LEGISLATIVE COUNCIL.

Tuesday, October 5, 1954.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2 p.m. and read prayers.

PUBLIC PURPOSES LOAN BILL.

Read a third time and passed.

PRICES ACT AMENDMENT BILL.

Second reading—

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

It extends the operation of the Prices Act for another year. The reasons which have influenced the Government in proposing this extension are the same as in former years. The Government would be very glad if price controls could all be taken off without detrimental effects. The fact is, however, that supplies of some essential goods and materials are still substantially below requirements, and if there were no price control it would be possible for unscrupulous persons to take an unfair advantage of the position and charge excessive prices. Among the goods which are in short supply are certain building materials, the price of which is an important factor in the cost of a house. Although on the whole there has been in recent months an improvement in the supply of goods generally we have not yet reached the stage when it would be wise to repeal the Act. It is preferable to leave it on the Statute Book for the time being, and de-control goods by appropriate orders when circumstances justify that course. Under this system the controls can be reimposed if it again becomes desirable to do so.

The Hon. F. J. CONDON secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 28. Page 748.)

The Hon. C. R. CUDMORE (Central No. 2)—On the face of it this is another small Bill, but like the Marketing of Eggs Act Amendment Bill, it is full of meat. It contains two points; the first is an alteration in the evidence permitted to be given when adultery is charged and the second is a question of clearing up, apparently to the satisfaction of the Commonwealth Government, the authority of individuals to take affidavits outside this State. I will deal with the second point first, as the Minister did when explaining the Bill. This is not a legal question, but is purely a matter of machinery. Until Dr. Evatt extended so widely Australia's individual representation all over the world, we were quite satisfied that affidavits and things requiring a notary's attention should be taken before a British official in whatever country it was, but in 1947 we were asked to put in the word "Australian," which we did thinking that that was all that was necessary. Now we are asked to specify quite a large number of individuals. As this is purely a matter of convenience for administration I have no objections to the suggested alterations.

The other point is very much a legal point, and it is of very considerable historical importance from a legal point of view. In medieval days the ecclesiastical courts had power to punish people if they found they had committed an offence and they were entitled to carry, and did carry, certain sanctions into effect both against males and females if adultery was proved or admitted. It was probably for that reason, amongst others, that this proviso was put into the English Evidence Act in 1867 and into ours in 1869:—

No witness in any proceedings instituted in consequence of adultery, whether a party to the proceedings or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery unless the witness has already given evidence in the same proceedings in disproof of his or her alleged adultery.

My practice in the courts in adultery has been somewhat limited and therefore I cannot speak with great authority, but on questions like this I always start on the basis that there is something in the law in England and throughout the Empire which has stood for nearly 100 years and there must have been good reason for it. Therefore, I always feel that before altering things which have been carried on successfully during all those years we should be quite satisfied that what we propose to do will not be detrimental. The amendment is a very simple-looking thing, namely, "Section 17 of the principal Act is repealed"; that is all. There is one thing in altering our law as against the law in England and other parts of the British Empire, namely, that we depend very greatly in our courts on case law; that is to say, the judges are influenced by the decisions of higher courts when the law is the same. That, it seems to me, will be one of the disadvantages in altering the law in the way suggested, but I do not say that that is by any means a primary cause

for objecting to it. I have tried to find out where the desire for this alteration came from and I have not succeeded. The Minister, in his second reading speech, said:—

It is proposed to abolish this rule of evidence. The primary reason for so doing is that there is no logical justification for the rule.

It has stood for a very long time and it is a pretty forthright statement to say there is no logical justification for it. The Minister told us that the Law Society had been approached about the matter. I know that the Law Society received a letter from the Attorney-General on the subject and that it was submitted to the Law Reform Committee which, having gone into the matter and agreed to it, referred it to the Council of the Law Society which also supported it. Therefore, from that point of view, there is no question but that the official body of the Law Society supports the amendment. However, I have not been able to find out whether the matter was submitted, or an opinion sought from Their Honours, the Judges of the Supreme Court, for I think that they would be the most important people to consult. Perhaps before the Bill is passed we will be able to know whether they are also in favour of it because they are the people who deal with these cases.

I have read a long article in the *Australian Law Journal* of 1931 where the whole thing was canvassed under the rather amusing heading of "Is lechery so looked after? (Measure for Measure)," bringing in a reference to Shakespeare. In all books and discussions on the matter all the pros and cons are discussed and there is also an excellent article in the *Law Quarterly Review,* which is an English production and to which I will refer later, but I was struck by one thing, namely, that in both the *Law Journal* and in the English *Law Quarterly Review* it was stated that this particular rule of evidence was desirable because of cases heard before juries, for if a man were asked a question as to adultery before a jury and he claimed the protection of this section that was, to the jury, almost as good as an admission; they immediately felt that there must be something in it because the man would not answer a question and sought protection of the section. However, we do not have juries now in divorce cases, except where a criminal offence is involved, such as sodomy; the old ecclesiastical courts no longer deal with people who have been proved guilty of adultery. Also, about 20 years ago we prohibited the publication of evidence in divorce cases. Members will recollect several celebrated divorce cases soon after World War I which filled page after page of the newspapers, and it became such a scandal that publication of that sort of evidence was prohibited, and this obviously is an additional reason why we should do away with this proviso. If it will help the courts to arrive at a just decision without doing the people involved any particular harm it is a good argument in its favour.

The Hon. F. J. Condon—Divorce proceedings in other States are reported in South Australian papers.

The Hon. C. R. CUDMORE—Yes, and that reminds me that I find that this provision has already been repealed in both Victoria and Western Australia, so that we are not entirely breaking new ground. I do not think that I can usefully add much to what I have said, but an article in the English *Law Quarterly Review,* published in Vol. 65 of 1949, on "Adultery and Self-Crimination" seems to sum it up. Zelman Cowen puts it this way:—

It follows, on the one hand, that all privileges of exemption from this (testimonial) duty are exceptional and are therefore to be discountenanced. There must be good reason, plainly shown, for their existence. In the interest of developing scientifically the details of the various recognized privileges, judges and lawyers are apt to forget their exceptional nature. The trend of the day is to expand them as if they were large and fundamental principles, worthy of pursuit into the remotest analogies. This attitude is an unwholesome one. The investigation of truth and the enforcement of testimonial duty demand the restriction, not the expansion, of these privileges. They should be recognized only within the narrowest limits required by principle.

Having read what I could about the matter I intend to support the deletion of the section from the Act.

The Hon. C. D. ROWE secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2).

Adjourned debate on second reading.

(Continued from September 28. Page 747.)

The Hon. F. J. CONDON (Leader of the Opposition)—This Bill proposes a number of amendments, and although most of them are desirable and necessary they are not very important and do not warrant much discussion. What I am concerned about is something which does not appear in the amending Bill and it will be necessary to get an instruction from the Council to consider these

matters in Committee. It is unreasonable to expect a member at his own expense to represent a council in matters affecting it. For instance, many men are appointed to wait on Ministers and have to travel a long way, with resultant loss of time, but under the present Act they cannot be compensated. This is worthy of consideration, because a man who devotes his time on behalf of his town is entitled to some consideration.

The Hon. E. Anthoney—He gets some expenses.

The Hon. F. J. CONDON—He may get his fare, but nothing for lost time. Then there is the question of giving councils power to deal with the rates of certain sections of the public. In the other States various Governments have granted concessions to aged and invalid pensioners. No doubt honourable members have received recently a request by letter to give this matter consideration. In altering the law to deal with such cases it is not Parliament's responsibility but that of the councils to say whether they will grant any concessions in rates to people in strained circumstances. The next point relates to a matter I have dealt with before, and I have been pleased to hear from the Minister that the Government is prepared to give some compensation to councils which have been hard hit because Government property in their areas is not ratable. Apparently it recognizes that injustice has been done. I have in mind the loss of £450,000 by the Port Adelaide City Council since the acquisition of the wharves.

The Hon. E. Anthoney—It gets an annual repayment of £1,800 a year.

The Hon. F. J. CONDON—What is that to a place like Port Adelaide which has lost such a huge amount? This is a Committee Bill, and there are one or two clauses I intend to oppose. The most important involves the question of land values, on which my Party has a definite policy. It regards land value rating as the most equitable, and in districts where it has been adopted we feel there should be no interference with the ordinary processes of rating by the local authorities. My Party therefore opposes the proposal to prescribe a differential rate on so-called urban farm land. In making the provision set out in clause 12 the Government is merely endeavouring to meet circumstances arising in the Marion council area because of the recent adoption of land value rating.

The Hon. N. L. Jude—The Marion council itself has declared a differential rate on rural lands.

The Hon. F. J. CONDON—Concessions are being given to people both in the assessment and by reducing the rate. I have always advocated land value assessment as a policy. This is special legislation and for that reason is not desirable. It would have been far better had the Government reviewed the whole position of rating and brought down a comprehensive proposal. It is a very contentious question as to which system of rating should be adopted. Some councils have adopted the land value system in its entirety, whereas others have done the reverse. There is no need for a differential rate between farm lands and other lands. Assessments made by councils normally take into account the difference in value of the land according to the purpose for which it is used. I understand that the Marion Council has provided for a considerable range of rating in its recent assessment. That being so, the owner of agricultural lands derives an advantage because his land is assessed at a lower value than that of others. This is reflected in the rates payable even when the same rate applies to all land. There is already provision in the Act for differential rating by vote of the council. This takes away some of the power exercised by councils. Even if a differential rate is to be prescribed by Act of Parliament that rate should not be prescribed as anything up to one-half—it should be not less than half the rate on other land. No evidence as to the burden on these ratepayers has been submitted in support of the proposal that a limitation on farm land rating is necessary. If the proposed limitation is approved, owners of such land will get it both ways—by lower assessments and lower rates. The proposal is in effect a discouragement against the adoption of land values rating. When the poll was taken in Marion it was understood that other conditions would remain as they were—that the Government would not take steps to nullify the purpose and advantage in the change to land values rating.

The Hon. E. Anthoney—Who gave that undertaking?

The Hon. F. J. CONDON—It has always been more difficult to change from annual rental values to land values than from land values to annual rental values. The dice have always been loaded against the progress represented by land values rating.

The Hon. S. C. Bevan—Henley and Grange council is very concerned about this.

The Hon. F. J. CONDON—It is. A number of councils have been working on land values

rating for many years. Under this Bill something very unfair will be done.

The Hon. N. L. Jude—Does the honourable member agree that many injustices have occurred?

The Hon. F. J. CONDON—Will the amendment put them right? No evidence has been given why the area should be five acres. This seems to be purely arbitrary and artificial, and some justification should have been submitted for the decision. What control is there to be over the retention of these areas for primary production? If an owner gets a good offer for his land for subdivision purposes he will sell and make a handsome profit, and the object of the legislation will be defeated.

The Hon. E. Anthoney—But he has to be carrying on agricultural farming to come under the provisions of the Bill.

The Hon. F. J. CONDON—My honourable friend will have an opportunity to speak later and put his point. I am putting points for the other side and trying to enlarge the scope of the Bill. I believe in land values rating; as a member of the Labor Party I can take no other stand than to endeavour to put into effect what I believe to be right. However, I will deal with this in Committe stages.

Clause 11 increases the maximum rate which may be imposed under land values from 1s. 8d. to 2s. Clause 29 deals with authorized persons witnessing applications for postal votes. I approached the Government on this matter and pointed out that it was wrong to prevent a man who is a justice of the peace and who is elected unopposed from witnessing applications for postal votes. Perhaps there might have been some justification for this if the candidate were not unopposed, but the position of a justice of the peace is an honourable one so why should he not be able to witness a signature just because he is a council candidate? The Bill will alter this position and I hope to have no complaints about the matter in future. Clause 16 deals with the permission granted by councils to private persons to erect weighbridges on highways. People wishing to do this must also obtain permission from the Highways Commissioner, but after having obtained his permission a council has the right to revoke the authority without any representation to the Highways Commissioner. Surely it is only fair that the council should not have the power of revocation without reference to the Commissioner. I support the second reading.

The Hon. E. ANTHONEY (Central No. 2)—I consider that the Minister has shown very great courage in introducing two Local Government Bills during one session, because formerly we regarded one as quite enough. I compliment him on the expedition with which he introduced this matter which, as Mr. Condon has just said, deals particularly with one municipality. As Mr. Condon pointed out, many councils are suffering great disabilities because there are many properties in their districts entirely unratable. We all appreciate what a drag this is, and time and time again councils have been promised that something will be done, but so far nothing has been done. Today these bodies face very high costs and if something could be done to help them it would be a great relief. When the Act is under consideration again I hope this will be taken into account.

The Hon. F. J. Condon—The Government is considering it.

The Hon. E. ANTHONEY—Then I hope a decision will be reached soon.

The Hon. N. L. Jude—It will be taken into consideration when making road grants.

The Hon. E. ANTHONEY—This Bill deals with a number of topics, many of which should be discussed clause by clause in Committee rather than in a general debate. However, there are one or two matters that can be reasonably brought up in a second reading debate, the chief one being the system of rating. The Act provides for two rating systems, on land values and on rental or improved values, and municipalities or district councils can choose either. A number of councils have adopted land values rating, a system that I do not oppose in certain circumstances. Where an area is uniform, as the Minister set out in his very clear second reading speech, land values rating can be applied very successfully. In districts where a considerable area of land is held for speculative purposes the application of land values rating has proved a very wise thing because it has had a great deal to do in opening and settling a number of districts. These remarks apply to an area that is uniform and in which people are not using the land to make a living.

Until recently the Marion Council district was almost entirely a productive area of people who had farmed the land all their lives, but because people had to be housed a large portion of the district has been subdivided and hundreds of residents housed. In this area there are still many people living off the land, some on small and others on large holdings.

It is easy to understand that a flat rate on rental values would drive these farmers, horticulturists, and bee-keepers, many of them holding small pieces of land, right out of business. Mr. Condon said he had no evidence of the effect of land values rating on the land we are speaking about. While this is perhaps at the moment a special case, if left unremedied this sort of thing will spread outside the metropolitan area. I would like to quote one or two instances of the effect of this type of rating on pieces of land in the Marion district; I will not quote the names of the owners unless members wish. In one instance rating under rental values was £27 7s. 6d., but with a 6d. rate under the land values assessment the rate is £155 12s. 6d. These figures are taken from the assessment book and so cannot be denied. Another man who was paying £29 7s. 6d. will pay £157 10s. under the new rate.

The Hon. F. J. Condon—What is his acreage? That is very important.

The Hon. E. ANTHONEY—It does not matter very much. Another who now pays £74 15s. on about 150 acres will have to pay £468 15s. This man has two five-roomed cottages, which he lets to his workmen, on which he was paying £12 10s. but on which he will now pay only £6 5s. I think that is evidence the rates on residential blocks will hardly be worth collecting and we can easily see who will provide the revenue in a municipality. A man in Reynella who, under the old rate, paid £23 will now, on a rate of 4d. an acre, pay £101 1s. 8d., whereas a householder who has been paying £8 will pay only £3 15s. under the new assessment. From the examples I have quoted it will be seen how inequitable the system is.

The Hon. F. J. Condon—That argument was put to the people before the poll was held?

The Hon. E. ANTHONEY—I cannot say, but it holds as good today as it did then. On a uniform area I have no rabid objection to land values, but where there is a mixed community of householders and people who are using their land for gardening under intense culture this heavy rating system will be sufficient to drive the latter off the land, and I am sure that the Leader of the Opposition does not want that to happen. He knows that the man who is cultivating two or three acres of land to the utmost is the type that we want to encourage.

The Hon. F. J. Condon—Will not the council do that?

The Hon. E. ANTHONEY—I think it far better to fix it by legislation than to leave it to the tender mercies of a council which might not be sympathetic.

The Hon. N. L. Jude—You are seeking to protect the minority from injustice?

The Hon. E. ANTHONEY—I am democratic enough to like to see the majority rule, but the rights of minorities should be preserved, and under the land values rating system they are not.

The Hon. F. J. Condon—Last week we had a Local Government Bill for one person, now we have a Bill for one council.

The Hon. E. ANTHONEY—The honourable member knows that polls have been taken in more than one place and the mere fact that they have not been successful does not alter the situation. I think the cases I have quoted are good evidence that the system which the honourable member champions is not equitable under these conditions. The fact that this provision has been in force in New South Wales for a considerable time in the County of Cumberland, which comprises the whole of the greater city area, under a Government of the honourable member's complexion, should convince him that this is the right thing to do.

The Hon. F. J. Condon—The honourable member is not supporting the Bill?

The Hon. E. ANTHONEY—I am trying to meet my friend's objection that this Bill deals only with people who have five acres; I want to make it much more democratic by reducing the area to two acres. That would bring in quite 100 people who are living absolutely off their land whereas this Bill would drive them out of business.

The Hon. N. L. Jude—I think the Leader of the Opposition will support those small people.

The Hon. E. ANTHONEY—I think so. I had him in mind when I drafted the amendment. The remaining clauses are far better dealt with in Committee and they are matters which local government people have been seeking for some time. I have pleasure in supporting the measure.

The Hon. J. L. COWAN (Southern)—This Bill contains some important amendments which I believe will overcome certain difficulties and anomalies which have become apparent in recent years. It is just a little over 100 years since local government was first established in this State and during that time it has played a very important part in the development, progress and prosperity of South Australia. Changing conditions have made it necessary for the Act to be amended from time

to time. Clauses 2, 5, 8, 9 and 12 relate to the system of rating of semi-rural land of an area of more than five acres but I think that that area could be less in a municipality. This would remove a heavy burden on this type of land and permit its economic use for the production of fruit and vegetables and other crops, and protect the interests of market gardeners in the metropolitan area. However, I am of opinion that the Bill does not go far enough and that it does not remove all the anomalies which have been evident for some time in regard to the present system of assessment and rating.

Some years ago the Local Government Advisory Council, of which I was then a member, was instructed to inquire into these matters and make recommendations for the consideration of the then Minister of Local Government. The committee devoted much time and attention to this subject and submitted proposals that would make important alterations to the present law relating to assessments in which a uniform system of assessment would be applicable to councils, but unfortunately the Minister did not act on the advice of the committee. In brief, the proposals were that improved properties should be assessed according to rental values, but underdeveloped and unimproved properties should be assessed upon their capital value. Such a system would contain the best features of the existing annual values and land values systems. The annual values system is based on the rental at which a property would let from year to year, whilst the land values system is based solely upon the unimproved value of the land, thus under annual values improvements are taken into account whereas under land values they are not considered. The foremost purpose of a rating system should be the raising of revenue from the ratepayers in such a manner that, as far as possible, the rates paid accord in some degree with the services rendered by the council and required by the ratepayers, but this does not happen in practice, particularly under the land values system of assessment. Therefore, I maintain that there are still anomalies under the two systems, and that a much better single system to suit all purposes and conditions could be introduced.

The Hon. K. E. J. Bardolph—Do you agree with the differential system?

The Hon. J. L. COWAN—Yes. It is of interest to note that at present 19 out of 42 corporations and eight out of 100 district councils assess on the land values system. Several changes to the latter system have been made in recent years, but never in the history of the State, as far as I am aware, has a change been made from land values to annual values, yet 115 councils and corporations still adopt it. Clause 14 will permit councils to make payments from a certain fund for the care and maintenance of trees and shrubs on streets and roads and other lands under their control. At present this fund can be used only for the planting of trees, and no provision is made for the cost of care and attention after planting. It is well-known that young trees require to be closely guarded and well watered for at least about two years and it is hoped that councils will avail themselves of this opportunity to spend more money on tree planting and thus further beautify our streets, parks and highways, and promote the planting of trees on private properties as well as on roads.

Clause 16 will overcome a difficulty which has existed for some time. I know a number of instances where groups of primary producers have been prepared to erect a weighbridge at their own expense in suitable positions on roads, but councils have been unable to permit this to be done. A weighbridge is a great convenience in saving time in weighing grain and other products by the truckload instead of by the bag. I am sure this amendment will be appreciated by many primary producers who have been denied the use of a weighbridge although willing to bear the cost of its erection.

Clause 15 gives councils authority to establish a fund for the depreciation or replacement of any asset of the council and, more particularly, to provide for the payment of a retiring allowance to employees. I am not sure whether the retiring allowance covers long service leave. Councils are permitted to grant three months' long service leave for every 10 years of service. This may not always be taken at the end of service, for an employee may, after serving 10 years, wish to take three months' leave and then resume duty. I have made some inquiries on this point, but am not yet quite certain that the retiring allowance and long service leave are one and the same thing.

The Hon. K. E. J. Bardolph—The honourable member believes in long service leave?

The Hon. J. L. COWAN—I would be prepared to amend this clause if it does not already cover long service leave.

The Hon. K. E. J. Bardolph—But you support the principle?

The Hon. J. L. COWAN—A number of councils are committed to giving three months'

long service leave for every 10 years of service. They already have power to pay retiring allowances, but have not the funds from which to make the payments and this clause will rectify that anomaly. I know of councils committed to the payment of hundreds of pounds to employees who had worked for them for 30 years and upwards. Such large payments would financially embarass councils unless they were permitted to build up a fund over a period of years. This Bill will solve that problem. The remaining clauses all tend to overcome difficulties and problems and will provide for the efficient and smoother working of local government generally, therefore, I support the second reading.

The Hon. A. J. MELROSE (Midland)—I suppose there is no session of Parliament which does not consider an amendment of the Local Government Act, and of all the Acts on the Statute Book none touches the people more intimately. This is only a modest 30-clause Bill, which I suppose is due to the fact that there is another on the Notice Paper and there may be more even this session; if not, there will be next. Undoubtedly, the real marrow in this Bill concerns the difficulty which has arisen from the exercise of certain powers in the raising of rates—in a few words the change-over from annual values rating to land values rating in the Marion Council area. This immediately precipitated first-class difficulties. I have been associated in a relatively intelligent way with local government for 35 years or more, and recently my council considered this very question. Perhaps, because of a remnant of some Scotch blood in me, I felt a little doubt about it and that I should ascertain the position before a final decision was made. I found out what I could, but could find no-one who knew anything about it. I discussed the matter with some people at great length, people who had very highly specialized views one way or the other. I listened to a public debate from which I learned nothing, except that the two debaters had fired at one another so often that each knew the other's arguments. They produced nothing of a constructive value to the audience. I came to the conclusion that this method of raising rates was one of those academic questions like proportional representation and prohibition which sound very attractive in debate, with unlimited possibilities, with the airing of all kinds of views, but which can only be proved as in the actual eating of the pudding. I can go so far as to say that those two propositions have proved howling failures. I would go so far as to say that if land value rating were applied in South Australia it would also be a howling failure.

The only report from which I gained any practical knowledge was one prepared at the instigation of the Municipality of Footscray in Victoria. It showed that it suffered from having much land in its municipality and a great number of valuable corner blocks held out for speculative reasons for the gaining of unearned increment. It was a voluminous report, so it could not be summed up in a few words. However, it seemed to have a case. If Footscray is to be considered an industrial area or a highly metropolized area, it had some justification for introducing a rating system which penalized land which was held completely out of occupation or production merely to enable the owner to gain unearned increment from the enterprise of others and the money they spent. I could not find any justification for the system in this State, and can think of no part of the State, unless it may be part of the West Coast areas with which I am not familiar and where this idea flourishes to some extent. Apart from that, with my extensive knowledge of South Australia, I know of no area where land is deliberately held out of production with the idea of gaining unearned increment. Therefore, I came to the conclusion that the system was not adaptable or desirable to be applied to local government in South Australia. I do not believe in the idea of one man one vote as being the beautiful, pure and ultimate ideal of people managing their own affairs.

The Hon. F. J. Condon—This Bill gives one man six votes in some circumstances.

The Hon. A. J. MELROSE—I accept that with reservations. It generally means however, that a ratepayer with a small holding has the same voting as a man who has a tremendous capital invested in the district. It it said that large landholders should have no more votes than the cottage owner; but more consideration should be given to the actual amount invested, and there should be a different system of rating so that a mass of small people cannot commit a district to what may ultimately be a wrong policy. It actually is a subtle form of socialization. A few small landholders in one area or a few householders in a densely populated area could dominate the destiny of the district. The proof of that lies in the fact, as mentioned by several speakers this afternoon, that it is very easy to change from annual values to land values rating but very difficult to change back, simply

because the system of voting does not in my opinion represent the real and best interests of the district.

Rather than discuss this Bill clause by clause it would be better if, as a legislative body, we took a much longer view and decided here in our own minds whether we believed it is the best policy, in the interests of the people, to have a sprawling metropolis growing bigger and denser and becoming more difficult and more unpleasant to live in from year to year, until ultimately we cannot avoid slum areas, or whether it would be wiser to take steps, if not to provide a literal green belt, to preserve great areas not occupied by small buildings. Personally, I think the attractiveness of the city lies not in miles and miles of terraced houses, but in the fact that at Marion, Magill, Burnside and at one time Walkerville, there were those green paddocks, vineyards and parklands that made up a really pleasant city to look at, and I hope a pleasant city to live in. Steps to retain such areas are becoming more difficult every day. If we think it is best in the interests of the State, the city and the people that this idea should be perpetuated, surely steps should be taken to acquire land which is now vineyards, plantations and pastures, and perhaps, as some of the bigger countries have done, buy the land and lease it back to the present owners at a reasonable rent. If anyone thinks there is a catch in it and the owner may place too high a capital value on his land, that value could be taken as the basis of the rent charged for it. That is only justice. I am strongly of opinion that we shall be scorned by posterity if we allow the city to go on sprawling over these lands which are now occupied so pleasantly by vineyards and other green pursuits and let it be acquired for housing speculation projects.

The Hon. F. J. Condon—That does not help the closing of industries in the country and people coming to the city.

The Hon. A. J. MELROSE—I am entirely on your side. There is another question which should be considered. We as a city pride ourselves on the fact that every house has its own little garden, fruit trees and lawns and plenty of elbow room, but we should not forget that because valuable land is being built on it is affecting our food supply. If all this type of land at Paradise, Lockleys, and other places is closely occupied by houses, Adelaide will be faced with a very big problem as to its vegetable and certain other food supplies. What I have said has given the Council a fair impression of what I feel about this matter. To sum up, I think we are allowing councils a very dangerous weapon to change over, without restriction, to a system of raising rates which is really not applicable to any area I know in South Australia.

We should give very serious consideration indeed, as far as it lies in our power, to the establishment of a green belt around our city and to preserving not only playing areas, whether racecourses, golf links, or other sporting grounds, but also to preserving for all time the areas now covered by vineyards, market gardens, olive plantations or other planting areas that stretch around within a reasonable distance of the centre of the city. Instead of encouraging the city to extend and spread its indecency all over these areas we should do something more constructive about establishing new cities. I am not referring to the satellite town at Salisbury, but it appalls me to think that a town like Murray Bridge, with a good water supply, cannot be chosen as a site for a new town, because it would undoubtedly support enough industries to occupy the population. The lack of water is one of the great difficulties in the metropolitan area so surely we should do something about establishing a city where there is a water supply instead of encouraging people to the city.

The Hon. K. E. J. Bardolph—The honourable member is supporting Labor's policy of decentralization.

The Hon. A. J. MELROSE—If the honourable member refers to his Party as the anti-Liberal Party, I will say that I am supporting Liberal policy.

The Hon. K. E. J. Bardolph—I do not support Liberal policy, but it is taken from Labor policy.

The Hon. A. J. MELROSE—Despite the assistance of my honourable friend I support the second reading, because I think local government matters require frequent and thorough investigation.

The Hon. F. T. PERRY secured the adjournment of the debate.

PRISONS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 22. Page 684.)

The Hon. Sir LYELL McEWIN (Chief Seecretary)—All speakers who addressed themselves to this measure spoke in support of it, but a suggestion was made that the House should have had some additional information

to that given in my remarks when explaining the Bill. In the early history of this Chamber Ministers when introducing Bills did not give any information, but merely brought in a Bill and moved that it be read a second time. The debate then ensued and members themselves had the privilege and the opportunity to inform themselves from their own searching of information concerning the measure. In recent years it has been the custom to provide for the benefit of members a lead as to what the clauses in a Bill set out to do. When explaining this Bill, I said that it was to validate certain regulations which it had been suggested, or we were advised, were not in conformity with the Act.

Although I do not think there was any implication in Mr. Cudmore's remarks that anything has been done in an irregular manner over the years from 1936 onwards, if there was any such implication I point out that after a consolidation of the legislation in 1936 new regulations were drafted that carried on something that had been done since the inception of the Prisons Regulations in 1869-70. If we are looking for a culprit we have to go back over many generations, and I think there are only four members in this Chamber today who were here in 1936 and who know anything about the period up to the consolidation. Since the debate I have done some research in order that I could perhaps provide some of the information it was suggested that it is a Minister's obligation to provide rather than that members should carry out research. As mentioned by Mr. Cudmore and Mr. Rowe, the clauses that it is desired to validate are contained in regulations 83 to 93 and 345 which cover the subject of credit marks and bonuses. There was an amendment in 1949, this being the only amendment since the establishment of a Subordinate Legislation Committee, that corrected an inflationary trend in finance and altered the value of a credit mark from one-third of a penny to one penny. I think every member will agree that this brought the regulations up-to-date.

I do not intend to read the regulations, but I repeat that gratuities paid by regulation as set out in the schedule to the Act of 1869-70 were consolidated in the legislation of 1936. Earnings were introduced in 1917 and bonuses in 1924. Before 1936, as pointed out by Mr. Cudmore, there was no Subordinate Legislation Committee, and regulations were passed on the approval of the Crown Solicitor. With the establishment of the Committee it was provided that there should be a certificate of validity. Recently, regulations were submitted to cover persons detained under section 122a of the Maintenance Act, who were not provided for in existing regulations when the Crown Law advisers suggested that it could not be done and moreover the older regulations were not in conformity with the legislation. There has been ample opportunity for Parliament to discover this defect if they were not wanted. The value of the regulations has been proved in that they have been accepted in principle since 1870. To provide members with a legal interpretation of what has happened over the years, I asked the Parliamentary Draftsman to provide some information. His report is as follows:—

The Prisons Act Amendment Bill validates the making of regulations 83 to 93 and 345 of the Prisons Regulations. These regulations provide for the payment of earnings, gratuities and bonuses to prisoners. The question of their validity arose recently when the Crown Solicitor had to consider whether proposed regulations could be made for the granting of remissions and payment of earnings, and bonuses to under age persons detained in prison under section 122 of the Maintenance Act. While considering that the regulations could not be made because remissions could only be granted under the Prisons Act to prisoners under sentence, the Crown Solicitor pointed out that in any event there was no authority for the present regulations dealing with the payment of earnings, gratuities and bonuses to prisoners, though no doubt the payments made had been authorized in the Estimates. While there is no express authority for the regulations and it is desirable that such authority should be given, I do not think that their invalidity is by any means completely certain. The Prisons Act contains wide powers to make regulations for the management of prisons and it is arguable that these powers include a power to make regulations concerning earnings, bonuses and gratuities, though of course no appropriation could be effected by such regulations. It should be pointed out that the regulations have never purported to appropriate money for such payments. Regulation 93 provides that the amounts due are to be paid from the vote "Contingencies—Goal and Prisons."

The regulations dealing with earnings, gratuities and bonuses were made in 1936 when the Prison Regulations were consolidated and amended following the consolidation of the Prisons Act in that year. The Prison Regulations were prepared by the Comptroller of Prisons and referred to the Crown Solicitor for approval. The Crown Solicitor approved the regulations but did not give any certificate of validity. Certificates of validity did not come into existence until 1938, when the Joint Committee on Subordinate Legislation was formed. Regulations for payment of earnings, bonuses and gratuities have a long history. The Comptroller of Prisons was authorized to pay gratuities by a regulation contained in a schedule to the Prisons Act,

1869-70. Payment of earnings appears to have been introduced by regulation in 1917 and payment of bonuses in 1924. There is no evidence of any discussion as to the validity of regulations 83 to 93 and 345 in 1936. Similarly in 1949 when regulations 91, 92 and 345 were amended, there is no evidence of any discussion of their validity. It would be fair to assume, I think, that in 1936 and 1949 the persons concerned took the view that the regulations were authorized by the general powers contained in the principal Act.

My examination of the whole matter has convinced me that this is merely a new opinion, but to put the matter in order we have brought in this measure, although what it contains has been not only acquiesced in but approved and improved since 1870 onwards. I thank honourable members for their discussion on the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Punishment."

The Hon. F. J. CONDON (Leader of the Opposition)—When speaking on the second reading I expressed the opinion that this clause should be amended to provide that a prisoner committing an offence shall be punished only by a visiting justice of the peace. It is possible for anyone to become prejudiced unwittingly and therefore the Comptroller of Prisons should not be called upon to adjudicate on offences committed by prisoners under his control. Therefore I move—

In new section 47 (1), line 1, to delete "The Comptroller or".

The Hon. Sir LYELL McEWIN (Chief Secretary)—This section repeals section 47 and enacts a new provision, but the words proposed to be struck out have been in the principal Act for many years and if the honourable member wants any alteration he should be able to point out in what way section 47 has failed to mete out justice.

Amendment negatived; clause passed.

Remaining clauses (8 to 10) and title passed.

Bill reported without amendment and Committee's report adopted.

BREAD BILL.

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

ADJOURNMENT.

At 3.36 p.m. the Council adjourned until Wednesday, October 6, at 2 p.m.