. Payne: Do you claim we are socializing the legal profession now?

Mr. GUNN: Those are the words of the member for Mitchell. I should not be surprised at anything this Government did or had in mind. We know the honourable member is a Socialist and we know they have all signed the pledge.

Members interjecting:

The ACTING DEPUTY SPEAKER: Order! The honourable member for Eyre.

Mr. GUNN: Thank you, Sir. I wish to continue by quoting from the excellent article of Dr. Wilson, where he analyses the position in South Australia and draws attention to a resolution passed by the Law Society, as follows:

In this context, the recent Law Society of South Australia resolution of April 24 should be considered. The Law Society wishes to "tighten control of legal work done by unqualified persons for reward whether direct or indirect." In supporting this resolution the Law Council commented:

> Lawyers have become even more aware in the intervening period of the way in which the present law permits unskilled attendance to legal matters which the

> lawyer is specially fitted to undertake by reason of his training at university and in articles of clerkship and practical experience in the profession.

I was of the opinion that land brokers were trained to be licensed, but obviously from that quote this is the first step in the view of the Law Society. Judging from the attitude of the member for Mitcham, the Attorney and, to a lesser extent, the member for Playford, members of the legal profession want to be involved in this lucrative area, although such a move would have drastic effect on those who wish to purchase a house which for most people is the major purchase of their lives. I should have thought that all Governments would wish to make this sort of transaction as cheap and efficient as possible. However, we have already seen in the last 2½ years many actions that have forced up the cost of homes. This has occurred through legislation enacted, some in the name of consumer protection and some as blatant Socialism. However, I do not wish to go into that further at this stage.

Clause 88 deals with the 48-hour cooling-off period. I see several problems regarding the operation of this clause. I believe many cases could arise where people could sign up to a dozen contracts on a Sunday afternoon. Nothing in the Bill makes such action an offence. If that occurs, a person who has a property on the market could be severely prejudiced if he signs a contract with a person and is of the opinion that that person will definitely go through with the contract. There could be several other people interested in the purchase of the property concerned, yet the first person dealt with who signed the contract, the seller believing he had sold his property, might change his mind. In any case, that right is included in most contracts where the sale is subject to finance being available. If finance is obtained from a banking institution, the bank involved usually has a valuer inspect the building to ensure that it will not fall down and that the purchaser is not borrowing funds to purchase a house that is in poor condition.

The Premier, in a recent heated reply to a question asked by the member for Kavel, was most critical of the Real Estate Institute of South Australia, yet that institution has endeavoured only to put the case of its members and that right should be afforded to members of any group in society, who should not be subjected to such vicious criticism by the Premier. The Premier said that the measure was brought forward as a result of the suggestion of the Land Agents Board, which is the statutory body responsible for advising the Government on these matters. I should like to ask the Attorney when that board made its recommendation, because I understand that the Attorney, in June, 1971, wrote to the Real Estate Institute regarding his intentions in connection with this measure, suggesting that the Bill would not be as wide as it is. However, he did not mention then that there had been a recommendation from the board.

I understand that in August, 1972, the institute was informed that the board had made a recommendation. However, if the Attorney is acting on that recommendation, he should table all the relevant documents, so that all members can peruse them. If we are expected to discuss the board's recommendations, we should have this opportunity. Members should know who the board members are, whether all were present at the time, whether the recommendation was made as the result of a majority resolution carried, and how the resolution was communicated to the Attorney. There are several questions that should be asked regarding this recommendation.

Mr. Langley: Don't go out when the Attorney speaks.

Mr. GUNN: I shall be listening to what the Attorney has to say and to what the member for Unley has to say. The basis of the argument advanced by the Attorney and by the member for Playford, the only Government members who have spoken on this measure, was that this Bill dealt with a conflict of interests. That is an interesting argument, but I believe that if those gentlemen were representing their clients in court, they would advance arguments and cite instances of such a conflict. However, at this stage, they have not cited even one case where a conflict of interests has occurred. I believe it to be a retrograde step if a group that has served South Australia for 111 years, without one complaint being substantiated against one member, is to be affected by such drastic legislation, which could lead to a substantial increase in the cost of land transfers. This represents the first step towards forcing all this work into the hands of the legal profession. All members can cite cases of malpractice by members of the legal profession. Indeed, I think the member for Rocky River can cite a current case, and I know of one or two cases, although I do not intend to name those involved. Yet I have never been referred to such a case involving a land broker.

Mr. Langley: Why don't you ask the Law Society?

Mr. GUNN: I am quite capable of handling the affairs of my constituents without the assistance of the member for Unley.

Mr. Langley: Why don't you—

Mr. GUNN: If the honourable member wants to make a contribution to this debate he will have his opportunity later. I support the second reading, with some doubts. I will support the Opposition's foreshadowed amendments and I sincerely hope that, when this Bill leaves the Committee stage, it will be in a much more acceptable form to the majority of people in this State.

Mr. COUMBE (Torrens): It can be assumed by what members have said on this side that the Opposition agrees that some good points are contained in this Bill. However, there are some matters with which we violently disagree. It is our purpose to improve the working of this Bill by moving suitable amendments to it at the appropriate stage. Most of the objections to the Bill having already been stated, I wish mainly to speak to clause 61 which, I believe, is the crux of the complaint regarding this Bill, although other provisions are also unsatisfactory. I wondered why the member for Playford spoke in this debate; indeed I believe that it would have been better if he had not done so. He said, in regard to land brokers, that the Bill set out to grant greater status to them. True, this Bill does set out on the one hand to grant greater status to land brokers, but the honourable member (perhaps by accident but may be deliberately), overlooked the fact that, on the other hand, the Bill contains provisions which will in the future kill the occupation of the land broker. The Bill certainly limits future opportunities for landbrokers.

If one looks briefly at clause 61 (2) and (3), one can see this sort of thinking emerging; one can also see it in the foreshadowed amendments, to which I am not now permitted to refer. An agent who at September 1, 1972, employed a broker may continue to operate as he did prior to that date, preparing documents in connection with his sales or those of others, provided that the broker remains in his employ. However, a broker who is so employed with that agent will, under the Bill, be denied the right to change his employment. The Attorney-General more or less said this not only in his second reading explanation but also by way of interjection earlier in the debate. Therefore, unless a broker stays with his present employer, goes into business on his own, or joins another independent broker, he will under this Bill be denied the opportunity of working for another agent. That is a deprivation of common rights; it is indeed a demarcation, because this sort of person is being disadvantaged.

The Attorney-General made the point earlier about compromise, an aspect that one can see emerging here. If a person who at September 1 was employed as a broker wishes to leave his present employer but remain in this field, he cannot under the Bill work for another agent: he can only set up in his own business or join an independent broker. An agent who is also a broker (of whom there may be many) will also be prevented from preparing documents on not only his own sales but also those on any other sales. The Attorney referred to this compromise. I believe this Bill contains a contradiction: the Attorney-General has said not only in this place but also in the press and outside this Chamber that the Government wants to protect the buyer by making it compulsory for him to have his own broker or solicitor, who shall not be employed by the selling agent. Members have heard that statement made. This is where there is a contradiction, because it is provided that those firms that employ a broker may continue to operate as they are doing at present: they can prepare documents for their own sales. However, this position will change, because the brokers now employed by agents will gradually disappear. That is the compromise and also the contradiction.

I do not want to enter into arguments regarding the legal profession, but members can see to what I am alluding. Perhaps it is the thin edge of the wedge. What will be the position of an agent who is also a broker? In this respect, I refer to many small firms, many of which involve partnerships in which one partner does most of the selling while the other attends to settlements and preparation of documents. By law, both parties must be licensed land agents and overnight, as I understand the position, one side of their business will be denied them. This will also be the position in relation to sole traders who hold both licences.

An agent who has completed the fairly difficult course at the Institute of Technology is much more qualified to advise buyers than is the man who actually sells the house. There is no doubt that in the past the agent who was also the broker earned the respect of the profession. Under the new legislation, it is likely

that few agents will take the trouble of completing the course at the Institute of Technology that allows them to practise as land brokers. A land broker can obtain a job with an established land agent much more readily than he can set up in business on his own or even enter into a partnership. The Bill will place at a disadvantage the person who wishes to study and to get on in the world; indeed, it will make it harder for him to improve his own position.

The Premier earlier made some heated remarks regarding this matter. I remember his using the word "despicable" in relation to land agents generally. That word could more aptly be used in relation to clause 61. Although the Bill professes to protect the land broker and the public, it puts out of business, in effect, many of the men who have worked and studied hard and who have earned the respect of most of the community. I therefore suggest that, to be fair and just to these people, in Committee subclauses (2) and (3) of clause 61 should be amended not along the lines foreshadowed already but along lines that would permit all land brokers to prepare documents, notwithstanding that an agent's licence may also be held, as many land agents hold a broker's licence.

Mr. Langley: That's why the Bill has been introduced.

Mr. COUMBE: The honourable member is against a person improving himself. I am glad to hear what he has said, because he is against people getting on in this world.

Mr. Clark: Making more money!

Mr. Mathwin: He is a subcontractor and has made plenty of dough.

Mr. COUMBE: It is a fundamental right of any person in the State to choose his place of employment, but clause 61 denies this opportunity to a group of people.

The Hon. J. D. Corcoran: Rubbish!

Mr. COUMBE: It is a fact: I suggest that the Minister read the Bill. He is a member of Cabinet and is equally as responsible as the Attorney-General for introducing the Bill. In his second reading explanation the Attorney said that those who, at September 1, worked in a certain category could continue, but after that date they shall not be employed in that category but can only go out and work for themselves or join an independent existing land broker. In future, they cannot be employed by a land agent. Therefore, a continuance of employment is being denied to a group of people, whom the member for Playford praised, saying that this Bill granted them greater status. The member for Playford praised the Bill because it gave greater status to the profession of land brokers, but he did not say that it took away many of their rights and would severely curtail their future activities. I support most of the Bill, but clause 61, which is the most contentious clause, should be amended, along the lines I have suggested, in the interests of the various professions to which we are referring and in the interests of the public, with whom we are greatly concerned.

Mr. RODDA (Victoria): The member for Torrens has pointed out clearly and forcibly his concern for a section of the community that is having something taken away from it that it previously enjoyed. This subject affects everyone in South Australia, because we all own a home, and—

Mr. Langley: You are joking!

Mr. RODDA: —many people own large tracts of land. Opposition members agree with most parts of the Bill, but the contentious clause is clause 61. Land brokers will become a diminishing race of people, even though for 100 years they have given signal service.

Mr. Langley: And never made a single blue!

Mr. RODDA: I think that is the truth. An extract from the Law Society publication *Legal Journal* makes interesting reading. When referring to unqualified persons, it states:

> . . . to tighten control of legal work done by unqualified persons for reward whether direct or indirect.

It continues:

> Lawyers have become even more aware in the intervening period of the way in which the present law permits unskilled attendance to legal matters which the lawyer is specially fitted to undertake by reason of his training at university and in articles of clerkship and practical experience in the profession. As life becomes more sophisticated and our laws more involved so the ordinary citizen becomes more likely to be affected by the law and the administration of the law.

Later it states:

> Unqualified Persons—The council considers that the public is insufficiently protected from the doing of legal work by unqualified persons (using that phrase to mean persons who are not legal practitioners). The council seeks a prohibition of the carrying out of legal work by unqualified persons for reward whether direct or indirect (subject to carefully worked out exceptions).

The report continues:

> Furthermore, large numbers of land transactions are carried out by land brokers. Although a land broker may be reasonably equipped to prepare and register a simple

transfer, a land broker is not generally equipped to undertake the drafting of more complex documents such as mortgages or leases or to deal with transactions involving gifts and estate planning . . . The council realizes that laws could not be brought down which suddenly bring to an end the livelihood of unqualified persons who have become accustomed to handling such matters.

Perhaps we can take hope at the concern expressed in this document. I did not quote this extract as a criticism of the legal profession, but land brokers have given a long and distinguished service to this State. To qualify they must pass a course of study set by the Registrar-General, involving a study of the Real Property Act and the relevant Statutes. The examination is conducted annually by the Registrar-General, and candidates must satisfy him that they are competent to discharge the duties and obligations under the Act.

The Hon. J. D. Corcoran: We are not arguing about their qualifications.

Mr. RODDA: What is the Minister arguing about?

The Hon. J. D. Corcoran: You tell us.

Mr. RODDA: The land broker is personally bonded to the Government. We have had the benefit of long and faithful service to the State by land brokers in the conveyancing of transfer documents in South Australia.

The Hon. J. D. Corcoran: And we will allow them to continue.

Mr. RODDA: I am sure that land brokers will be pleased to have that assurance from the Minister. As this has continued for more than 111 years—

Mr. Clark: Without a blemish?

Mr. RODDA: Yes, without a blemish, as I have said.

Mr. Clark: You could learn a lot before the evening is over!

Mr. RODDA: We have in this State a history of many firms operating in the real estate business for several generations. Families have given their life-long and, indeed, distinguished service to the people of South Australia.

The Hon. J. D. Corcoran: For no charge?

Mr. RODDA: Well, they do not charge as much as the lawyers. Comparison with other States shows that in New South Wales people buying a house pay much more than a land broking firm would charge to handle a transaction in Millicent or Naracoorte. Therefore, living in this cheap State of South Australia has some advantages, and we on this side want to keep it that way.

Mr. Payne: I think the advantage is that we have a Labor Government.

Mr. RODDA: That is an advantage! When we look at some parts of this legislation, we doubt that, and I think some people outside are beginning to doubt it, too. However, I am sure that the member for Mitchell will set that right, because he is a far-reaching and discerning man. The member for Elizabeth has said that we will learn something before the evening ends. However, I understand that an assurance fund was established to which a transmission application could be made if a person suffered because of malpractice in a land transfer. I also understand that, as no claim was made against that fund, it was discontinued. I think that is confirmation, despite the matter that the member for Elizabeth has raised.

Mr. Clark: I still suggest that you wait a while.

Mr. RODDA: The Bill is a large document and contains many provisions that the profession will welcome. I am sure that the Attorney will not mind my referring to the real estate business as a profession, despite what the document from the Law Society states about unqualified people. We are dealing with legislation that will affect all of us, particularly the section of the community that will be denied the right to do something that it has been doing over the years. This is of real concern to the Opposition. We are not large in number now, but we will not be silent on this issue. We also will not be silent on it next March or April, or whenever the time may be.

Mr. Simmons: I think you'll be too worried about other matters then.

Mr. RODDA: No, that is a matter that we can fix up. We will have a few things to say about this issue at the appointed time. I do not want to start blackmailing the member for Peake, but we view with real concern the effects of clause 61 on people who plainly have no cause to be ashamed about the service they have given South Australia. The public will be denied the choice. I am not knocking solicitors, because we have good reason to be grateful to our legal profession in South Australia, but the proof of the pudding lies in the eating and licensed land brokers have done 80 per cent of land transfers over a long period. I support the second reading but I will be extremely interested in what the Attorney says about clause 61.

Mr. SIMMONS (Peake): I support the Bill. I am well aware that it is extremely lengthy

and that only two or three parts of it have caused any comment in this debate. Like most other members, I suppose, I have received a letter today from a firm of land agents and brokers. That letter states:

The Bill referred to in its present form is extremely good both for the public and for real estate in general. The higher educational qualifications that will be required, the fact that there will not be any part-time salesmen or managers after a period of 12 months, and the cooling-off period are fine examples of this.

I agree with that. The writers go on quite reasonably, considering their interest, to comment adversely on clause 61. As I have said, only about two clauses in the Bill are in dispute. One deals with the cooling-off period, and we have representatives of the real estate business saying that that is a good idea. I concur in that, but I disagree with the writers of the letter regarding clause 61. I support the system of licensed land brokers that is operating in South Australia. It is interesting to look at the origins of this system, which are due to two things. The first is the tenacity of Sir Robert Richard Torrens, whose potrait hangs above the seat that the member for Gouger occupies. We all in South Australia (in fact, much of the civilized world) owe much to Sir Robert Torrens. When Mr. Torrens, as he then was, was engaged in bringing this legislation into being, he met much opposition from the legal profession. Mr. Jessup, in his book *Land Titles Office Forms and Practices*, states:

The present generation finds it difficult to understand why so much opposition and bitterness surrounded what, to them, is so simple and secure. A few hours spent in the Lands Titles Office perusing general law deeds, engrossed with the beautiful penmanship of the early days, drafted with dignity and precision, all the legal details associated with the general law carefully expressed, will bring a little understanding in this respect. With one sweep the new system was dispensing with those intricacies of the law of property so dear to the heart of the conveyancer. Honest doubt must have seized many practitioners who felt that this new idea was really dangerous. The opposition, due to other reasons also, unfortunately—

and that is a nice way to put it—

was so severe, that in 1860 the Government of the day introduced the provision for licensing land brokers, men who were unaffacted by the niceties of the law. It will assist readers to appreciate the difficulties met by Mr. Torrens by quoting part of a letter written by him to the Attorney-General of Queensland, who had asked for a copy of the Real Property Act of South Australia. "I have struck out the clauses relating to the licensing of land brokers, a provision which was necessitated here by the persistent and unscrupulous hostility of the conveyancers, but which it is hoped may not be necessary where more liberal sentiments animate the Bench and the Bar".

As a result, on the recommendation of Sir Robert Torrens, the Queensland legislation and that in other States did not provide for a system of licensed land brokers similar to that which we have here. The system was forced on Sir Robert Torrens at the time. I think it was a good thing for South Australia, and I support those honourable members who say that the system has operated in the interests of the public of this State, just as the Torrens system in the Real Property Act also has been of enormous benefit to our people.

I consider that the system of licensed land brokers in this State is a valuable protection of the public from the legal profession. I have no inhibitions about having a shot at the legal profession. I thought that it was the most rapacious of all the professions, until I read recently that some surgeons and other doctors had incomes ranging up to six figures, and that seems to be just about the ultimate in rapacity. In South Australia, where we have a system of licensed land brokers, our fees are appreciably lower than those of other States, no doubt because of the healthy competition provided by land brokers, who specialize in these transactions. In November, 1971, land brokers were charging $30 (subject to increases related to value of property) for uncomplicated transactions, including settlement attendances but not disbursements. The corresponding fees in other States were much higher: in Victoria it could be about $300 and in New South Wales $400. The President of the Law Society has pointed out that in South Australia the fees charged by solicitors are comparable with those charged by land brokers. An article in the *Advertiser* of August 24 states:

Mr. Jacobs points out that lawyers' charges in South Australia are much the same as those of land brokers in such a deal—from $50 to $60. "The institute's real interest is not to protect the public, but to protect its members' own vested interest in a near monopoly of land transactions," he charges.

All I can say is that the suggestion that lawyers' fees are much the same as land brokers' fees ($50 to $60) is quite disingenuous: lawyers' fees are so reasonable in South Australia precisely because we have an alternative system that is widely used. All that I have been saying is really as irrelevant to this Bill as were most of the comments from the other side tonight. The real issue in this Bill, in clause 61, relates to the question of a conflict

of interest—a very real danger. Perhaps it would be best to illustrate the dangers of that conflict not by comparing lawyers with land brokers (because it is not properly connected with that matter) but by looking at the question of conflict of interest in the legal profession. I wish to refer to an article headed "Acting for Both Parties" in volume 4 of the *Australian Lawyer*, 1963. That article, by Mr. R. J. Burbidge, a barrister-at-law in Sydney, states:

The problems which arise from a solicitor's acting for both parties in conveyancing transactions have received intermittent attention from the Bench and the profession generally. This practice has gained widespread acceptance in this country, where the great areas of land under Torrens title system render much modern land transfer quick and uncomplicated, and it is perhaps opportune to examine the practice in order to assess its value to the profession and the public.

In New South Wales, as in Victoria, the scales are laid down by the courts. The Victorian Law Institute has a booklet *So icitors' Remuneration* dealing with these things, and comparable documents are issued in New South Wales, where the system laid down by the court provides for a fee where one solicitor acts for both parties. The article continues:

A recent case in the Court of Appeal, however, serves to remind us that adoption of this practice is not always uneventful. In *Smith* v. *Mansi* (1962) 3 All E.R. 857 at p. 859, Danckwerts, L. J., addressed himself to the problem in these words: "This is a shocking example of the trouble and expense which can arise from the employment (under a mistaken idea of saving time and expense) by the two parties to a sale of a solicitor who is already the solicitor of one of the parties."

Later, the article states:

His Honour pointed out that the solicitor in question had been regularly retained by the vendor-builder to act on his behalf, and took the view that it is impossible for a solicitor to act impartially for both parties in such circumstances.

I am dealing with the question of a conflict of interest in connection with conveyancing, which is the heart of clause 61. The article continues:

His Honour criticized the practice, and noted that the case before him had been aggravated by the solicitor's misconception of the time that the contract was formed. His Honour indicated that had the parties retained separate solicitors, the misconception held by the common solicitor might have been set at rights, and presumably the litigation avoided. The practice is not, however, completely devoid of advantage. The retention of the same solicitor by vendor and purchaser in a simple transfer of land under the Real Property Act reduces the fee payable by each side by approximately 25 per cent.

I am speaking of the New South Wales case. Of course, it does not apply in South Australia, because here the vendor does not pay any charges anyhow. The article continues:

The fees for conveyancing have been fixed by the Supreme Court, and scales of fees applicable where a solicitor acts for more than one party have been included. This is a practical indication that the practice has received a large measure of acceptance. Nor is it solely a question of cost. The volume of work undertaken by solicitors has swollen enormously in the past decade, and this increase has inevitably resulted in delay. Some of this delay is associated with the necessity for correspondence to pass between solicitors, and with the inability of busy practitioners to arrange to meet at an early time convenient to all.

I am sure this applies also in South Australia. The article continues:

In rural areas also, it may well transpire that it is not convenient for each party to seek independent legal advice. The availability of solicitors, the peculiar nature of a solicitor's practice, and personal animosities in a small town are all factors which might make it desirable that one solicitor should act for both parties.

He mentions the advantages arising to solicitors themselves from this practice: there is no doubt that they are very real. The article continues:

Now, then, to the other side of the coin. While an enormous volume of conveyancing work is carried out without incident, there is yet a percentage of transactions which are sorted out only by judicial decree. While the number of cases in this category are relatively small their importance is great, since it is these cases which come before the public eye and expose practitioners to searching scrutiny. It is against this background that we must consider the disadvantages associated with the same solicitor acting for both parties. Although in an occasional case the misconception of law held by a solicitor acting for both parties causes avoidable litigation, the disadvantages of the practice almost all fall under the head of conflict of interest.

This is the real reason for clause 61. The article continues:

It is clearly not possible for a solicitor to devote himself completely to the case of either client's interests where he is acting for both. Thus both parties are the losers, but since a breach of duty to the purchaser may pass unnoticed, and that to a vendor will probably not, it is more frequently the purchaser whose confidence is breached. Many cases have occurred in which it becomes necessary to determine when or if contracts have been exchanged; this may well be determined only by the evidence of the common solicitor, and will involve him in making admissions against the interest of one or other client.

Other cases of examples of conflict in interest are quoted. The article continues:

Conflict of interest has long been a target for judicial criticism. In 1801 Lord Chancellor Eldon referred to "that great rule of the court, that he, who bargains in matter of advantage with a person placing confidence in him is bound to shew, that a reasonable use has been made of that confidence; a rule applying to trustees, attorneys, or anyone else".

Further:

Nor has this criticism abated in recent times. Danckwerts, L.J., in *Goody* v. *Baring*, [1956] 2 All E.R. 11, said (at p. 12): "It seems to me practically impossible for a solicitor to do his duty to each client properly when he tries to act for both a vendor and a purchaser." Again, in *Gavaghan* v. *Edwards*, [1961] 2 Q.B. 220 at p. 225; [1961] 2 All E.R. 477 at p. 479, the same judge remarked: "It is hardly necessary to say that I regard this situation as very unsatisfactory. In many cases it may work perfectly all right, but if anything whatever goes wrong with regard to the sale, a solicitor who is acting for both parties is almost certainly placed in a position where the interests conflict and a difficult situation is likely to arise."

The author continues:

Notwithstanding the trenchant terms of the learned judge it would appear that the practice in Australia will continue—

this is in New South Wales—

most solicitors apparently feeling that the dictates of the profession require it, or that the risk involved is small enough to justify them in the practice. While this is regrettable in many ways, and doubtless leads to occasional abuse of confidence, it seems that the remedy lies in the hands of the client. It is unrealistic to suggest that the practice has universal condemnation in this country: rather is it the case that solicitors in general regard the occasional criticisms and articles on the subject as mere academic exercises, each secure in the knowledge that his own special ability for handling such situations precludes his becoming one of the unfortunate few caught up by unpredictable client behaviour.

That is an extract from an article in a law journal, written by a barrister-at-law in Sydney, which sets out the dangers of one solicitor acting for both parties in conveyancing transactions.

Although I have been critical of the legal profession, I am not for a moment suggesting its members are any worse than land brokers. A land broker employed by a land agent has a duty to his employer, the land agent, who himself has an interest in pushing the sale through because his financial remuneration comes from the commission on the sale of the land. There is another point, as was mentioned, quite correctly, by the member for Playford: the land agent who employs a broker makes not only the profit on the sale of the land, but in most cases makes a considerable profit from the labour of the land broker. I can speak with a certain amount of knowledge of this matter, because about 21 years ago I passed the licensed land brokers examination, and some time after that, although I never took out a licence, I applied for and was offered a job with a builder in Adelaide who was doing much speculative building and dealing in land. The salary I was offered at that time would have been at least equal to that of a member of Parliament, so obviously it was well worth while for that person to employ a broker in his office. I did some calculations, and although the salary was good I am sure I would have earned a considerable return over and above that salary for the employer; in fact, I never took out a licence nor did I accept the job.

True, the land agent does derive a considerable benefit from having a broker in his office. I believe this to be a very good provision. This is only one possible case where some adverse circumstances could arise, and that is in respect of the small firm where the principal acts both as agent and as broker. The proviso in clause 61 (3) adequately protects the present employment of brokers employed by a land agent. I do not think we need worry too much about that. It is true, as the member for Torrens says, that this does tie the broker to the land agent for whom he is currently working, unless he chooses to go into private practice. It was interesting to hear the member for Bragg commenting on the undesirability of people having to go into private practice. I do not think it is a very great hardship for the broker. It means that, if he wishes to leave his present employer, he will have to set up in business on his own account, but the status of land brokers will be enhanced by this legislation.

The remuneration attaching to the profession is sufficiently great to make it worth while for a person to set up in business, and I therefore do not think any great harm is done to the person at present employed by a land agent. True, some adjustments will have to be made in companies where people are both brokers and agents, but there again both activities are sufficiently remunerative to ensure that neither person will starve. My only other comment refers to the fact that, on the face of it, it is possible under the Bill for land brokers to prepare instruments under the old system. When I did a broker's course we were told very bluntly, I thought, that it was not the province of land brokers to engage in old

system conveyancing. This is a very wise provision which should prevail. I agree with those speakers who say that the course the brokers do is highly specialized, and it may well be that it contains rather more detail relating to the Real Property Act than does the course in property undertaken by law students. Law students, however, have to undertake not only Real Property Act work, but the wider sphere of old system conveyancing.

I therefore think that the brokers should stick to the area in which they have been trained to a high standard. In the year I took the course, about 28 people passed out of 70 who started the course. This was partly because many people did not have good memories, and the examinations required a prodigious effort of memory; nevertheless, in the narrow area covered by the course the land broker got a very good training. The man who specializes in that area, and who has enough brains not to get outside the area in which he is really knowledgeable, soon acquires an expertise which I think probably would be superior to that of most solicitors who would do only the occasional piece of Real Property Act work.

With those comments, I support the Bill. It is a most desirable step in the Government's consumer protection legislation. The only really contentious clause is justified in principle because of a possible conflict of interest which, as I have indicated, occurs in the case of brokers and also members of the legal profession.

Mr. BECKER (Hanson): I support the second reading. However, in doing so, I ask "What price freedom of choice? How far do we go in legislating to protect people from themselves? Is this Bill really necessary?" In discussions with reliable and reputable land brokers the answer to the last question is "Yes", but I ask why we should interfere with the present system of land broking that has served the citizens of South Australia so well since its inception. True, there is good and bad in everything but, in 20 years as a bank officer, I heard of no case regarding settlement or dealing in property reflecting on the integrity of land brokers. In referring to consumer protection in real estate, it must be realized that there has always been consumer protection in this area, even though its existence was probably unknown to most people. As a bank manager, I was frequently approached by clients who told me that they intended to purchase a house, and I always told them rightly or wrongly that, when having the contract drawn up, they should stipulate the inclusion of a clause providing that finance be arranged through a bank and that the name of the bank be included in the contract. Therefore, if the bank could not finance the purchaser because it did not accept the valuation placed on the property, this clause provided a means of negotiating a way out of the contract. On the one occasion I remember when the bank's valuation did not reach the sum agreed to, because of certain other matters involved, and because we appealed to the principals of the real estate company involved, the contract was withdrawn.

As I have said, there is good and bad in everything, and members of the South Australian real estate profession freely admit that 90 per cent of the legislation contained in this Bill is exactly what they want, that the provisions of this Bill are the best thing that has happened to the real estate industry in this State, and that it will clear out the small percentage of undesirable members in the industry. This legislation will remove the part-time salesman and the high-pressure salesman who, at the end of the month, become desperate to make a sale. From my experience in banking, protection has been afforded the public through the real estate industry itself, because of the integrity of the agents themselves. Some firms of land agents have been in business for over 50 years or 60 years and are old-established companies that have not been able to stay in business by using anything other than the highest-calibre business ethics.

Clause 61 is the source of the contention surrounding the Bill. In this regard I refer to information supplied to me recently by a constituent who has followed the argument in the press relating to this matter. She wanted to buy a home unit and, in so doing, she took the advice of the Government and contacted a solicitor before signing the contract. The solicitor had the contract for three weeks before informing her that it was acceptable (it was a Real Estate Institute contract) and the person concerned then signed it and is now awaiting settlement to purchase a home unit. However, she received a bill of $60 from the solicitor for his perusal of the contract. I find it difficult to believe that employing a solicitor to check a contract before signing it is worthwhile consumer protection at a cost of $60. The type of contract used has been in use for many years and is based on simple common sense.

The Real Estate Institute of South Australia has over 1,000 members and represents 96 per cent of persons engaged in the industry. On August 21 this year the institute started its campaign to oppose the proposed legislation. Over 1,100 people attended the meeting at the Adelaide Town Hall. I attended that meeting out of curiosity to hear the arguments, to meet several of my constituents and to determine at first-hand what was felt about the matter in general. I point out that about 60 per cent of land agents in South Australia employ their own brokers and that 80 per cent of all real estate transactions processed in this State are handled by land brokers. Further, land broking is mainly one job although in small country towns and in small real estate businesses it is often beneficial for the agent concerned to fulfil both functions. There is nothing wrong with that or untoward in a person having two licences. Indeed, some city agents have held two licences for over 40 years. It has been recognized in real estate circles that the best qualified and the best trained land agent is also a licensed land broker. Therefore, what is the Government's intention regarding clause 61.

Land brokers have been described as semi-professionals, but 40 years ago dentists were only first recognized as being professionals. The Law Society has referred to land brokers as being unskilled. However, as the member for Peake knows, the land-broking course qualifying a person to become a land broker is not simple and has a low pass rate. I am aware that a well-known solicitor completed that course twice before passing the examination, and I know of many other persons who have had three or four attempts to qualify in that examination. I refer also to the provision dealing with the licensing of land salesmen and the emergence of another organization in South Australia, the Real Estate Agents Association, which was formed in May, 1971, and which was incorporated in July of that year. That association supports the Bill and, as an organization supporting the Bill, it has about 60 members (comprising five land agents, about 53 land salesmen—probably employed by the five land agents—and two land brokers). The association spokesman appears to be a Mr. Van Reesema, a proprietor of the firm of Maelor-Jones Proprietary Limited, a company he acquired about two years ago but, nevertheless, an old firm. He now proudly states that the organization has been trading since it was established in 1907, yet he became one of the proprietors only two years ago! The same Mr. Van Reesema was recently fined $30 for advertising a property without the authority of the vendor. This person supports the Bill although he employs land agents and asks them to sign a contract headed "Subagents leasing agreement for independent contractors". I shall be interested to know how this contract will stand up in the light of the provisions of this Bill. I doubt that it will and, indeed, I doubt the integrity of this person, because one of my constituents, who worked for the company, was owed $330 commission on the sale of two properties. However, Maelor-Jones Proprietary Limited will not pay her that commission. I understand that several former employees of the same company have had to go to the length of using the courts to obtain their commission. The subagent's licence agreement for independent contractors is a most unworthy document and, although I can speculate regarding who drew it up, I will not do so. Part I of the agreement relating to "License" provides:

> Subject as hereinafter provided, the agent hereby grants to the subagent as an independent contractor the right to procure negotiate promote advertise market and offer for sale or lease all commissionable real property within the territory hereunder designated for and on behalf of the agent and to render all services and do all things necessary to achieve satisfactory settlement of any offer and acceptance contract of sale and purchase negotiated by the subagent and in particular to attend to . . .

A space is then left. In other words, Maelor-Jones Proprietary Limited could restrict its agents to certain territories. The agreement then refers to operations under licence and to terms of appointment, the paragraph regarding which provides:

> The subagent shall at all times during the continuance of this agreement be and remain properly licensed by the Land Agents Board in accordance with the requirements of the Land Agents Act and shall observe and adhere to the requirements conditions and practice as set out therein.

Under the heading of "Commission" the agreement provides:

> Commission shall be paid by the agent to the subagent:
> (*a*) only on those contracts maturing at settlement;
> (*b*) monthly, on or before the 20th of the month first following the day on which settlement takes place;
> (*c*) at the rates prevailing from time to time as set down in the agents schedule of commissions constituting Part III of this agreement.

It also contains a paragraph under the heading "Refunds of Commission"; the provision relating to "Termination" states:

Subject to the conditions, this licence shall continue until determined by one month's notice in writing by either party to the other provided that the agent may determine this licence forthwith without notice if the subagent shall commit a breach thereof.

Under the heading "Conditions: Schedule of Commissions and Rules", the agreement provides:

The conditions constituting Part II, the Schedule of Commission and the Rules . . .

In Part II, the agreement also contains conditions under which the licensed land salesman is employed, the second of which is as follows:

In connection with all the operations under this licence, the subagent shall pay all expenses and be entitled to receive from the agent commission only, at the rates prevailing, less expenses incurred by the agent for the subagent or on his behalf directly associated with the commission earned.

Part III of the agreement relates to commissions and rules. Paragraph (*d*) provides:

In approved circumstances at the full discretion of the board, unsecured advances may be made to subagents to assist the subagent to become or remain established in real estate. In general terms the advances shall be limited as follows:

Up to $25 a week to a maximum of $250 to trainee subagents:

Up to $50 a week to a maximum of $500 to experienced licensed subagent; and

Up to $100 a week to a maximum of $1,000 to subagent managers;

Larger advances must be secured by mortgage or bill of sale over property owned by the sub-agent. An advancement fee of 1 per cent per month will be charged on the maximum amount outstanding in the month plus an account service fee of $1 a month.

It will be interesting to see how the President of the Real Estate Agents Association can tie up that sort of document with this Bill and justify the fact that in one case a woman of integrity, who was most qualified in relation to the provisions of this Bill, has not yet been paid any commission on settlements made in July and August, 1972. In 1859, Sir Robert Torrens had published in Adelaide a book entitled *The South Australian System of Conveyancing*, the introduction to which is as follows:

In the reign of James I letters patent passed the Great Seal for establishing "An Office of General Remembrance of Matters of Record", the recital of which describes the laws relating to real property as "manifold, intricate, chargeable, tedious, and uncertain." This complaint has been repeated throughout succeeding ages until its most remote echo in time as well as in place is heard in the preamble to the South Australian Real Property Act, thus—"Whereas the inhabitants of South Australia are subjected to losses, heavy costs, and much perplexity, by reason that the laws relating to the transfer and encumbrances of freehold and other interests in land are complex, cumbrous, and unsuited to the requirements of the said inhabitants; it is therefore expedient to amend the said laws.

Why then must we now consider changing the present system to the system outlined in clause 61? The conflict of interest is one of the reasons given to members. The independent broker would, I think, be more likely to push through transactions (and I know of no cases in which this has happened) to retain business given to him and to obtain his remuneration. In New South Wales, solicitors have been known to give a kick-back commission to agents.

I have no quarrel with South Australia's present system. It is a pity that the whole debate on this legislation erupted many months ago in the press and came to a head in this Chamber, and that it has amounted to a slinging match. The Attorney-General and the Premier resorted to pretty poor tactics in attacking reputable people within the Real Estate Institute, which is merely looking after the rights of its members. Why should it not stand up for those rights and use the media (the only way it has of making its protest heard) to do so? Why should the Premier have used the privilege of this Chamber virtually to abuse the integrity of certain people? This is extremely poor form on the Government's part. No wonder the man in the street finds it difficult to understand why the Government should want to change a system that is simple and secure.

Mr. Venning: And effective.

Mr. BECKER: True. There is nothing wrong with this system. Having had some experience in the preparation of documents and particularly with legal matters, I have always had the impression that, if a solicitor drew up something, another solicitor would be needed to interpret what he meant and, indeed, a further one would be needed to untangle the whole thing. If real estate documents are to be put in the hands of certain people in the legal profession, it will be a most expensive process.

Of course, not all solicitors will be interested in handling broking business or in expanding their offices to cope with more of it. The Bill has one unfortunate aspect. Although it is reasonable that a land broker employed by an agent at September 1 may, after the Bill is passed, continue to be so employed, land brokers will eventually die out, after which

the agents or firms concerned will not be able to replace their brokers. I wonder why the Government has seen fit to include this provision in the Bill. It is interesting to note that the number of real estate conveyancing and transfer transactions in this State has increased from 37,547 to 42,460 in the last three years. The value of these transactions ($302,900,000) increased to $362,400,000. The latest figures from New South Wales show that in 1967 there were 121,792 transactions to the value of $1,103,375,000, and in 1969 (the latest figures) there were 133,092 transactions to the value of $1,528,128,000. Many transactions occur in New South Wales whilst we have about one-third of that number in South Australia, and, as land brokers die out, it will mean more work for future members of the legal profession who are probably studying at high school now. When I was a bank officer I thought that my children should become pharmacists, because I had never seen a poor chemist, but I have changed my ideas and I would recommend my children to enter the legal profession because I have never seen a poor solicitor either. They will make much money in the next few years.

We have heard about many instances of licensed land agents who have not done the right thing by their clients, and we have also heard of similar cases concerning solicitors. An illustration recently brought to my attention points to a possible reason for the Eastern States wanting to follow our system. Some time ago in New South Wales a solicitor was given a set of documents in order to prepare a transfer, etc., on a large development project including a supermarket. The solicitor, having a rather unsavoury reputation, formed a company and made settlements month after month until he and his colleagues had obtained the land and sold it at a great profit. The settlement finally went through. This happens, and I suppose if we looked hard enough we would find that licensed land brokers would do the same thing. However, I have not heard of a case in which a licensed land broker held up a settlement whilst he or his colleagues formed a company to purchase real estate in certain areas. We oppose this alteration, because the present system, which has served the State well and which has been simple and secure, is now in jeopardy. Why change something that has proved satisfactory? I know that we call ourselves progressive and we want to modernize systems, but there is no point in changing something that gives a service of which we can be proud to something that will be of detriment to the community.

The part of the Bill dealing with interest-bearing trust accounts surprises me. I have never had to work out interest on trust accounts, because we were taught in the bank that the trust account belonged to the client of the person who operated the account. In other words, it was money belonging not to the land agent or the solicitor but to the client. To introduce a system whereby these people must place on interest-bearing deposits, at call, the minimum balance of the last 12 months, and for the State to reclaim the interest on the money, boggles my mind.

The State has no right to the interest on that money: it is not the Government's money, because it belongs to the client or, in this case, to the land broker or the solicitor. I do not know and I have not checked, but I should think that it would contravene the Reserve Bank Act or the agreement between the associated banks. I am suspicious, but we may find that the State Bank and the Savings Bank of South Australia will be the only banks that can accept this type of short-term, on-call investment, and this situation would be a terrific blow to the free-enterprise banks. However, I hope that this is not intended.

Mr. Simmons: They will survive.

Mr. BECKER: Possibly, but if that is the Government's intention it is an absolute disgrace. I oppose the principle that the State should collect interest on other people's money, money that is placed by the broker or the solicitor on behalf of the client. Much has been said about the cooling-off period, but no-one has opposed it. It could be opposed, because I see no reason for its inclusion in the Bill. There has always been consumer protection in real estate, but it seems that we must have a cooling-off period in the name of consumer protection. It will mean that after 48 hours, if the agent has not been contacted by the purchaser, the purchaser will be forced to go ahead with the contract, whether he likes it or not. Some people may be affected for the first time, where they may have been able to dilly-dally for a few days or a week and then get out of the contract. Now, they will not be able to get out of it. I would not criticize any land agent for insisting on applying rigidly the provisions of clause 88. Once the 48-hour period is over the settlement must proceed.

Some clauses will improve the standard of the real estate business and the standard of agents and salesmen. I believe that the land salesman will become more independent: he will

not be a Sunday afternoon taxi-driver or the person who spends Sunday afternoon chaperoning people through houses. As a bank officer, I found, when talking to land salesmen, that over the Christmas period, when people from other States visited Adelaide, they would call on a land salesman and tell him that they were from the other side of the city and would like to see some houses in a certain price range. The unsuspecting land salesman would drive them around all afternoon, because it would need an astute land salesman to realize that they were visitors from another State who merely wanted to see our suburbs. Any provision of the Bill that would eliminate that practice would be in the interests of the real estate salesmen. This provision will help salesmen who find it expensive and costly to maintain their position: they are not wealthy people, although many people believe that they are.

Clause 89 provides that "a contract for the sale of any land or business that provides for the payment of any part of the purchase price of the land or business (except a deposit) before the date of settlement is void". This provision concerns the abolition of instalment contracts. One such case was brought to my attention recently, in which a young couple wanted to rent a house and the owner asked a land agent to draw up a contract for them to buy the house at the end of a three-year lease. The land agent drew up a contract in such a way that they paid $100 as an initial deposit and instalments that built up a substantial deposit in order to obtain first, second, and third mortgages to purchase the house. When I approached the land agent, who was not a member of the Real Estate Institute, he refused to have anything to do with the matter and said that the contract should go through. It was only through the intervention of members of the Real Estate Institute that this land agent finally withdrew the contract. I assure the Attorney that, if he had not done so, the case would have been brought to the House and the agent's name mentioned.

Clause 90 relates to the information to be supplied to a purchaser before the execution of a contract. These particulars are on the back of the real estate contract form and relate to chattels and other articles under hire-purchase. I am wary of subclause (1), which requires the vendor to give particulars of all charges, mortgages, prescribed encumbrances, and so on. I do not know how anyone in a bank or finance company will be able to supply the exact information required. Under the bond of secrecy that bank officers sign, I would not give anyone the details of mortgages to the bank, and I would be wary about doing it even if I had authority in writing.

I do not consider that anyone who is selling a house should be required to lay bare all his financial arrangements. I think it fair and reasonable for a person to tell the land agent if he has a first mortgage or a second mortgage on a house. However, in my opinion the person should not have to state the exact amount of the mortgage. If items such as a stove or carpets are under hire-purchase or were bought with a loan from a finance company, a person should state that, but I think that to require a person to state the exact amount of a first mortgage or a second mortgage is not in the interests of the vendor or the proposed purchase.

I cannot see what purpose that information would serve, although someone may say, "This person is selling a house for $16,000. He has a first mortgage of $8,000 and a second mortgage of $4,000, and it seems that he may be in trouble, because the house is not in a very good condition. Therefore, we can beat him down." That is one way that that requirement could be used, so I am dubious about the intentions of the clause. The Bill needs further explanation by the Attorney in Committee, and I think the best way to deal with it is to seek specific information on the clauses to which we have referred. As I have said, I support the second reading, but I do so with reservations about what happens in Committee.

The Hon. L. J. KING (Attorney-General): I think that it is a matter for regret that so much of the debate has been occupied with a repetition of misconceptions, to use no stronger a word, which have been publicized in the course of the campaign sponsored by the Real Estate Institute and exploded time after time, but which nonetheless some members of this House have seen fit to repeat here this evening. I should have hoped that those honourable members who read out the publicity that has been put about would have taken the trouble to reflect on the facts before lending their names and reputations as members of Parliament to the further dissemination of that type of material.

I think that, if we are really to consider these criticisms of clause 61, which is the controversial clause, it is important to remember how the system operates at present. A purchaser is given a contract form (a contract

note, as it is generally called) to sign, and that contract note (most members have seen the usual form; I have a copy here, of course) contains two spaces for the signatures. One is for the signature to the contract and immediately under it is provision for a signature to a clause appointing a broker. In that section there is provision for inserting the broker's fee.

The purchaser signs in both places, and that operates as the appointment of the broker. Of course, in many cases the broker turns out to be an employee of the land agent who is handling the sale. The purchaser pays the fee for, one assumes, some protection that he hopes to get for it, but the broker who handles the transaction has a duty under his contract of service with his land agent employer to look after the interests of his employer, and there is a clear, unavoidable and irreconcilable conflict of interests.

It is simply impossible for anyone to serve the interests of the purchaser, whose interest it is to have pointed out to him all pitfalls or traps and any considerations that would lead him to decide not to complete the contract by paying out his money, and at the same time to serve the interests of an employer land agent whose interest it is to have the transaction brought to finality so that he is entitled to receive his commission. There is an irreconcilable conflict of duty in those circumstances.

That is the inescapable situation and the situation which, of course, no-one in this debate and no-one from the Real Estate Institute has tried to answer. It is a disgrace that we should be even contemplating a situation in which that can continue, and it is a disgrace that we should be told that we should not even take a single hesitant step in the direction of giving the purchaser, the member of the public, the protection that he is entitled to have.

The Hon. J. D. Corcoran: And he pays for it.

The Hon. L. J. KING: Of course he pays for it. I ask honourable members to bear in mind that the fee paid by the purchaser for this protection goes into the pocket of the land agent whose interest is in direct conflict with that of the purchase who pays the money. Reference has been made to systems that operate in other States, and I think it is worth while to remind ourselves that there are some vital differences between the conveyancing systems in other States and the conveyancing system in South Australia.

In the other States, generally speaking the parties are referred to their solicitors by the land agent handling the sale at a relatively early stage of the transaction (it varies, but generally it is very early). In many cases, the parties are separately represented, although that does not apply in all cases. There are elaborate systems for protecting the parties, each solicitor, of course having his duty to his party and, generally speaking, trying to protect that party's interest by administering requisitions to the other party. These requisitions are questions as to title and encumbrances and questions about any possibility that the title will be encumbered in some way and his client will get something less than he has paid for. Generally speaking, it works well and operates to protect the parties.

Mr. Mathwin: But it costs a bit, though, doesn't it?

The Hon. L. J. KING: Exactly. The difficulty with the system is that it is expensive. What we have to attempt to solve in South Australia is how to provide the public with protections that at any rate approximate those existing elsewhere without our losing the economies that are inherent in the South Australian system. The measures proposed in this Bill are designed to achieve that result. In this Bill we seek to provide the protection of a cooling-off period, which gives the purchaser the opportunity to think over the matter and to take advice if he so desires.

We also impose on the vendor, and the agent particularly, an obligation to take steps to ascertain what encumbrances, charges, mortgages, etc., there may be and to disclose them to the purchaser. So, by this relatively simple means we hope to get at least some of the protections available to parties in other States under a more elaborate and therefore more expensive system. In addition, an essential part of this protective system is to ensure that the documents are prepared and the settlement arranged by someone who is independent of the agent who, because he is handling the transaction, has a financial interest in seeing that that transaction goes through. Consequently, the clause that has been the subject of discussion here tonight is an essential part of this protective system.

I have referred to the conflict of interest that exists under the system operating in South Australia, where a broker who is permitted to be employed by an agent may prepare documents in connection with a transaction. Of course, we have been told not only that it has worked well but also that no land broker has neglected his duty in 111 years. I can only say that if that were true it would be a remarkable commentary on the course

provided, because it would have achieved something for human nature that no other course had achieved for any other body anywhere. It might be worth while reminding the House of some of the things that have occurred. I have referred to the dangers involved in a conflict of interest, and the member for Peake did that, too.

In this connection it is worth referring to a relatively recent judgment by the Chief Justice in the Supreme Court of South Australia in the case, dated December 2, 1971, of *Jennings v. Zilahi-Kiss, Zilahi-Kiss and M. K. Tremaine & Company Proprietary Limited.* In that case the purchaser, who thought he was buying self-contained flats, found that he had bought premises in which it was not permissible to have a stove, still less a kitchen, under the relevant authority's ruling, and he was left with something quite different. What was important and significant about the case was that the situation arose simply because there was no independent advice or representation for the party to the transaction. The Chief Justice said:

In addition, the defendant company through Coombe was in effect proposing to act in connection with this transaction for both the vendor and the purchaser. The undesirability of this has often been pointed out by courts and, in my view, it is not only undesirable but wrong, whether the adviser in question is a solicitor or a land agent. It is impossible for the same person to give satisfactory service as the confidential and expert adviser of two parties with conflicting interests. The man who undertakes to serve two masters may easily find himself in a position where he must be false to one and possibly to both.

The matter is discussed in emphatic terms in other cases. The learned Chief Justice, after referring to other judgments, said:

No doubt the practice will continue whatever judges say: but I hope that these proceedings will bring home to this company at least the realization that acting for both sides may entail financial disadvantages which far outweigh the trifling remuneration for drawing up the settlement documents and attending at the settlement.

We do not propose to go as far as prohibiting land brokers from acting for both parties in appropriate circumstances, but we say that the situation should be eradicated in which, by the very nature of the employment of a land broker, he is of necessity involved in a conflict of interest, not only in some cases but in every case, because there is simply no case in which the interest of the land agent and the interest of the purchaser are reconcilable: they are potentially conflicting interests in every case. In the case *Ellul and Ellul v. Oakes,* Mr. Justice Zelling on May 4, 1972, said:

Before parting with this case, I should like to point out that none of this litigation would have occurred if the parties to the transaction had been advised by solicitors, as is the position everywhere else in Australia. The contract would have been properly drawn and properly executed and the lack of sewerage would have been disclosed by the requisitions. It is high time that the citizens of this State were given the same protection in relation to real property transactions as applies everywhere else in the Commonwealth. No doubt this suggestion will be greeted by cries that the cost of property transactions will be increased by solicitors' scale fees. There are two answers to this: first, that conveyancing costs in this State are not governed by scale fees but by itemized charges taxable in the ordinary way by the Masters and like all other rules of court subject to disallowance by Parliament and, secondly, that whatever the cost involved it would be minuscule compared with the cost of a verdict for $550 and the costs in two courts with which the unfortunate respondent in this case finds himself saddled. In my experience the present is not an isolated case. Many such cases occur but very frequently parties absorb, and are advised to absorb their losses due to incompetently drawn contracts and incompetently completed transactions rather than go to law. This is a most undesirable state for the law to be in and I feel it my duty to call the attention of Parliament to it.

In the same case the Chief Justice said:

I agree with Zelling J. that, if the parties to this transaction had received competent advice from solicitors, this litigation would never have occurred, and that cases do occur not infrequently on which the same comment might be made, cf. *Mabarrack (R. J.) Pty. Ltd. v. King & Arnor.* 1 S.A.S.R. 313. It is for Parliament and the public to consider whether the saving in cost and trouble alleged to be achieved by the present method of conducting land transactions in South Australia is worth the occasional sacrifice of the unfortunate parties on the altars of carelessness, incompetent draftsmanship and dubious litigation from which a more professional system might have saved them.

It is not the purpose of this legislation to attempt to introduce a system similar to that operating in other States. The Bill endeavours to provide the sorts of safeguard that the judges had in mind in that case, within the ambit of the system existing in South Australia, by providing the modifications that are needed by providing for a basis for the development of an independent, semi-professional land-broking body of men who will develop their own system of ethics and their own sense of independence and of the duty they owe to the parties to transactions, and who will be independent of the land agent, who has a completely different interest

in the matter. I do not want to spend my time attempting to denigrate land brokers. I have no desire to do that. They are trained to do a job, and on the whole I believe they try to do it well, but inevitably, where there is a conflict of interest, it will show up in circumstances which bring harm and loss to the public. Over the years judges have commented on it. I have cited a recent case, and there are many others. Lawyers have had experience of it, and so have members of Parliament.

We have been told tonight that there has never been a complaint in 111 years. I do not know whether members realize that in this State there is no machinery for investigating complaints against land brokers, and when they are received in the Attorney-General's office, unless the land broker is a licensed land agent, there is no authority that can do anything about them. When complaints are received at the office of the Registrar-General, the practice is to shrug the shoulders and say, "We have not got any machinery. You had better go to the Real Estate Institute and make a complaint there." In the past 12 months in the Lands Titles Office six separate occasions can be identified on which complaints have been made and have not been followed up but simply sent to the Real Estate Institute or some other body.

What is remarkable, despite the fact that there is no machinery for inquiry and no machinery for dossiers, is that when this question arose so many people came forward with specific examples of problems, which illustrates directly what happens when people are put in this situation of having a conflict of interest. I shall refer to some of them. I have selected some which I think illustrate certain facets of how the conflict of interest leads to harm to the public. Before doing that, however, let me bring to the attention of the House a letter I have received from a gentleman who wrote to the Law Society. The letter is as follows:

> I was very interested in the item in the *Advertiser* dated August 24, 1972, concerning land brokers and land agents, because of my own experience in purchasing a property when I first came to live in South Australia nearly two years ago. I had previously owned and transferred property in the United Kingdom, Tasmania and Queensland, and was completely astounded at the way in which the transfer of the property I at present own was conducted. The land broker was employed by the seller's agent, and the treatment I received at the hands of this land broker is almost unbelievable. My purchase of the property concerned was a cash one obviously involving some thousands of dollars, and the business was conducted as if I were buying a pound of potatoes across the counter in a greengrocer's shop.
>
> I have in my possession the land broker's account wherein he makes a charge for "preparation of transfer and attendance at settlement." The "attendance at settlement" consisted of a junior clerk handing me a sealed envelope, despite the fact that I had, at the request of the land broker, kept an appointment to meet him at this office to complete the business in question. The land broker and the agent between them had taken out an insurance for $17.75, which was charged to me on the land broker's account, and at no time had I been consulted as to whether I wished to have such an insurance taken out on my behalf. Further, the policy was quite useless, as the property would have been grossly over-insured. Subsequently I received an account from the water and sewerage department demanding payment for excess water consumption which should have been sent to the owner of the property.—

and which should have been adjusted at settlement, I should add—

> On each occasion on which I attended the office of the land broker I was received at the counter of the outer office by a junior, and at no time did I see either the land broker or his qualified assistant, and have not done so to this day. At no time was I interviewed in any private office, and at no time were my wife (who attended with me) or I offered a seat. I was a complete stranger to South Australia and could not believe that this was the normal way in which business was conducted, but when I wrote to the land broker making complaints at the treatment, I had letters in return which I consider to be couched in insulting terms.

He says that he has copies of the correspondence. It is interesting to note the reaction of a man who had been accustomed to having conveyancing matters taken seriously and who was staggered at the treatment he received.

Members interjecting:

The SPEAKER: Order!

The Hon. L. J. KING: I have chosen a few examples. One gentleman has drawn my attention to a transaction in which he was involved and in which he paid a deposit and signed a contract, prepared by a land agent, for the purchase of a house. This was transmitted by the land agent to the agent who was selling the property. He was invited to have documents prepared by the broker employed by the selling agent, and he was disposed to agree to this course being followed. However, then he discovered that the price on the contract had been altered after he had signed the document. He made some little fuss about this to the land broker, but the land broker brushed the thing aside and said that it was

necessary to proceed with the settlement, that the documents were ready, and that he had better sign them or there might be all sorts of undesirable consequences if he did not go on with the contract. Fortunately, this gentleman decided it was time he got some independent representation and advice. He took the advice of a solicitor, and in due course enforced the contract at the original price. That is rather a good example of what happens where the documents are prepared by a man in the pay and employment of the land agent in whose interest it is to conclude the transaction. What possible hope has a purchaser in those circumstances of getting any sort of independent protection?

I have a further example from another gentleman who wrote to me and said that he had some money paid to him in discharge of a mortgage. He asked the broker employed by the land agent to place the money in the trust account pending a further investment, of which he would give instructions, but it was to remain in the agent's trust account pending those instructions. The next thing he learnt of the matter was that the money had been invested for 12 months in a property which the land agent had bought from a deceased estate, so this gentleman's money, which he had entrusted to the land broker to be paid into a trust account pending instructions about investment, was used in the interests of the broker's employer, the land agent. That is another example of the sort of thing that happens.

Let us look at another situation that arises. I will give two examples because I think this is interesting and one hears of it quite often. It has been a common situation over the years and one which any independent broker or solicitor would immediately prevent. One case concerns two people who were acquainted with one another and agreed privately on the sale and purchase of a house, one to the other, for $10,000. They initiated the deal, and they closed the deal, which was all right. But they had to have documentation, and they wanted to arrange finance. They went not to a solicitor but to a land agent, because they had been told that for a land transaction they should consult a land agent. Shortly after making contact with the land agent, the vendor was presented with a form which, with no explanation, she was asked to sign. She assumed that the agent knew what he was about, so she signed it. Eventually both parties signed the form, and it turned out that the form was a contract for the sale of the property, and that was fair enough. However, when the settlement came about (and this was attended to by the land broker who was employed by the land agent and who was contacted to prepare the documents), the sum of $380 had been deducted as the land agent's commission for selling the property.

The Hon. J. D. Corcoran: In addition to the broker's fee?

The Hon. L. J. KING: Yes. The broker obtained his fee, and there was a $380 commission for the land agent. Not a word from the land broker to say, "Although the land agent is my boss he is slugging you for $380 to which he is not entitled. We have had an untarnished reputation for 111 years, so I will put you right. I will tell you against my employer's interests that he is touching you for $380." Well, it did not happen that way at all. That is a good example of a situation arising where the parties had the documents prepared by someone who had a conflict of interests. True, that land broker is probably no better or worse than any member of this House. He is probably an ordinary, honest individual trying to support a family and doing the best he can but, when people are put in a situation where they have a conflict of interest, this sort of thing inevitably arises. A man would have to be a hero to put his job and the livelihood of his family on the line. Human nature being what it is, people in such situations convince themselves that what they are doing is all right, because everyone does it.

Mr. Goldsworthy: Was there any redress in that case?

The Hon. L. J. KING: Fortunately in that case a complaint was made after the settlement and after the sum had been deducted. The parties were advised to complain to the Land Agents Board, which was able to deal with the land agent because he was a land agent. However, there was no way of dealing with the land broker.

Mr. Goldsworthy: In other words, they did not pay the land agent the $380.

The Hon. L. J. KING: The parties were able to get the sum back because the Land Agents Board insisted that they get it back, but the land broker failed in his duty to protect the people. It was only by chance that these people learned from somebody who knew the true situation and had the good sense to go to the Land Agents Board to have the matter rectified.

Another example concerns the case of a landlord and tenant who agreed that the premises should change hands between them and that the tenant would purchase the

premises for $11,950. Again, it was a matter of having the documents prepared and arranging finance. The parties involved approached a well-known agent (in fact, both these cases to which I have referred involved well-known city land agents) and asked to have the document prepared by a land broker. Of course, the broker was employed by the land agent and, at settlement, the same situation applied, only this time the commission deducted was $518. Again, the broker gave absolutely no advice to the parties that there was no possible justification for an agent's commission to be paid because the agent had not arranged the sale. The only service that had been provided was the service of the land broker in preparing the documents.

Mr. Becker: Who instructed the broker?

The Hon. L. J. KING: The parties went to the land agent's office and were put in touch with the agent and the broker.

[*Midnight*]

Mr. Becker: Did the agent know there had been a sale?

The Hon. L. J. KING: The parties said they had agreed to a transaction involving $11,950 and wanted the documents prepared. The fee charged by the broker for preparing the documents alone was $180, and, additionally, the parties were charged $518 as agent's commission for a sale he never brought about.

We have been told by members opposite that the way to resolve this matter is through education and that agents should tell people what is involved. The member for Fisher said that agents would tell people (I hope I do not do him an injustice) and the member for Bragg said that they should tell people that they were entitled to go to an independent land broker or solicitor to have the documents prepared. Members opposite have said that people should understand that situation, and that if they did there would then be no problem. The member for Fisher certainly would not accept the possibility that the agent might go to some pains to see that it was his own broker who handled the transaction.

I will refer to another example to clarify this point. In this case, the complaint was lodged yesterday. This case concerned a young couple who, with the assistance of the agent, agreed to purchase a house for $20,750. The agent took part in this and his commission is not disputed but, when it came to signing the contract, the young couple noticed a clause concerning the land broker. They explained that they were fortunate in having a relative who was a solicitor and who would be most happy to prepare the documents for them for nothing, that he would like to lend a hand in the matter. "No", said the agent, "We do it all in our office. Leave it to us". The agent said that it was best if it was done in the same office, and that he would ensure that the cost was only $30. It was done in the office and in due course the purchasers received a bill for more than $30 (about $45 or $50, but sufficiently in excess of $30 for them to be most unhappy about the situation), so they complained to the broker that they had been told that the cost would be only $30 and that they could have had the documentation completed without charge but that they were told that it was best for it to stay in the broker's office.

The broker said that they had to pay the fee (he was an employee of the agent) and the young couple said that they did not believe they should pay more than $30. He told them that if they did not pay the fee he would cancel the contract and that they would lose their $2,000 deposit they had paid. Of course, he could not do that, but that is an example of the land broker using his position to further the interest of the land agent because, of course, his fee goes to his employer. That is an example of how land agents will say, "You can obtain the services of an independent solicitor or land broker"! In this case, the land broker and agent would not even let the purchasers go to a solicitor, although they had a solicitor willing to complete the documentation free of charge. Another example of the sort of thing that happens is that of a land broker, an employee of a land agent, who advised a mortgagee to have a mortgage placed, as he put it, "for taxation purposes" (but did not elaborate on that) in the name of the mortgagee's daughter and grandson, the latter being only 11 years of age. That was all very nice until the mortgagor wanted to pay off the mortgage, and it became necessary for him to discharge it. Apparently, the broker had overlooked the elementary fact that a minor could not validly execute the document to discharge the mortgage, as a result of which an application had to be made to the Supreme Court, with all the inconvenience and costs involved. The mortgagor was held up for weeks in getting his title discharged from the mortgagee, and the mortgagee had to foot the Bill in relation to all the costs involved.

I do not wish to labour this point, but there is one other matter which is typical of the

sort of situation that arises where this conflict of interest occurs and which relates to the case of a gentleman who purchased 40 acres of land. The vendor's agent said, "Here is my broker. He will fix it up for you." However, the purchaser said gently to the broker, "Should there not be a survey before I part with my money?" (the broker had not suggested this) "I would like to be sure before settlement that I am getting the land for which I am paying." The broker seemed to think that this was a wholly unnecessary precaution and was not interested in the proposition. This is, I suggest, fairly characteristic of the attitude of an employee of an agent who must clinch the sale in order to obtain his commission. Fortunately, however, this purchaser was a strong-minded individual who insisted on consulting a solicitor. Having done so, he was advised that a survey should be made at the vendor's expense. That was done, and it turned out that the fences on the property had to be moved a considerable distance.

There is no doubt that, if the purchaser did not have that survey conducted, the fences would have been on the wrong land and he would later have had to fence the property at his own expense. This is an instance where, had the broker been independent, he would have given the purchaser this advice. However, because an employer has a financial interest in clinching the deal and getting the commission paid quickly, this sort of advice is forgotten. Of course, difficulties regarding sales are not raised. One does not win a prize from one's boss for making sales come unstuck. This simply puts the broker in a situation where he has a conflict of duty that cannot possibly permit him to do his duty to all parties.

Much has been said about this legislation. The Leader of the Opposition and other Opposition members placed considerable reliance upon a survey conducted by a Dr. Paul Wilson, a sociologist of the University of Queensland, who came to Adelaide, made some statements and apparently furnished a report which, I gather, is in the hands of the Leader of the Opposition but which I have not seen. Of course, Dr. Wilson did not favour me with a visit when he came to Adelaide. Indeed, he did not favour my department, or anyone officially connected with land transactions in South Australia, with any contact. Perhaps my comment on Dr. Wilson's examination of the matter is best set out in a letter I wrote to him in reply to a letter I had received from him, in which he complained that I had questioned his motives. He apparently claimed that this had been done in a private conversation with someone. He seemed concerned about this aspect and, although he said he favoured the Bill, he disagreed with this proposition and took a poor view of the fact that anyone should question his motives. I wrote the following reply to him:

Thank you for your letter of October 5. Your motives do not concern me and I do not know what remark of mine has been construed as a questioning of your motives. The objectivity of your judgments and the circumstances in which they have been made are, however, a matter of public concern. In the other States, the parties are referred to solicitors at an early stage of a real estate transaction. The parties are generally separately represented and there are quite elaborate procedures for the protection of their rights and interests. This provides the protections needed by the parties but is expensive.

In South Australia, the practice is quite different. The agent tends to carry the transaction through to an advanced stage, that is, to the stage at which the Real Property Act documents must be prepared. The documents are generally prepared by a land broker, often in the employ of the agent. It is in the agent's interest to see that the transaction goes through so that he may earn his commission. It is his employee's duty to assist in this regard. The purchaser, and indeed the vendor, is therefore deprived of independent advice and representation. The consequences are not infrequently disastrous. You will pardon me if I am not over-impressed by the 100 hours research which you have carried out into the system.—

he stressed that he had spent 100 hours looking into the system—

I have practised law in this State for 22 years. I am thoroughly familiar with the operation of this system and have had all too much experience of the personal tragedies which result from lack of proper advice. I have set myself the task of endeavouring to build in to the existing system in South Australia some of the protections which are enjoyed in the other States without the loss of the economies inherent in the South Australian system. An essential safeguard is to ensure that the land broker or solicitor preparing the documents is independent of the land agent whose interest it is to ensure that the transaction proceeds.

Naturally, this proposal has met bitter resistance from the land agents. Independent advice constitutes a danger to the land agent's commission and he resists it for that reason. Moreover, the land agent stands to lose a substantial sum of money which he does not earn. The land brokers charge the same fees as are charged by professionally-qualified solicitors for this work. The fee is collected by the land agent who pays the land broker a salary. The profit to the land agent is considerable and understandably he does not wish to lose it. The Real Estate Institute has undertaken a campaign against the proposals which has been nothing short of scurrilous in the degree of misrepresentation which it has

contained. Allegations that the proposal involves the transfer of Real Property Act work to the legal profession and that it involves a huge increase in costs to the public have been freely bandied about. Signatures to petitions have been obtained by the grossest misrepresentation.—

I will refer to that again in a moment—

Land agents stand to lose a great deal if the public is given this protection to which it is entitled, and it is easy to understand why this campaign should have been undertaken. It is not as easy to understand why you have involved yourself in it. While this scurrilous campaign was in progress, you accepted an invitation from the Real Estate Institute to come to Adelaide—

and make no mistake that that is the truth, because it was announced in the real estate columns of the *Sunday Mail* before Dr. Wilson came here and, indeed, it was referred to in an interview reported in the Brisbane press, in which Dr. Wilson stated that he went to Adelaide at the invitation of the Real Estate Institute. The letter continues:

I do not know the terms on which you were invited and only you are in a position to disclose them—

and I might mention that they have not yet been disclosed—

It is certain, however, that your visit served the purposes of the agents. I do not know the extent of your investigations in South Australia but I do know that you did not consult me nor, as far as I can ascertain, any officer of my department. I understand that you did not consult the Law Society nor, so far as I am aware, any member of the legal profession. It would appear that your investigations were confined to real estate offices. I am told that your press conference was held in the offices of the Real Estate Institute.—

and that has not been denied—

You were reported in the press as having made the remarkable statement that if the Government's proposals became law the cost to the public would increase by 400 per cent. This method of research puzzles me and your conclusions puzzle me even more. I am sorry that you have been hurt by a rumour that I have questioned your motives. I am not concerned to do so. The motives of each person is a matter for his own conscience. I do however seriously question the objectivity of your judgment in this matter. I find your methods of inquiry and your judgments in the matter difficult to justify or even to understand.

There has been no reply to that letter. References have been made by Opposition members to an upsurge of public indignation and feeling, and reference was made to the petition lodged by the Leader of the Opposition containing about 30,000 signatures. I added 18 signatures this morning in a petition that I lodged. Perhaps something should be said about the petition because, frankly, if I had been a member of the public and had read the sort of falsehoods included in the publicity campaign, I would have signed the petition, too. It is only as realization comes to members of the public about what is happening that many of them regret that they put their name to such a petition.

A young lady employed in my office was called on to deliver a message or a letter to a land agent's office, and whilst there she was accosted for the purpose of signing the petition. She protested that she did not know anything about it and did not want to sign a petition. She was spoken to in a severe way and asked why she did not want to sign it, because Mr. King was trying to give work to lawyers, and, it would cost more to buy a house if he got away with it. She told the person that she was employed in the Attorney-General's office, and that ended the conversation. The plain truth is that there is much information indicating that these forms were handed around and many people signed them without knowing what they were about. An interesting letter I have, indicating how signatures were procured for this petition, states:

Dear Mr. Attorney, I wish to inform you that on 2nd inst. at about 1.30 p.m. I spoke to a young man apparently in charge of a table in Napoleon Court fronting King William Street on which was a petition which obviously—by a notice alongside—referred to the proposed legislation prohibiting the employment by land agents of land brokers. I asked the young man what it was all about. I was informed, after being told that no doubt I had heard about certain proposed legislation restricting land brokers, that "Mr. King is proposing to introduce legislation to put all legal work concerning land matters in the hands of solicitors—this, of course, will deprive land brokers of a living and will cost a great deal more".

I replied, "But surely this proposal does not go as far as that" and I was told that "we regard it as the first step towards putting all land work in the hands of solicitors and eventually doing away with the brokers altogether".

Mr. Clark: One member told us that here this evening.

The Hon. L. J. KING: Yes, he repeated the falsehood in this House. The letter continues:

I read the printed form and said, "This petition does not conform to your statements."

We have read the form, because it was lodged by the Leader and I had the same form to present, and it does not say anything of the sort. It refers to the proposed legislation preventing land brokers from preparing documents where the agent is the selling agent. However,

this man was told (and I believe this is typical) that he was signing a petition to prevent the Government from giving all the work to lawyers, sending land brokers broke, and costing the public much more. The letter continues:

I then read the printed form at the head of the available page of the petition and said, "This petition does not conform to your statements. This does not say that at all. It merely refers to land agents employing land brokers." He replied "Oh, well, that's what you say. We don't agree." The rest of his statement was unintelligible. I saw more than one person sign the petition—obviously without reading it—before that conversation commenced.

He writes about other matters, and then states:

It was clear that statements were made to persons to whom the petition was apparently being presented for signature which were not at all in accordance with the actual terms of the document itself.

So much for the methods by which signatures were obtained and for this upsurge of public indignation and feeling that we have heard so much about from Opposition members. We had the usual falsehoods given currency here this evening, and I was disappointed because I hoped that, whether or not members agreed with the measure, they would do something better than repeat the rubbish and propaganda put out by the Real Estate Institute, but certain members read some of it. We were told that land brokers would lose their livelihood if this legislation were passed. Let us be clear about the situation. In my opinion it is extremely important to the people of this State that we should get rid of the system by which brokers employed by land agents prepare documents and act in settlements, thereby depriving the public of the protection to which it is entitled and leading to the malpractices and abuses about which I have given instances.

Notwithstanding that point, there are other considerations, too. One cannot ignore the compassionate consideration of people who are presently employed as land brokers and who may have difficulty finding employment if suddenly, overnight, they cannot go on preparing documents in the course of their employer's business. For that reason we have incorporated into the legislation the provision that an employee who is employed at September 1, 1972, can continue to prepare documents in the course of his employer's business. I agree with the member for Torrens that this is inconsistent and a contradiction in the legislation, because the fact that that can continue is an affront to the principles which I have set out this evening and which I believe are important. However, this is one of the practical considerations that one cannot ignore, and one has to weigh one evil against the other.

Whereas the land agent principal has the business of buying and selling land in order to provide a livelihood, the employee land broker has not, and consequently I think we can justify allowing the employee land broker to continue in his present employment. It is a question of phasing out the employee land broker, that is, the land broker employed by a land agent, but doing it in a way that will cause a minimum of hardship to those people. The same reasoning does not apply to land agent principals, because they have a choice. The instance has been given of a two-man partnership in which one concentrates on selling and the other on brokerage. There is a choice: the broker partner can be a buyer and seller of land or he can prepare documents, but he cannot be both, because the two functions are inconsistent with one another.

He will not be without a livelihood, but the employee broker must have special consideration because of the suffering and hardship particularly, say, for a man aged 50 years who could be thrown out of employment and who may find it too difficult to start a practice on his own account. That consideration has to be given, but I emphasize that the compassionate reasons for the exempting provision can extend no further than the case of the employee land broker whilst he remains in his present employment. It is not a question of depriving a man of the right to change his employment. He can do that in any way at all, but he cannot be a land broker preparing documents for a land agent, except in continuing his existing employment. I do not believe that anyone will lose his livelihood, because these land brokers who are allowed to carry on in this way will be the most valuable employees the land agent will have. They will not lose employment: they will be in an extremely good bargaining position. I am quite sure that no land agent is likely to dismiss any land broker who finds himself in this position.

I think I need say only two further things in general reply. Other matters can be dealt with in Committee. I found the contribution by the member for Bragg fairly remarkable for a man who often in this House has asserted in the strongest terms the importance to the public of ensuring proper professional qualifications, standing and independence on the part of people who render professional services to the

public and who assailed in the strongest terms the suggestion that we write into a Bill a provision that a blood sample could be taken by a non-professional man when we could not find a professional pathologist to do the job.

This evening all that has gone; the honourable member no longer finds this at all important and sees nothing wrong with the land broker employed by the land agent performing this highly professional service for members of the public. I fail to understand that attitude, and I suggest that the member for Bragg might well question the consistency of his attitude in these matters. The last matter I wish to deal with, although it has been laid to rest so many times that I tire of repeating it, is that once again we have had two things trotted out. One was that this was the thin edge of the wedge, that the objective was to give all the work to lawyers, and that the Bill was some dark plot to produce some profit for the legal profession. I do not know why all this is repeated.

Recently I read a scurrilous letter in the *Advertiser* stating that I had a bright future, making a fortune drawing land transfers. I was deeply touched and some of my friends were amused and, although I should not descend to the level of recognizing such a letter, perhaps for the record I should say that I am not a member of a legal firm; I have not been since June, 1970, and, by the etiquette of the legal profession, as Queen's Counsel I am prohibited from drawing any document or having anything of the kind to do with settlements in relation to land transactions. Let me say that once and for all to get that position perfectly clear.

Mr. Coumbe: No-one here said it.

The Hon. L. J. KING: I do not say that any member here said that, but the suggestion was made in a letter in the *Advertiser* and, therefor, I have put my position on the record. The suggestion was made here this evening, to the discredit of the member who made it, that this was a dark plot on my part and the Government's part to get all the work in land transactions for the legal profession, apparently in some way to the profit of the legal profession. Frankly, I have never understood this concept of profit for a profession (and I think the member for Mitcham touched on it) through getting work of this kind. I was a member of a legal firm for 20 years, and one earns any money that one obtains. There is no advantage in getting additional work, because additional people are engaged to do the additional work, and they must be paid.

When one considers the legal profession as a whole, it just means that one has to have more lawyers to do any additional work, and they get the remuneration. In fact, it does not work out as has been suggested. It makes little difference to any member of the profession whether the area of the work covered by the profession is greater or smaller, but it makes a big difference to the public if the work is performed by people who are in a situation of conflict of duty, as are land brokers employed by land agents.

The last thing I want to say is that once again we have had repeated this evening the statement that all this would lead to a large increase in costs to the public. I repeat that a regulation will be made that will fix the costs to the public of land transactions at about the level currently charged by land brokers and solicitors. There will have to be an investigation to find out what the level is and the level will have to be fixed.

I agree with the member for Kavel that fees are adjusted from time to time in accordance with changing cost structures, and so on. Of course, that will occur in this area as it does elsewhere. I would not be so stupid as to say, as someone has attributed to me (I think it was the member for Kavel), that the costs would be retained at this level forever. That would be an idiotic thing to say. What I say is that there will be no increase in costs as a result of the passage of this legislation. Let us be clear about the matter.

The member for Fisher said that, because independent land brokers would have separate overheads, there must be an increase in fees. However, there are independent land brokers now and they have their own overheads. They charge the same fees as are charged by brokers employed in land agents' offices. If brokers make a living now, why can they not do so if others have their own independent practices? There is no suggestion that this change will lead to an increase in costs.

I conclude by repeating that, in my judgment, this is an integral and essential part of the pattern of protection set out in this Bill. It is essential that the public should receive protection against the evils that arise from having these matters attended to by brokers who, by reason of their employment, cannot do their job because they are serving two masters with conflicting financial interests. In my view, it is of considerable importance to the people of this State that this measure should be passed in its present form.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Interpretation."

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

After the definition of "corporation" to insert the following definition:

> "date of settlement", in relation to a contract for the sale of any land or business, means the day on which the vendor is required under the terms of the contract to transfer his estate or interest in the land or business to the purchaser:

That definition is needed to understand the other clauses.

Amendment carried; clause as amended passed.

Clauses 7 to 42 passed.

Clause 43—"False accounts."

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

In subclause (1) before "offence" to insert "indictable"; and to strike out subclause (2).

The amendments provide that an offence relating to false accounts will be an indictable offence, instead of a summary offence. It is thought that this ought to be so, in view of the fact that one of the ingredients of the offence is that the accused knows that the account is false in a material particular, and that the penalty is a fine of $1,000 or imprisonment for 12 months. In those circumstances, it is thought that the accused, if he wishes, should have the right to trial by jury.

Amendments carried; clause as amended passed.

Clause 44 passed.

Clause 45—"Agent not to act without written authority."

Mr. MILLHOUSE: I move to insert the following new subclauses:

(2) An agent shall not demand, receive or retain any commission or other remuneration in respect of the acquisition or disposal or proposed acquisition or disposal of any land or business if the contract by which the transaction is to be effected is repudiated, rescinded or avoided.

(3) Any commission or other remuneration received or retained by an agent in contravention of subsection (2) of this section may be recovered, as a debt, from the agent by the person by whom it was paid.

To explain the amendment I shall quote the following letter that I have received:

> There is a short paragraph tacked on to the end of the normal contract note whereby the seller appoints the agent as required by the Land Agents Act and undertakes to pay commission at Chamber of Commerce rates. The common law principle is that, unless there is some contract to the contrary, commission is payable, in effect, on settlement, unless the vendor defaults. The wording of this paragraph, on the standard real estate form of contract, is somewhat uncertain, as it speaks of the commission being payable on the sale, and there is a judgment of the late Don Downey in the Local Court to the effect that in this contract sale means the signing of the contract . . .
>
> Some land agents have their own contract notice printed and adopt a form of paragraph which clearly states that commission is payable on the signing of the contract. This gives them a right to claim commission irrespective of whether settlement is ever effected and, in the case of a conditional contract, whether or not the conditions are satisfied. The result is very considerable injustice and hardship to an unsuspecting buyer.

The object of my amendment is to make clear that the commission is paid only if the sale goes through and not merely if the contract is entered into and subsequently rescinded.

The Hon. L. J. KING: I agree entirely with the principle that the agent should receive his commission only if the sale is completed and the vendor comes into the possession of money out of which he can pay the commission. Generally speaking, this is so, because the authorities show that the courts will construe an agreement between the principal and an agent wherever possible in that sense. Nonetheless, the agent's right to commission is determined by the language of the contract between the principal and the agent. If the contract is sufficiently explicit, the agent is entitled to his commission on whatever event is referred to in the contract as conferring that right; in some cases that may be the signing of the contract. I would support a provision that a licensed land agent should be entitled to his commission only where the transaction reaches completion and the vendor therefore comes into the possession of money.

I am not quite sure that the amendment achieves the object that the honourable member seeks to achieve, because it really prohibits the agent from demanding or receiving the commission where the transaction is repudiated, rescinded or avoided. Of course, it could go off for other reasons. Under the ordinary law, the agent would be entitled to his commission if the reason for the non-completion of the contract was a default on the part of the vendor, who should not, by his own default, be able to deprive the agent of his commission. I do not think the amendment covers that situation. However, I am willing to support it but, if it is carried, I intend to have it examined before the Bill reaches the other place to see whether it should be redrafted to meet the matters I have mentioned.

Mr. MILLHOUSE: I appreciate what the Attorney-General has said and, if there is any imperfection in the amendment, I shall be the first to support an alteration to it. If that is so, I hope it will be possible to put it in a more perfect form in another place.

Amendment carried; clause as amended passed.

Clauses 46 and 47 passed.

Clause 48—"Interpretation."

Mr. EVANS: I move:

In the definition of "nominated member", after "Minister" to insert "or the Real Estate Institute of South Australia Incorporated".

This is merely a machinery matter dependent on my amendment to clause 49.

The CHAIRMAN: The honourable member cannot move his other amendment now. They must be put as separate amendments, but he may explain his later amendment to show the effect of this amendment.

Mr. EVANS: My amendment permits the Real Estate Institute to nominate a group of people from which the Attorney-General or his officers can select an appointee. It is really parallel to the Government's own provision in relation to the Land and Business Agents Board, whereby nominations are accepted from the institute.

The Hon. L. J. KING: The amendment is based on the assumption that the Real Estate Institute is the appropriate organization to speak for land brokers. At present most land brokers are members of the institute, but it does not follow that this always will be so. If the hopes I have expressed are fulfilled, the result will be a gradual development of an independent body of land brokers, a semi-profession, a body of people with its own corporate identity, its own internal self-government, its own organization, developing its own ethical standards and its own sense of responsibility to the public. Accusations have been made that I seek to eliminate land brokers; on the contrary, I look to the day when we will have an independent semi-professional body of people to handle land transactions in an independent way. I accept that these people will have their own organizations, but meantime the situation is fluid. Some brokers will belong to the institute and some will not.

I do not know how the land broker members of the board will be selected, but I would not accept the position in which the panel would be submitted by the Real Estate Institute because some brokers might wish to operate outside the institute. It is their choice and their right to do that and to be considered for membership of the board the same as brokers who are members of the institute. In the absence of a recognized body representing independent land brokers, the only practical course is for the matter to be left in the hands of the Minister. It is my desire that the land broker representative on the board should be truly representative of the thinking, outlook and attitudes of independent land brokers. I wish to encourage this attitude of independence as much as possible.

Mr. MATHWIN: I support the amendment. This is not a lifetime appointment. In time, the brokers will form their own organization. When that time comes the Act could be altered without any trouble.

Mr. EVANS: All land agents were brokers until just after the Second World War. The Real Estate Institute has a separate brokers' division; the original Land Brokers Association became the Real Estate Institute just after the First World War. The independent group that the Attorney foresees is something for the future, at which time the Act could be amended. At this stage we must consider what we know today.

The Hon. L. J. KING: I recognize that brokers, so far as they have an organization, are members of the brokers' division of the Real Estate Institute. However, I do not know what the future holds in this regard and I do not think it would be appropriate to recognize in an Act of Parliament, as though it were a normal thing, that brokers should be represented by the same organization as are agents. The two professions are distinct and independent in their functions. Although they have been sadly mixed together, there should be no encouragement in an Act of Parliament of the notion that they are identical and that the one organization is appropriate to represent both. It is up to the brokers and the agents to decide which organization they should join. If the Bill is passed, I will in making the appointment take into account the wishes of the brokers and will consult with the brokers' division of the Real Estate Institute as well as with any independent brokers who may not be members of the institute. In view of the confused situation that is likely to continue for some time, the only course left open is for the selection to be made by the Minister.

Mr. MATHWIN: I am disappointed that the Attorney is so dictatorial and inflexible on the matter. Although he may wish the brokers to form their own organization eventually, they are fully represented by the Real Estate Institute.

The Committee divided on the amendment:

Ayes (16)—Messrs. Allen, Becker, Carnie, Coumbe, Eastick, Evans (teller), Goldsworthy, Gunn, Hall, Mathwin, McAnaney, and Rodda, Mrs. Steele, Messrs. Tonkin, Venning, and Wardle.

Noes (21)—Messrs Broomhill, Brown, Burdon, Clark, Corcoran, Crimes, Curren, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King (teller), Langley, McRae, Payne, Simmons, Slater, Wells, and Wright.

Pairs—Ayes—Messrs. Brookman, Ferguson and Nankivell. Noes—Mrs. Byrne, Messrs. McKee and Virgo.

Majority of 5 for the Noes.

Amendment thus negatived; clause passed.

Clauses 49 to 60 passed.

Clause 61—"Preparation of instruments."

Mr. EVANS: I move:

To strike out subclauses (2) and (3).

This clause deals with an area of concern to which all speakers have referred. The Attorney believes the arguments he has put forward substantiate his move to prevent a conflict of interest. However, I believe that it is possible for a person to still be both a land agent and a land broker and I do not believe that the Attorney has justified his argument.

Members interjecting:

Mr. EVANS: Members opposite can refer to any profession in this regard. There is no doubt that because of the way the Attorney and the Government have phrased this clause some people will be retrenched. However, many of them will be as honest as any person in this building. I am satisfied that there is every justification to leave the situation as it is. Until after the Second World War nearly every person who practised as a land agent was also a land broker and that caused no concern. Time will prove whether this is the thin edge of the wedge. In a previous Liberal and Country League Government the then Attorney-General suggested that we should start to move things towards the legal profession, perhaps with an inference of divine right. I submit that there is nothing wrong with providing that a person can be a land broker as well as a land agent. The amendment is satisfactory and is in keeping with the present practice, which has not been detrimental to anyone.

The Hon. L. J. KING: I do not detract from what I have said previously on this matter. This clause does not provide, as the member for Fisher suggests it does, that a land agent may not hold a licence as a land broker or vice versa. The New Zealand Act, passed in 1952, provides that a person cannot hold a land agent's licence and a land broker's licence at the same time. Although we have not gone that far, we have said that, if one holds a land agent's licence, one cannot function as a land broker unless one comes within the exception. That strikes at the function rather than at the holding of the office.

Regarding the suggestion made by the member for Fisher that it would be sufficient to provide that an agent who is a broker should be prohibited from handling documents only in transactions in which he is the agent, I make the point that this would not be an effective system, because an agent who wished to circumvent the system would simply arrange for another agent who was also a broker to do his work and vice versa. In this way, the public would not be protected: it would be an easy means of circumventing the Act and it should not be allowed to continue. Therefore, if the public is to have the protection it needs, it is necessary for there to be a clear differentiation between the function of buying and selling of land on the one hand and that of preparing documents and attending to settlements on the other hand.

Once one can see that the agent and his employees handling the transaction should not be the broker, there is no possible argument to justify having an employee or the agent's broker doing the work at all. The argument is always advanced that it is always cheaper and easier for this work to be done in the same office. However, if this cannot be done in the future, there will be no future in continuing the position in which an agent can be a broker but can prepare documents only on transactions in which someone else has acted as agent. I see no justification for the amendment.

Mr. GUNN: Why cannot a land broker who is also a land salesman acting for other clients accept instructions from a buyer, when there is no conflict of interest?

The Hon. L. J. KING: I am not sure what the honourable member has in mind. The point is that the only justification for the present system is that it enables the whole transaction to be completed in a single office and it is therefore said to be economical. I dispute that for the reasons I have already given. If that is not to happen because there is a conflict of interest, there is no justification for continuing a system in which an agent

can act as a broker in any circumstances. It leads to this dangerous confusion between the two functions.

It is tremendously important that the public and the real estate profession should understand that there is a clear distinction of function between buying and selling land on the one hand and representing clients in the preparation of documents and the handling of settlements on the other hand. It is important that these two functions should be kept distinct, not only in practice but also in the minds of those in the profession. We must do all in our power to work towards this situation, and particularly must we be careful about it because of the degree of blurring that is involved in the compassion provision, which continues the right of a broker to prepare documents for his employer where he is in the employment of that employer at present.

Mr. MATHWIN: I support the amendment. As it stands, the provision will cause many people to lose their jobs, which is a much more serious consideration than the Attorney-General believes. Although the Attorney referred to certain cases of malpractice, one could allude to similar occurrences in respect of other provisions that would horrify certain people. I remind the Attorney of the situation in the building industry, in which plumbers, bricklayers and carpenters are able to take out licences in their own trade as well as a licence as a builder. Therefore, one person can hold as many as three licences.

The CHAIRMAN: Order! The honourable member should confine his remarks to the amendment.

Mr. MATHWIN: Figures were quoted showing the difference between the cost in this State and the cost in other States, but the Attorney did not argue against the figures.

Mr. BECKER: Can the licensed land broker who is also a licensed land agent prepare documents as a licensed land broker for a person who comes to him purely for the documentary work and not as a land agent?

The Hon. L. J. KING: No. Under the provisions of this clause the land agent cannot perform the function of a land broker.

Mr. McANANEY: Why cannot a land agent in a country town who has been acting as an agent and a broker be granted conditions similar to those applying to a land broker at present employed by a land agent?

The Hon. L. J. KING: This concession to present employees is purely compassionate and arises out of hardship that may be caused if an employee is thrown out of work. Perhaps we may have gone too far in this respect.

The CHAIRMAN: Order! I am allowing the Attorney to reply to the question, but the question and reply seem to be the subject matter of a further amendment. There should be no further debate on this matter.

The Hon. L. J. KING: If it emerges that there is an inconsistency and a contradiction, we may have to limit the concession far more severely than at present. We cannot extend this concession on compassionate grounds to a principal, because he has a means of earning a living. He must choose whether he wishes to be a land agent or a land broker. The principle of the Bill is that there must be a division between the two. If we were consistent and willing to accept the consequences, we would have to say there would be no exemptions in favour of employees. It could be argued that we are now sacrificing the interests of the public to the interest of the employee land broker. There can be no question of extending the concession. Indeed, if it creates difficulties it will have to be reconsidered.

Mr. BECKER: As a bank officer, I did not come across an instance of pressure on a broker to force a settlement. The Attorney quoted several examples but there was no indication of any reflection on land brokers: the judgments were only expressions of opinion. The Registrar-General of Deeds has the right to revoke a land broker's licence but hitherto no land broker has had his licence revoked. I support the amendment.

Amendment negatived.

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

In subclause (2) to strike out "or a legal practitioner or licensed land broker in his employment" and insert "or an employee of an agent".

The general effect of the amendment is to make clear that what is prohibited is the preparation of all documents by a licensed land agent or any other employee of a licensed land agent, subject to the exemption in subclause (3).

Mr. EVANS: We are providing that an agent shall not employ a broker or a legal practitioner to prepare documents. I oppose the amendment.

The Hon. L. J. KING: The amendment prohibits a legal practitioner as well as a land broker from preparing documents if such a person is employed by the land agent. Contrary to what has been attributed to me, the issue here is not any intrinsic superiority of a legal practitioner over a land broker, but

the requirement that the person preparing the documents must not be in the employ of the land agent. There must be no conflict of duty.

Mr. EVANS: A person who wishes to buy a property visits a land agent but is told that the agent cannot complete the documents, because the person must use a legal practitioner or a broker for that work. Then the intending purchaser may ask the agent whether he can recommend a broker or lawyer. We may get the position that exists in the Eastern States, where there is a handout down the line in the form of cheaper rent for offices or in some other way.

The Hon. L. J. KING: The position is not the same, because the broker or solicitor is not the employee of the agent and, therefore, he has not that conflict of interest. He may act dishonestly, as anyone may, but we are not putting him in a position where he must inevitably be faced with that conflict. It would be unprofessional conduct for a legal practitioner to share his fee with anyone else.

Mr. Evans: They do it in other States.

The Hon. L. J. KING: The honourable member asserts that. If they are found out, they will be struck off the roll. When there is an established system of ethics enforceable by penalties, there is a much better chance of seeing that people behave in a professional way. I am confident that the Land Brokers Board will insist that there be no kickbacks. Some people will try to circumvent the law but, if they are caught, they will suffer the consequences. As this provision becomes established as common practice, there will be a general acceptance of the proper and ethical thing to do.

Amendment carried.

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

In subclause (3) to strike out "solicitor" and insert "legal practitioner".

This is purely a drafting amendment to make that expression accord with the expression "legal practitioner" in subclause (1).

Amendment carried.

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

In subclause (3) to strike out all words after "broker" and insert the following paragraphs:

(*a*) who at the time of the preparation of the instrument has been in the employment of an agent acting for a party to the transaction in respect of which the instrument is prepared continuously from the first day of September, 1972, or some earlier date;

(*b*) who was licensed as a land broker or admitted and enrolled as a practitioner of the Supreme Court of South Australia, or was qualified to be so licensed, or admitted and enrolled, on the first day of September, 1972; and

(*c*) who, where the agent in whose employment he is acting is a corporation, is not a director of the corporation, or in a position to control the conduct of the affairs of the corporation.

This involves a redrafting of these provisions, designed to make clear several things, some of which were questioned on the original draft. The amendment is to make clear that the relevant time for the operation of the exemption is the time of preparation of the instrument, and that the employer must be continuously employed from September 1, 1972. That day was chosen merely to ensure that there was not a move to employ land brokers so as to evade the provisions of the Bill, once the provisions became known. New paragraph (*b*) is designed to ensure that the employment at the relevant date is employment as a land broker or legal practitioner, so it is provided that the employee must have been a land broker or legal practitioner at that date, or must have been qualified to be so. It was suggested that, in terms of the original draft, a person who was an office boy on September 1, 1972, could subsequently qualify as a land broker or legal practitioner and come within the exemption provision. That loophole is being closed. New paragraph (*c*) provides that a director of a company, who is therefore in substantially the same position as a principal in a non-incorporated business, is also excluded from the exemption.

Mr. COUMBE: A land agent may retain the services of a legal practitioner. Does the Attorney contemplate regarding him as an employee of the agent?

The Hon. L. J. KING: No. I think it is clear that the word "employment" used in this clause means employment as a servant, because it refers to employment continuously from September 1, 1972.

Mr. Coumbe: He could have been retained continually over several years.

The Hon. L. J. KING: The argument has been raised in relation to this draft that the word "employment" is equivocal and could mean employment as an independent contractor as distinct from employment as a servant. I do not think that is consistent with this context, and I am satisfied with this provision. However, as the point has been raised again, I will ask the Parliamentary Counsel to consider it again. There may be merit in inserting

the words "as a servant", but I think the Parliamentary Counsel has tried to avoid that expression. Whereas "service" has a well understood meaning, "servant" does not have the same connotation. If there is any doubt on re-examination, appropriate words will be inserted.

Mr. EVANS: I object to the amendment. The Attorney has said, in relation to new paragraph (*b*), that a person employed full time must be either a broker or a legal practitioner acting in that capacity at September 1, 1972. The Attorney says he intends to exclude the office boy or someone not fully qualified at that time. The person may have entered the firm with the object of becoming a broker or legal practitioner and he may be the son of the owner of the business. Surely a person who sets out in that way should not be excluded.

Mr. Coumbe: He may be studying for his examinations now.

Mr. EVANS: Yes. Why pick on such a minority?

The Hon. L. J. KING: The purpose of this Bill is to bring about as soon as possible a separation between the functions of land agents and land brokers. I thought that I made that so clear that I cannot imagine why it should be raised as a treacherous design. The only reason the exemption is in is that it is compassionate. It is not as simple as the member for Fisher makes it out to be; unless there is a provision of this kind, it would be open to a land agent to take all his employees at September 1, 1972, who were capable of absorbing the training and have them qualify as land brokers, and all of them would then be qualified to take advantage of the exemption. However, the purpose of the provision is not to enable land agents' firms to continue in the existing way but to preserve the livelihood of an existing employee land broker. It would be folly to open up a loophole that would negate the purpose of the legislation.

Mr. EVANS: I believe that the Attorney-General's argument is illogical.

Mr. BECKER: In view of the small number of people doing the land broker's course, could the date not be amended to January, 1973, to give those at present employed with land agents the opportunity to pass their course this year? Very few people would be involved.

The Hon. L. J. KING: The purpose of the exemption is to preserve the employment of existing employees who are land brokers—not future employees. If people doing courses are employed in a land agent's office, they are not employed as land brokers, because they are not entitled to be. If they pass the course and wish to act as land brokers, they must set up in business as independent land brokers or obtain employment with an independent land broker. Every encouragement will be given to them to do so, and I hope that young people now going through the courses will be the nucleus of the independent land broking system that I hope will grow and flourish.

Amendments carried.

Dr. EASTICK: Representations have been made that an exemption should be made in the case of documents relating to registrations of marriage and death, the preparation of mortgages, and transfers to joint names. Has the Attorney-General considered those representations? Can he say whether some other clause of this Bill or some other Act covers the situation?

The Hon. L. J. KING: Under this Bill those documents which are Real Property Act documents would be confined to land brokers, and therefore these provisions would apply to them, as I believe that they should. Certainly, a mortgage document prepared on behalf of a mortgagee is no different from a transfer in the case of a sale of land. The mortgagor and the mortgagee are entitled to the protection of having an independent land broker handling the matter. Generally, I believe that all these documents are properly within the land broker's business, and therefore they belong to the land broking profession or the legal profession. I cannot see why an exemption should be made in these circumstances. Land brokers will be earning their living doing this work, and they are entitled to handle it.

Dr. EASTICK: What about documents which come outside the land broker's field but which are an integral part of businesses currently established and would be an integral part of them in the future? They are not in any way associated with land broking or land agent activities. The view is held that subclause (2) would prevent those documents being dealt with by a land broker.

The Hon. L. J. KING: What is prohibited is the preparation of an instrument. In clause 48 "instrument" is defined as follows:

> (*a*) any conveyance, mortgage, lease or deed relating to an estate or interest in the land; or
> (*b*) any instrument as defined in the Real Property Act, 1886-1972.

If the document falls outside that definition, the prohibition against its preparation does not apply. Of course, a person preparing it for fee or reward may have to watch the Legal Practitioners Act.

Mr. BECKER: I take it that it is all right for banks to prepare instruments in the country where there are not solicitors or land brokers, if the documents are verified at the head office.

The Hon. L. J. KING: If the bank is a party to the transaction.

Clause as amended passed.

Clauses 62 to 64 passed.

Clause 65—"Interest-bearing account to be established."

Dr. EASTICK: I move:

To strike out subclause (1) and insert the following subclause:

(1) An agent shall, out of the moneys paid into his trust account (whether so paid pursuant to this Act, the repealed Land Agents Act, or the repealed Business Agents Act)—

(*a*) on or before the prescribed day, deposit with the Board a sum that is not less than the prescribed portion of the lowest balance of the trust account during the period of twelve months last preceding the prescribed day;
and

(*b*) not later than the last day of each successive period of twelve months after the prescribed day, make such further deposits with the Board as may be necessary in order that the amount received and held on deposit on his behalf by the Board is not less than the prescribed portion of the lowest aggregate of the amount of the balance of the trust account and the amount held on deposit on his behalf by the Board during that period.

Earlier, I sought details from the Attorney-General about the method whereby trading banks could involve themselves in the trust funds associated with the Bill, and said that the banks wished to be considered in much the same way as they had been considered in respect of the Legal Practitioners Act, or more particularly in respect of the fidelity fund created under that Act. The Bill is not the complete measure which would be required if the Attorney accepted the idea of trading banks being able to involve themselves. The submission was made too late this afternoon for me to call on the officers of the House to give the total attention that would be required for a whole series of alterations.

In discussions with the Attorney or his officers the suggestion was made that the banks could involve themselves in such transactions where the agent would have immediate access to funds if the banks were to take up the funding through the savings bank operation of their individual organizations. While this was a consideration for the banks, I understand that it would not be in the best interests of the fund created, more particularly relating to interest required to accrue or to be passed on to the total funds available. Interest payable on savings bank accounts is determined by the smallest sum in the account during the month, and not on a day-to-day basis, as applies to trading accounts. The amount of funding by way of accrual of interest would be considerably reduced if that were the alternative to the trading banks.

I understood the basic detail was provided to the Attorney in 1970, and, although discussions took place in March last with officers of the Attorney-General's Department, no indication was given to the banking organization, which collectively sent a deputation, why the submission was not acceptable. It is on this general basis that I ask the Attorney why this course is not acceptable to the Government. If the additional information I have now privided makes any difference to his view, it will be necessary to move a series of further amendments.

The Hon. L. J. KING: This matter was given much consideration. It would be desirable if it were open to the trading banks to operate this system. This was accomplished in the case of the Law Society's interest on trust accounts scheme, by providing for a statutory deposit account operated by the society through the trading banks. The difficulty is created by the Reserve Bank provisions that preclude trading banks from paying interest on current accounts, and the only way in which the trading banks can participate in such a scheme is to have a central body operating the account which can deposit for a fixed term, because of the volume. Such a course is not possible in the case of land agents. The Law Society has almost 100 per cent membership of the profession and is operated on behalf of the profession. The practitioner uses his own trading bank but the society operates accounts at each of the trading banks. The practitioner uses his own trading bank and the bank still retains the business in the same way as if the money was in the practitioner's account. The Real Estate Institute does not have a similar proportion of membership. Many agents are not members, and I understand from the Crown Solicitor, who carried out most of the discussions, that the institute did not want to operate in that way. Also, it would not have been practicable. That was my impression of the report I had at the time, but I have not refreshed my memory recently.

The proposal in the amendment was put by the trading banks. I think the trading banks do not understand the nature of the Land Agents Board. It is a statutory board set up for the surveillance of the industry, the granting of licences, the investigation of complaints, the revocation of licences, and so on. It is not an administrative body, it has no administrative machinery, no accountants or officers to operate such a scheme. Operating such a scheme would change the character of the board. The board would be most unwilling to do that. It is not the purpose for which its members were appointed, and I would be most unwilling to saddle it with this responsibility. It is not practicable to organize a scheme similar to that organized in respect of the legal profession. It is regrettable that this seems to exclude the trading banks from the scheme, but that matter can be resolved only if the Reserve Bank provisions are not applied or if the trading banks reach an understanding with the Reserve Bank. It is a difficulty that cannot be solved at a State level.

Mr. BECKER: That problem can be overcome by deleting the clause or accepting the amendment. This clause excludes the trading banks and it is therefore bad legislation. The Reserve Bank should be asked to have amended the Act applying to trust funds. This provision is just another move to take trust accounts from private banks and have those accounts transferred to the Savings Bank of South Australia. This move was attempted several years ago and failed. This is a nationalization of trust funds.

Amendment negatived; clause passed.

Clauses 66 to 87 passed.

Clause 88—"Cooling off period."

The Hon. L. J. KING moved:

In subclause (1) to strike out all words after "after" and insert "the prescribed day give notice to the vendor of his intention not to be bound by the contract and the contract shall be deemed to have been rescinded at the time the notice is served or posted in accordance with this subsection".

Amendment carried.

The Hon. L. J. KING: I move to insert the following new subclause:

(1a) For the purposes of subsection (1) of this section "the prescribed day" means—
 (*a*) where the vendor or some person acting on behalf of the vendor serves upon the purchaser personally, or by registered or certified mail, before the date of settlement, a notice in the prescribed form setting forth the rights of the purchaser under this section—
  (i) the day on which the notice is so served;
  (ii) the day on which the contract is executed by the vendor; or
  (iii) the day on which the contract is executed by the purchaser,
 whichever last occurs; or
 (*b*) in any other case, the date of settlement.

The purpose of this amendment is to ensure that the purchaser has brought to his notice his rights regarding the cooling-off period. It means that if the purchaser gets notice before or contemporaneously with the contract, the cooling-off period runs from the period when the last partner to the purchase makes it a binding contract. If notice is not given then, the cooling-off period runs from the time that the matter is brought to the purchaser's notice. If no notice is given, the purchasee is entitled to rescind the contract up to the time of settlement. The amendment ensures that the cooling-off period does not begin to run until the purchaser is notified of his cooling-off rights.

Amendment carried.

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

In subclause (3) to strike out "or business".

That phrase has been included inadvertently, and its removal will not change the effect of the subclause.

Amendment carried.

Mr. EVANS: I move:

In subclause (3) to insert the following new paragraph:
 (ba) where the purchaser enters into the contract in pursuance of an option granted by the vendor at least forty-eight hours before the purchaser executes the contract:

I ask the Attorney to accept that, where an option has been taken on a property and is for more than 48 hours, the cooling-off period will not apply? The person will have had sufficient time to think about the purchase and to decide whether or not he wants the property. The Attorney has allowed for exemptions to be made, and I am seeking this exemption.

The Hon. L. J. KING: This point was put to me by representatives of the Real Estate Institute. I was at first attracted to the suggestion, because it seemed reasonable. However, on reflection, I believe it is unwise. True, the option gives the purchaser (the person holding the option) opportunity for reflection, but pressures and persuasions may be

used on him to exercise that option. It is at that point that the cooling-off period, even though it can be argued that it is less necessary, is still necessary after the otherwise irrevocable step of exercising the opinion has been taken. I do not think it does any harm. Because there may be beneficial consequences in some cases, it would be unwise to accept the amendment.

Mr. MATHWIN: I support the amendment, which I ask the Attorney to accept, thus retaining the option in relation to the cooling-off period. How far does the Attorney intend to protect people against themselves? In this respect he has gone to ridiculous extremes, taking it for granted that no-one has a mind of his own; he is leaving people no incentive at all. If an option is taken, surely one has time to think about the matter.

Mr. JENNINGS: I make a plea to the Committee that at this stage we protect the Attorney because he needs protection occasionally, particularly from answering such utter rubbish as we have just heard from the member for Glenelg.

Mr. MATHWIN: I rise on a point of order. I object to that statement by the member for Ross Smith, who has obviously been asleep all night.

The CHAIRMAN: Order! The honourable member has taken a point of order, and I must rule that the remark is unparliamentary.

Mr. EVANS: I do not believe the Attorney is strong in his opinion on this matter. I gathered from his remarks that he has some sympathy for the amendment, which I am strongly convinced is reasonable and which will do no harm if it is accepted. It will give an agent the opportunity to say to a person, "You will have an option", whatever the period may be, but the cooling-off period will not exist. I ask the Attorney-General to reconsider his attitude.

The Committee divided on the amendment:

Ayes (16)—Messrs. Allen, Becker, Carnie, Coumbe, Eastick, Evans (teller), Goldsworthy, Gunn, Hall, Mathwin, McAnaney, and Rodda, Mrs. Steele, Messrs. Tonkin, Venning, and Wardle.

Noes (21)—Messrs. Broomhill, Brown, Burdon, Clark, Corcoran, Crimes, Curren, Groth, Harrison, Hopgood, Hudson, Jennings, Keneally, King (teller), Langley, McRae, Payne, Simmons, Slater, Wells, and Wright.

Pairs—Ayes—Messrs. Brookman, Ferguson, and Nankivell. Noes—Mrs. Byrne, and Messrs. McKee and Virgo.

Majority of 5 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 89—"Abolition of instalment contracts."

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

In subclause (3) to strike out "'date of settlement' in relation to a contract for the sale of any land or business, means the day on which the vendor is required under the terms of the contract to transfer his estate or interest in the land or business to the purchaser:"

This amendment deletes the definition of "date of settlement", which has been included in clause 6, the definition clause.

Amendment carried; clause as amended passed.

Clause 90—"Information to be supplied to purchaser before execution of contract."

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

In subclause (5) *(a)* after "subsection (3)" to insert "or (4)".

This subclause creates an offence on the part of the agent who neglects his obligations under the clause. These obligations are created not only by subclause (3) but also by subclause (4).

Amendment carried.

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

In subclause (9) to strike out "means" and insert "includes".

The word "encumbrance" has a meaning of its own in law, and the further meanings attributed to it are additional meanings so that the definition is inclusive.

Amendment carried.

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

In subclause (9) *(a)*, after "covenant" to insert "writ, warrant, caveat, lien,".

These are matters included in the meaning of "encumbrance".

Amendment carried.

The Hon. L. J. KING: I move to insert the following new subclauses:

(10) It shall not be competent for a person to waive his rights under this section.

(11) The provisions of this section are in addition to, and do not derogate from, the provisions of any other Act or law.

The first subclause makes clear that a person shall not waive his rights, and the other makes clear that the rights conferred on him by this clause are in addition to and not in derogation from his ordinary rights at law.

Amendment carried.

Mr. BECKER: Referring to subclause (1) *(a)*, I understand that the vendor must disclose all mortgages on the property, including the principal and interest.

The Hon. L. J. KING: The vendor is required to disclose particulars of the mortgage, being the particulars relevant for the purchaser to know in order to ensure that the title is clear. He must at least disclose the mortgage and the amount secured by the mortgage, but not necessarily the balance outstanding. The purchaser must know the maximum amount secured by the mortgage and to what extent the property is encumbered.

Clause as amended passed.

Clauses 91 to 96 passed.

Clause 97—"False representation."

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

To strike out subclause (1) and insert the following new subclause:

(1) A person who in connection with the disposal of any land or business or any interest therein makes a false representation, with knowledge of its falsity, for the purpose of inducing another person to acquire the land or business, or the interest therein, shall be guilty of an indictable offence and liable to a penalty not exceeding one thousand dollars or imprisonment for twelve months.

The offence created by clause 97 has been amplified and made an indictable offence.

Amendment carried; clause as amended passed.

Clauses 98 to 100 passed.

Clause 101—"Proceedings."

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

In subclause (1), after "Act" to insert "(except indictable offences)".

This is a consequential amendment, which makes two of the offences indictable offences although originally they were summary offences.

Amendment carried; clause as amended passed.

Clauses 102 to 106 passed.

Clause 107—"Regulations."

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

To strike out paragraph (*i*) and insert the following new paragraph:

(i) require that the trust accounts of agents and land brokers be audited annually, prescribe the class of persons by whom the trust accounts are to be audited, regulate the manner in which the audit is to be conducted, and provide that reports of the audit are to be made to the Board;

This amendment inserts the power to make regulations to implement the trust account provisions of the Bill.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments.

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

That this Bill be now read a third time.

Mr. EVANS (Fisher): Time will tell whether my fears are correct that conveyancing costs will rise as a result of this Bill. I believe that costs will rise at a much greater rate than that of the normal inflationary trend. I am disappointed that the Attorney-General did not accept any amendments, even though he admitted that some were reasonable. The Bill leaves us in its original form, except for the addition of the Attorney's amendments.

The Hon. J. D. Corcoran: That's how it should be.

Mr. EVANS: That is the Minister's judgment. Time will prove whether those who have a genuine fear of its contents are right or wrong.

Bill read a third time and passed.

ADJOURNMENT

At 2.19 a.m. the House adjourned until Wednesday, October 25, at 2 p.m.