

LEGISLATIVE COUNCIL.

Wednesday, February 19, 1964.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

QUESTION.**MOUNT GAMBIER INFANT SCHOOL.**

The Hon. R. C. DeGARIS: I ask leave to make a statement prior to asking a question. Leave granted.

The Hon. R. C. DeGARIS: The Mount Gambier Infant School at present occupies the same site as the adult education centre, and accommodation for both is indeed cramped. I believe that some time ago the Mount Gambier Corporation donated a two-acre site next to the Reidy Park School for the erection of a new infant school. Can the Minister representing the Minister of Education say what progress has been made in transferring the infant school to the new site?

The Hon. C. D. ROWE: I shall obtain the information from my colleague and let the honourable member have it as soon as possible.

LAND AGENTS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from February 18. Page 1945.)

The Hon. S. C. BEVAN (Central No. 1): This Bill is an important measure containing a number of clauses amending the principal Act. The expansion of building activities in South Australia has been brought about naturally by the increased population. It becomes incumbent, of course, upon Parliament to see that prospective house builders and purchasers of land for building houses have adequate protection. From time to time we hear reports of anomalies and oversights that occur in drafting Bills, and certain practices sometimes creep in that Parliament never intended to allow. Nor is it Parliament's desire that people should be permitted to do certain things by unethical practices. Lack of adequate protection for the public is not in the best interests of the community generally.

Amending legislation is introduced from time to time to remove anomalies that exist and to tighten up various provisions so as to prevent unethical practices. The Bill is designed to tighten up various sections of the Act and to insert new conditions. An example of this is the provision covering unit homes.

Most of the members have had their attention drawn to the rights of a purchaser of a unit home. He has a right to the building but the block is held under the deed for the total area and is not sectionalized to any extent. In future some unit home owners may be in trouble over the land on which their unit is built.

The Bill also contains provisions to prevent land salesmen from being employed by more than one land agent at the one time. Previously salesmen could be employed by two or more land agents when selling land or homes. Under the Bill the onus is placed on the salesman and the agent to see that he is employed by one land agent. I object to clauses 4 and 7. Clause 4 amends section 27 of the principal Act, which deals with the qualifications necessary by applicants and clause 7 amends section 56 of the Act, which has reference to the qualifications for registration as a manager. Clause 4 of the Bill reads:

Subparagraph (iii) of paragraph (d) of subsection (1) of section 27 of the principal Act is amended by inserting the following proviso at the end thereof:—

Provided that in respect of any application for a licence made after the first day of January, one thousand nine hundred and sixty-six an applicant shall prove to the satisfaction of the Board that he has complied with such educational standards and qualifications or passed such examinations as shall be prescribed.

A clause with the same wording was before the Council in 1962, I think, when legislation was introduced to amend the Act. Because of circumstances that legislation lapsed. At the time I took exception to three provisions that dealt with the educational standard. Under this Bill who will determine the standard, and what will it be? Will a university degree be necessary? Section 27 of the principal Act states:

(1) Subject to subsection (2) of this section, on the making of an application in accordance with this Act, the applicant (not being a corporation) shall be entitled to be granted a licence by the board if he proves to the satisfaction of the board that—

(a) he is over the age of 21 years;

(b) he is a fit and proper person to be licensed;

(c) he is not an undischarged bankrupt and has not entered into any composition or scheme of arrangement, which is still subsisting, with his creditors, and has not executed any deed of arrangement, which is still subsisting, for the benefit of his creditors; and

(d) he has been employed in the business of one or more land agents for two years in the aggregate whether before or after the commencement of this Act or partly before and partly after the commencement of this Act: Provided that this paragraph shall not apply where the applicant—

- (i) has held a licence at any time under this Act or the Land Agents Act, 1925-1950; or
- (ii) is or has been at any time whether before or after the commencement of this Act a licensed land broker; or
- (iii) in the opinion of the board has sufficient knowledge of the duties and liabilities of a land agent or sufficient commercial experience to carry on business as a land agent.

The section also states:

- (2) The board shall not be obliged to grant a licence by reason of employment for two years as mentioned in paragraph (d) of subsection (1) of this section unless the board is satisfied that the employment was such as to give the applicant sufficient knowledge of the duties and liabilities of a land agent to carry on the business of a land agent.

In that section conditions were laid down, but under the Bill we have something different, for it says that the board may refuse to grant a renewal to an applicant if it is satisfied that he has failed to comply with any requirement under this Act or the regulations concerning any audit of the applicant's trust account. Clause 4 contains the following proviso:

Provided that in respect of any application for a licence made after the first day of January, one thousand nine hundred and sixty-six, an applicant shall prove to the satisfaction of the board that he has complied with such educational standards and qualifications or passed such examinations as shall be prescribed.

Nowhere in the Act is there mention of educational requirements, but under the Bill the board must be satisfied with an applicant's educational standard before he can be licensed. Will a Leaving or a Qualifying certificate be necessary, or must the applicant have done an Institute of Technology course, or hold a university degree? Under the Bill the board will have to determine the matter.

The Hon. G. O'H. Giles: Is there much wrong with that?

The Hon. S. C. BEVAN: I want to know what the standard is to be, and the honourable member also should be interested in the matter. We are here to see that Acts of Parliament are framed in such a way that they can be accurately interpreted, particularly in relation to educational standards. There is something wrong with the Bill in this matter and I want to know the position.

The Hon. G. O'H. Giles: Do you think the board is disinterested?

The Hon. S. C. BEVAN: I am not saying that, but it should not have to determine something upon which we have no information. Parliament should set out the standard required. In his second reading explanation yesterday the Attorney-General said:

Under sections 27 and 56 respectively of the principal Act the Land Agents Board has to be satisfied that applicants have sufficient knowledge and commercial experience to be licensed or registered and it has been the practice of the board to conduct oral examinations. A yearly course in real estate is, however, given at the South Australian Institute of Technology and an examination is held at the end of each year. The passing of this examination could be made a qualification for the grant of a land agent's licence or manager's registration, subject to the board having power in special cases to dispense with this requirement.

I do not disagree with the latter part of those remarks, but the passing of that examination could be made a requirement. If that is the intention, why not say so in the Bill? The Attorney-General continued:

Accordingly, clauses 4 and 7 (b) provide in general terms that applicants shall be required to prove to the satisfaction of the board that they have complied with such qualifications or passed such examinations as may be prescribed so that in due course appropriate regulations may be made.

This supports my interpretation of the matter. Only the board will have the authority to determine the standard required. That standard should be set out in the Bill. If an applicant should come to a member of this place for information about the standard required he should be able to give him the information, but under the Bill he would have to say that he did not know. It is our duty to know and to be able to inform the inquirer of the particular qualifications needed.

The Hon. Sir Frank Perry: What standard do you suggest?

The Hon. S. C. BEVAN: I am not suggesting any standard at the moment, but we could take the standard suggested by the Attorney-General himself, that it shall be one accepted by the board and shall be determined as the

necessary standard of education. The qualification shall be that they shall hold a certificate issued by the Institute of Technology in respect of this particular course.

The Hon. Sir Frank Perry: Is there a course on this?

The Hon. S. C. BEVAN: I believe this course has been in operation at the Institute of Technology for some time. The land salesman can take a voluntary course to further his qualifications in that vocation. If that is the standard required, we should say so. The Attorney-General suggested that that could be the standard; he did not say it "will be".

That aspect could have been examined before this legislation was introduced and, if that was thought to be the only necessary qualification for a land salesman, it could have been embodied in this Bill. It could be determined by regulations and, once so determined, members of Parliament would have the opportunity to study them because they would have to come before Parliament. But at present the Bill does not prescribe that it should be done even by regulation. What I object to is that the board will determine these things. The Council should know what these qualifications are and what examination is required to be passed for a person to qualify for registration as a land salesman.

I turn now to clause 7 which deals with the registration of managers. These managers have to hold exactly the same qualifications as do the agents. The same phraseology is used in clauses 4 and 7. Honourable members are entitled to know what qualifications are required, what the examinations will be and what educational standard is necessary before a man can be registered as a land salesman. Perhaps the Attorney-General can do something to remove my objections to these two clauses. For the time being, however, I have no alternative but to vote against them in Committee.

The Hon. G. O'H. GILES (Southern): I rise to discuss briefly one or two aspects of this Bill that worry me. Before I do so, it may be advisable to look at the path of action necessary in an expanding economy of a State that is going ahead, and the action of land agents. Over the years we have seen many instances of land agents' transactions getting out of all perspective compared with the land subdivided and made available for sale. Recently, action has been taken by a central Government which has had the effect of tapering off this type of transaction to a great extent. Nevertheless, as I travel through the Adelaide Hills to Parliament House I

see enough subdivisions already made to provide for building purposes for many years ahead, without the necessity of further big subdivisions. So it is necessary to have the type of Act on our Statute Book that allows proper activity to occur to encourage development within the State. Prominence has been given in recent years not so much to normal development as to some cases of improper practices. I refer to the victimization of some young people by firms of poor repute, and of New Australians who are not necessarily equipped to deal with the slick salesman.

The Attorney-General in his explanation of this Bill has attempted to get at this problem by introducing a degree of qualification, which I suppose may help in this direction. However, I do not see that it will do other than just help a little in terms of solving this problem, because we only have to visit many people in new housing areas still to hear of cases of people feeling some type of malpractice has occurred. However, it is not particularly on that account that I rise to speak: it is more particularly because I feel that in country areas much harm has been done over the years not by recognized and authorized land agents but by land salesmen. Logically, many land salesmen are of fine character who probably do a good job on the type of grounds I have mentioned, on the one hand, and who do a good job for their principals based in Adelaide, on the other hand. But frequently they do not exercise the type of responsibility that we expect in country areas, which has reacted greatly against the more highly principled land agent who lives in those areas. I am well aware of one area in which a land agent resides. He is a person of responsibility and integrity; but, whether he is or is not, the fact remains that he lives in that community, where he exercises some degree of responsibility because he is living with his problems. This of course occurs in many South Australian country areas.

The trouble arises with the irresponsibility of the land salesman coming into this same territory with no sense of personal responsibility to the area, not concerned with the social life of that community one iota. He is there just to get a quick profit and gain for his principals who may reside 300 miles away in Adelaide. There is no responsibility or feeling that the transaction should be of mutual benefit to the original owner of the land or property and to the purchaser. There is no thought of this and in these areas I believe that the whole activity of land salesmen should be tightened up. Whether or not this is so to the same

extent in the metropolitan area I do not know. I should be interested to see whether any subsequent speakers in fact think as I do, as one who lives in the country, on this matter.

I am not quite clear on the wording of one or two clauses in the Bill, bearing in mind the problem of a land salesman's setting up business in a little country town. He may work for the district council or for 101 different people, but on his house, which, in effect, becomes his office, he erects a sign. I am not sure whether the relevant clause in the Bill covers this aspect or not, but I think it is totally wrong that such a land salesman should erect his personal sign which need not necessarily bear the name of his principal in Adelaide. Further, it is wrong that he should be permitted to subdivide and sell land on the same basis as a properly constituted land agent. I appreciate that this may well be outside the gamut of the Bill; nevertheless it is a serious matter to allow such a person to transact business similarly to a stock agent or a land agent.

I should like at a later stage and at the Attorney-General's convenience to learn whether, under the present Act or under the Bill before us, it is legal for a land salesman to erect a sign, not to represent his principal firm and not erected on an office which is staffed, but purely to set up an imitation of a qualified land agent's business. I use the word "qualified" with some degree of diffidence, bearing in mind the comments of the honourable member who has just resumed his seat. I should like to comment briefly on the aspect of qualifications which was dealt with forcibly by the honourable member a few minutes ago. By and large, I find myself agreeing with practically everything he said. On November 1, 1962, the Attorney-General said:

With regard to clause 4 dealing with qualifications, it has been the policy of the Government and also of the Land Agents Board for some time to try to improve the general standard and educational qualifications of people who are engaged in the important business of selling land. As everyone knows, there have been some most unfortunate experiences in this State with regard to people who have bought land on terms, and one way in which we can attack that problem is by ensuring that people in this business are fully competent and qualified.

That seems to me a slender argument; nevertheless I suppose it does have a bearing on the matter. The Attorney-General continued:

The increased qualifications we proposed to introduce by this Bill would not come into effect until January 1, 1965, which would

give anyone interested in this business the opportunity to qualify himself for it. The Bill states: . . . "applicant shall prove to the satisfaction of the board that he has complied with such educational standards and qualifications or passed such examinations as shall be prescribed." It does not state that he must of necessity have passed, say, the Real Estate course at the Institute of Technology.

Therefore, I must assume that the Attorney-General's attitude on that matter is exactly the same now as it was then. I believe that in country areas there are land agents who would not be qualified at present under the terms of the Bill. Nevertheless, it is the Attorney-General's opinion, in common with many others', that these people should be qualified in the future, and I should expect that that is an enlightened view. I do not think it would ever militate against slick practices by corrupt salesmen but, by the same token, I think a degree of hardship to agents may ensue.

The Hon. C. D. Rowe: I am not proposing under the Bill to take away anyone's licence.

The Hon. G. O'H. GILES: Is the Minister saying that all new licences will be issued only subject to certain educational qualifications? Secondly, when applications for renewal are received how will they be treated?

The Hon. C. D. Rowe: They will be granted a renewal. They will not have to comply with the conditions laid down in the Bill.

The Hon. G. O'H. GILES: I should be interested to learn the attitude of other honourable members on that matter. I am not completely satisfied that that is the case, on my reading of the Bill. I suggest that some people may find their licences not renewed after a period of years, although I accept what the Attorney-General says. He evidently does not wish to deprive people of a land agent's licence if they are doing a good job. That was a matter I raised when a similar Bill was discussed some time ago, and I should appreciate some clarification from the Attorney-General at a later stage.

With regard to a salesman's being appointed to represent two firms, I think that I should at this stage withdraw my objection to the relevant clause. I have mentioned the only two matters to which I think attention should be drawn—one possibly outside the scope of the Bill and the other within its scope. I support the second reading.

The Hon. Sir ARTHUR RYMILL (Central No. 2): A similar Bill was introduced in this Council in the fading hours of the session that ended, I think, on November 1, 1962.

Honourable members felt that they had not had sufficient time to consider what was, and is, quite an important piece of legislation, and the Attorney-General acceded to the wishes of honourable members and very properly, I think, agreed to give us further time to consider the matter. The Bill was allowed to lapse and it comes before us again. I am not complaining at the manner in which it has been brought up because we have had plenty of time to think about it, although I did not know that it would reappear yesterday or that it was intended to put it through in the short period at our disposal on this occasion.

I hope that it will not reach the Committee stage today because I feel that we ought to have a little more time to refresh our memories. As I say, I am not complaining about anything—and I know the Attorney-General will not misunderstand me—but I should like to see, for instance, the Bill go into Committee tomorrow if the Attorney-General thinks it necessary for it to follow that course. I support the second reading, although I have reservations about those clauses that I referred to in 1962. If my memory is correct, on that occasion I queried three aspects of the Bill, although agreeing that certain clauses were quite salutary and probably desirable. I have had time for only a short perusal of *Hansard* of that year but I believe the three aspects I questioned were the necessity of having certain academic qualifications (which the Hon. Mr. Bevan ably dealt with a while ago), whether a salesman has to confine himself to one employer or whether he can be more or less a freelance salesman.

The Hon. C. D. Rowe: That is cleared up now in the Bill.

The Hon. Sir ARTHUR RYMILL: I shall be very happy if the Minister will enlarge on that in his reply because it has concerned me. I have not had much time to scrutinize the Bill carefully and would be grateful for the Attorney-General's help on that matter. The third aspect I queried previously was whether a manager is necessary for every branch office.

The Hon. C. D. Rowe: You mean a registered manager?

The Hon. Sir ARTHUR RYMILL: Yes.

The Hon. C. D. Rowe: No, that is not necessary.

The Hon. Sir ARTHUR RYMILL: Again I shall be indebted to the Minister if he will deal in more detail with this question when he replies because in his second reading explanation yesterday he naturally did not go into the kind of detail that members would wish to hear.

I think it is right that honourable members should ask these questions and get the answers. In his second reading explanation the Attorney-General naturally did not probe every facet of the Bill. However, I have no doubt that he will give us all the information we ask for and that is what I should like at this stage.

I shall now deal with the three aspects I have raised. Certain examination requirements for land agents have now been included in the Bill although, as the Hon. Mr. Bevan very properly said, apparently the exact standards will be prescribed by the board. This point is rather left at large. I do not know whether or not this provision is a good one, or whether it is necessary for a land agent to have academic standards. Things seem to have worked reasonably well without them for the last 100 years or so. There have been cases of defalcation over the years, but not in great numbers. No matter the trade or profession, that will always happen, whatever the legislation. As I have always said, we cannot legislate for every case of dishonesty and if that is attempted it is likely that private enterprise and competition will be stifled. At present the Act prescribes the qualifications, apart from disqualification, as two years' experience in a land agent's office, which is reasonable. The period could even be longer, but whether academic standards are necessary, I do not know. I know this is an era of higher education and that is desirable, but whether it is essential for a calling of this nature I cannot say. With the Hon. Mr. Bevan, I should prefer to see the actual standards prescribed, although I suppose the board could be trusted to be reasonable in these matters. I do not know the individual constitution of the board at the moment but I imagine it must include people independent of the calling and they would see to it that the standards were reasonable. Nevertheless, I should prefer to see the academic standards laid down—actual standards rather than standards at large. If the standards are to be left to the board, should they not be subject to some sort of regulation that would come before Parliament for scrutiny? Once legislation of this nature is passed and its administration is left to some outside board, its decisions are binding and unless it did something really beyond the pale, as it were, I suppose Parliament would not feel that it should intervene. I should prefer to see something more precise, particularly that the standards of education should be prescribed by regulations, and then they would have to be submitted to Parliament in the

ordinary course of events. However, the Attorney-General is conversant with this and I am sure he will enlarge on it in his reply or in Committee. I do not think it is necessary for me to take that question further.

Clause 6 reads:

The following section is inserted in the principal Act after section 38 thereof:—

38a. (1) A registered land salesman shall not accept or undertake employment or be or remain in the service of or by any means whatsoever hold himself out as being in the service of or act as a land salesman for or on behalf of any land agent at any time when he is employed by or in the service of any other land agent.

I assume that is what the Attorney-General meant when he said he had cleared up the matter. The verbiage is now apparently different but I have not had an opportunity of comparing it with the clause previously framed. The clause now reads that a salesman cannot accept employment on behalf of any land agent when he is employed by or in the service of any other land agent. I take it that "employed by" means in full-time employment.

The Hon. C. D. Rowe: Part-time. He must have only one principal.

The Hon. Sir ARTHUR RYMILL: That is what I thought. In that case I misunderstood the Attorney-General's earlier interjection. Many people are employed on commission in various callings by a number of people. They have a number of part-time jobs making up a full-time job. As I have said before, I am one of those people. It is a question of whether the freedom of the individual should be restricted. In this instance a salesman would be prevented from offering his services to more than one land agent. I must say that the principle of that does not appeal to me. I cannot see any reason at the moment why a land salesman should not act for two, three or four land agents.

The Hon. S. C. Bevan: He would be able to play one against the other.

The Hon. C. D. Rowe: A land salesman getting information from one principal could give it to another, and in this way unfortunate practices have developed.

The Hon. Sir ARTHUR RYMILL: I realize that is one reason for the introduction of the Bill. It is proper that I should examine the various reasons for its introduction. These are the matters on which I would like more information. Often we have had a Bill introduced to prevent some malpractice, but it could have the effect of creating other malpractices and restricting enterprise, which I do not like. I think the free-lance operator

is an important part of our society. The man who can be self-employed is an important member of our community. He would be one of the independent members, and in that way important. Consequently, I look carefully at any legislation designed to prevent a person from accepting the employment he wants, and I would want strong reasons before agreeing to a clause that prevents a person from acting for more than one master, if more than one master wants to employ him. I realize that it could result in malpractices, but are they such as to infringe the principle? I want a man to carry on the job he wants to carry on under our laws. In general in these days my feeling is that much of our legislation is not intended to stifle and restrict the small man and enable the big man to prosper, but it is inclined to keep the small man from carrying on business.

The Hon. Sir Frank Perry: What if two principals agree to employ the one man?

The Hon. Sir ARTHUR RYMILL: That is what I would like to know. None of our legislation intends to restrict the activities of the small man, but some of it could have that effect. We have seen it happen under price control legislation, and the Hon. Mr. Shard knows all about what has happened in the bakery business. I come now to the matter of having a manager at every branch. With the growth of settlement in the fringes of the metropolitan area we see branch offices of land agents being opened. I query whether a land agent should have a manager at each branch. Will that stop the small man from running a part-time office? The Attorney-General may have something to say on this matter. There is no reason why a land agent should not have a part-time branch office to attend himself. He could have a notice on the door of the office indicating the hours of his attendance, just like doctors and dentists do in the country. I see every reason why he should not be required to have a manager in attendance at the branch office. I think he is required to do that under the clause, but if I am wrong the Attorney-General can correct me. I hope I am wrong, but that is my interpretation of the matter. I believe that under the Bill if a man starts a branch office he must have someone to manage it.

The Hon. Sir Frank Perry: A registered manager?

The Hon. Sir ARTHUR RYMILL: Yes, and that is defined in the legislation. I can see no reason why a man should not be able to open a part-time office say at Morphett Vale, Willunga or Reynella—

The Hon. K. E. J. Bardolph: Or near the Hackham railway crossing.

The Hon. Sir ARTHUR RYMILL: Yes, if the honourable member wishes, because much development is going on there. Why cannot a small man have a part-time branch office that he can attend himself one or two days a week, or a few hours on certain days each week, as is the practice in other directions? I would be grateful if the Attorney-General would enlighten me on the points I have raised. In the meantime, I propose to support the second reading, but wish to further examine the clauses. I want more information on the matter of the qualification of a land agent. I am open to persuasion on this matter, but my inclination is to oppose the clause preventing a man from acting for more than one person, and I am at present opposed to the provision that a man must have a manager at every branch office. I want to be satisfied on these points, but in the meantime I support the second reading.

The Hon. F. J. POTTER (Central No. 2): I support the second reading. Some interesting comments have been made by the previous speakers in this debate. In 1962 a Bill, substantially in the same form as this Bill, was introduced in the closing hours of the session. Justifiably, some members felt that sufficient time had not been given to consider such an important measure. Indeed, at that time, after just a hasty glance at the Bill as it was then before us, I commented on two important points that I thought deserved attention. I am pleased to note that those two points that I made on that occasion have both been attended to in the present Bill.

They were, first, the restriction of employment of land salesmen as it applied to partnerships. I see that that matter has been cleared up in the present Bill by the insertion of subsection (4) in new section 38a, enacted by clause 6. The other matter, concerning registered managers, has also been attended to, in clause 7, where the word "Part" has been struck out and the word "Act" inserted. If honourable members will look at the Bill, they will see that some of the difficulties raised here today may be dissipated. Let me take them in the order in which they appear in the Bill. The Act deals with three distinct types of people. First, in Part III there is the licensing of land agents; secondly, in Part IV there is the licensing of land salesmen; and, thirdly, in Part V there is the registering of managers.

The Hon. K. E. J. Bardolph: But their activities are correlated.

The Hon. F. J. POTTER: The qualifications for the registered manager are identical to the qualifications required for the land agent. In other words, there is really no difference between a registered manager and what he has to satisfy the board on and the land agent himself.

It is interesting to note that in this present Bill the educational qualifications mentioned by honourable members are only something that has been added as a proviso to the requirements for registration as a land agent or manager. They are only an alternative to the two years' experience required as a separate qualification. In other words, if I may reiterate for honourable members' benefit what the Act says, for registration as a land agent the applicant must be over 21, be a fit and proper person to be licensed, not be an undischarged bankrupt and have been in the employment of one or more land agents for two years in the aggregate before or after the commencement of the Act. It is only if one has not that two years' experience in employment that he is then required to have been a licensed land broker or to give the board sufficient proof that he has a knowledge of the duties and liabilities of a land agent.

It is only then that the question of these academic qualifications that have been referred to by members come into play. Whatever may be those qualifications that are subsequently prescribed, whether they are to be prescribed by the board or whether they must be prescribed by regulation, I should not like to comment on at the moment. As a snap opinion, I am inclined to think that they will have to be prescribed by regulation but I, for one, would not be opposed to insisting that some sort of academic qualifications (if you like to use the word "academic" in inverted commas, as it were) are essential for anybody who is to be an agent or a manager and who has not had two years' experience. After all, that is the only limitation because the wording is that this section (that is, the section requiring the two years' experience) shall not apply if one has these other qualifications. So I do not think that the matters raised on the necessity for academic qualifications are so very important, except perhaps in one instance which the Attorney-General and country members may like to consider: that is, that the same qualifications are necessary to be a registered manager as to be a land agent, but what about the

situation of stock agents in the country? It seems to me that under the provisions of this Bill all stock and station firms will be required to register a branch office.

The Hon. C. D. Rowe: There is a section in the Act covering that.

The Hon. F. J. POTTER: That is what I am coming to. I think the Attorney-General is referring to section 39. I should like him to look at it. If that is the section, I say that it does not cover this position because it says "Notwithstanding the provisions of this Part"—and that Part of the Act refers only to land salesmen. So, if the Attorney-General wants that exemption to be granted to stock and station agents, that word "Part", as in the other case, will have to be struck out and the word "Act" inserted. I do not know whether this is the section that the Attorney-General is referring to, but it is the only section I can see that will deal with the position. As it stands at the moment, every stock and station firm with a registered branch office would have to employ a registered manager. It may, of course, be no great hardship to such stock and station agents because in most cases they would seek to appoint somebody who had had at least two years' experience before entering the office. In that case it may not be much of a hardship but, if that is not the position, then it seems to me that managers of stock and station branch offices would perhaps run up against this requirement after 1966 of satisfying the board that they had certain standards of education and qualifications and had passed the prescribed tests. It may be difficult, if the tests prescribed by the Institute of Technology are to be the ones, for a manager of a branch of a firm of stock and station agents to qualify under that course. That is something we ought to look at again.

I am not opposed in principle to this idea of having a registered manager for a branch office (I think it is a good idea); neither am I opposed to the idea of the principle in this Bill that a land salesman should have only one master. I said that previously, and I think a good deal of the abuse and dissatisfaction amongst reputable firms of land agents can be traced to this one source of land salesmen working for more than one master; they are playing off one master against the other and much trouble has arisen. In saying that, I do not wish to detract from what Sir Arthur Rymill said, that there should be some freedom for a person to carry on whatever livelihood he wishes to follow.

The Hon. G. O'H. Giles: Could you be more specific on this aspect? I have heard it bandied about that this causes trouble, but what trouble?

The Hon. F. J. POTTER: A land salesman may play one principal off against the other. He may be endeavouring to get a higher commission for himself from one land agent than from another.

The Hon. G. O'H. Giles: That is not very serious, is it?

The Hon. F. J. POTTER: I think it is. We must not forget that there is a third party involved—the most important party, who is the purchaser or the vendor—and he is the one who inevitably suffers if there is an attempt to play one agent principal off against another agent principal. I do not pretend to have a great deal of knowledge on this matter: I could not stand here and quote 10 or 12 different examples, but, in the course of my avocation, I am constantly meeting and talking with people in land agents' businesses and I know that many of them have complained that this system of land salesmen not being tied to one master or to one firm—

The Hon. G. O'H. Giles: Isn't this just one master complaining? I have yet to be convinced that the third party really gets damaged.

The Hon. F. J. POTTER: I think there have been many examples where the third party has in fact been damaged. In the important matter of buying and selling land, in which a good deal of trouble has arisen—and over the years this Act has been hammered out—I think it is important that we follow this excellent principle, namely, that a land salesman should have only one master. I will not oppose that provision, as I indicated the last time when I discussed the Bill. I do not think there is anything else in the Bill that should cause any difficulty or create any doubt in honourable members' minds.

The two points really involved are the matter of educational requirements—and I have dealt with that matter and said that these are not stringent requirements because they are operative only in lieu of two years' experience—and the matter concerning branch managers. I suppose in some circumstances it may be a hardship to an agent to have to find another man qualified for registration as an agent to be a branch manager, but I think that if he wants to expand his business into the country he will have to face the question of whether he puts a manager there or not.

The Hon. R. C. DeGaris: Can't he expand the business by employing a salesman there?

The Hon. F. J. POTTER: As far as I know the land salesman can go anywhere in the State.

The Hon. C. D. Rowe: An agent can have a branch office but if he wants a registered branch office he must have a registered branch manager.

The Hon. F. J. POTTER: That is right. It is really more of a machinery provision than anything else. At the moment an agent has only one registered office. He may have a branch office but, if so, he is still compelled to advertise his sales through his registered office. He cannot use his branch office as an address for the purposes of advertisement. This Bill gives the agent the opportunity to have a registered branch office in addition to his registered principal office. By doing this an agent can advertise his sales of land or houses through that registered branch office, but if he does so he must have a registered manager in that office. In other words, this provision more or less duplicates the agent's principal place of business: he can still have a branch office and a land salesman employed anywhere in the State.

The Hon. C. R. Story: Do you think it is necessary to have permanent registered managers?

The Hon. F. J. POTTER: I should think that a land agent would think about the matter in this way: "I think there will be sufficient business in a certain suburb or country town to enable me to have a registered branch office where I can operate entirely within the confines of that suburb or town." If an agent wanted to do that and wanted to advertise within that suburb or town he would then have to have a registered branch manager because business would be carried on almost full-time.

The Hon. Sir Arthur Rymill: Do you consider that there could be an office operated without registering the branch office under this Bill?

The Hon. F. J. POTTER: I think so because after all section 59 of the principal Act says—

The Hon. C. D. Rowe: There can be a branch office without its being a registered branch office.

The Hon. F. J. POTTER: Section 59 states:

Every land agent shall exhibit and keep exhibited in a prominent place on his registered office and on every branch office . . .

There is no suggestion that the term "registered branch office" applies. In other words, section 58 is not amended in any way by the Bill.

The Hon. K. E. J. Bardolph: That can only be a snap opinion!

The Hon. F. J. POTTER: It is not a snap opinion.

The Hon. Sir Arthur Rymill: What is the provision for?

The Hon. F. J. POTTER: I am not exactly clear and I should like some explanation from the Attorney-General on this point. However, as I read the Bill, it contemplates something different: there can be a registered principal office and a registered or unregistered branch office because that is prescribed in the Bill. It is not very clear, but I think that is what is contemplated. It may well be that this proves a good reason why, as Sir Arthur Rymill says, we should have another look at the Bill before it reaches the Committee stage, and make sure that it is correct. I urge the Minister to give some consideration to this aspect and to look again at the points I have made concerning the stock and station agent managers, because I do not think that section 39 helps in this respect. Regarding the other matter, I think that the Act is unexceptionable and that the alteration of the definition of land, the striking out of the words "in allotments" and the definitions in clause 3 are necessary and long overdue. All in all, I support the second reading but I should like clarification on some of these rather tricky points.

The Hon. C. D. ROWE (Attorney-General): I should like to congratulate you, Sir, on your very great efficiency as the President of this Chamber because, since your occupation of the Chair, the members have displayed a much keener interest and a much keener mind in investigating all matters that arise under Bills than they have previously; so much so that a considerable amount of work is necessary to be able to answer all these questions. I remember on one occasion members were so inquisitive that it was suggested that the queries raised were so wide that I was not able to do justice to the replies. However, on this occasion I have looked carefully at the Bill and believe I can answer many of the queries raised.

I congratulate honourable members on their interest in this matter because there can be no doubt that the Land Agents Act is one that affects most people in a big way during their lifetime. The position is that land salesmen are handling these matters every day; it is their occupation and way of life and they get to know all the details, but sometimes treat it in a rather easy-going fashion. However, most people in the community have only one

land transaction during their lifetime. They do not understand what title deeds are and whether a deed is free from encumbrance; nor do they understand the requirements of the Town Planning Act or know much about easements or entitlements. Consequently, they are very much in the hands of the land agents to see that they get a fair and just deal. They trust land agents more than the people they deal with in matters of finance and so on. It has been felt that as time passes we should place a greater onus on the land agent than in the past to see that he does accept his responsibility and that he treats the people for whom he is acting fairly and equitably so that they are not induced to sign contracts or get themselves involved in a house or land deal that may take them a lifetime to straighten out. Having in mind the desire to improve the standard of land agents and improve their understanding of their responsibilities, I have from time to time brought down amendments to the Act. It will be remembered that in 1955 we scrapped the Land Agents Act and a completely new Bill was introduced. Under the previous Act the only requirement for a person to be licensed as a land agent was that he had to satisfy the court that his character and financial position were such that in its opinion, having regard to the interests of the public, he was a fit and proper person to carry on business as a land agent. The difficulty there was that a man could be of excellent character and in an undoubtedly good financial position but still know nothing of what was required in handling land transactions.

In 1955 the requirements of a land agent were set out in great detail in section 27 of the Act. He could not be an undischarged bankrupt and must have been in the employment of one or more land agents for two or more years in the aggregate. This provision exempted a person who had held a licence up to that time. At about that stage a course was instituted at the Institute of Technology, the purpose of which was to ensure that people thinking of entering the business of a land agent would have somewhere to go to learn the absolute requirements necessary to conduct that business. I believe the course was set very largely in consultation with representatives of the Lands Titles Office, who knew what the requirements should be. Many people are undertaking that course.

The Hon. K. E. J. Bardolph: The Real Estate Institute has taken an interest in this also.

The Hon. C. D. ROWE: Yes. It is not possible to set out in the Bill exactly what the educational requirements for a land agent should be. It may be that a man who has a Bachelor of Laws degree decides, for some reason, to leave his profession and enter the business of a land agent. He is moving from something not very lucrative to a lucrative business. In this case the Land Agents Board may well consider that as he held a Bachelor of Laws degree and had practised for many years, there was no need for him to attend the course for land agents at the Institute of Technology. Another case could be that of a person who had served for a long time as a settlement clerk in a land agent's office and knew the procedure and so on. The board may feel that he could be licensed without his being required to undertake the course at the Institute of Technology.

In general terms, the object of the Bill is to encourage future applicants to go to the trouble to acquire this standard at the institute and I take it that by 1966 this will be the general requirement. However, it cannot specifically be stated in the Bill that this will be so because cases will occur where people will be qualified by experience and for other reasons to carry out the business of a land agent and it will be unfair to make them take the course at the institute. I believe honourable members should now be satisfied on this point. The overall intention is gradually to increase the knowledge applicants should have of the business they wish to conduct.

The Hon. Sir Arthur Rymill: In other words, what the Hon. Mr. Potter says is correct?

The Hon. C. D. ROWE: Yes. The second point raised related to land salesmen operating for more than one land agent. Difficulties have arisen in this regard. If a land salesman did something at the time he was working for more than one employer that could result in somebody incurring a loss, the question may arise whether the responsibility was that of the first or the second land agent. Instances have been brought to my notice where salesmen have passed on information acquired from one land agent to another land agent about a property and received a commission from both parties. It is generally considered that the old adage that no man can serve two masters still applies in such cases. Many of the difficulties we have run up against have arisen because people have been trying to serve two separate agents at the same time.

In other instances land salesmen have attempted to put through a sale completely on their own initiative and collect an emolument for this. When the employer finds out about the sale and asks what has happened to his commission, the salesman tells him that the sale took place while he was working for another employer. This matter was mentioned to me by the Land Agents Board. I have great confidence in that board and its recommendations to me. I believe the legislation is really necessary to ensure that land salesmen do not try to serve two masters, which in many instances means trying to serve the vendor and the purchaser at the same time. That is completely impossible.

The question of branch offices was also raised. This matter was brought to my notice on this basis: a land agent firm with its registered office at Adelaide may have established branches at Glenelg and elsewhere. At present if it wants to advertise a house, say, at Somerton, it must show its registered office as being at Adelaide. It has been pointed out that frequently it would serve its purposes better if it could show the address of the registered office at Glenelg, because that is where the inquiry would be made, and it would be from that office that people would be handled when they wanted to inspect a property. The purpose of the amendment is to enable the firm to have a registered branch office, and if it has one it can advertise a house at Somerton and give the address of the office at Glenelg, which would not make it necessary to include in the advertisement the address of the registered office at Adelaide. There is nothing to prevent it from having a branch office at Glenelg, but if it wants to advertise that office it must be a registered office and a competent man must manage it. It would be only at the express wish of the land agent himself where the situation mentioned by Sir Arthur Rymill would arise. That is the sole purpose of the amendment. I do not think it deals with stock firms and their country agencies.

The Hon. K. E. J. Bardolph: If there were a branch office at Glenelg, would not the business have to be finally dealt with at Adelaide?

The Hon. C. D. ROWE: I take it that the settlement would have to be attended to at Adelaide, where the licensed agent and the broker would be.

The Hon. Sir Arthur Rymill: There could be a part-time office elsewhere than at Adelaide?

The Hon. C. D. ROWE: Yes, without its being a registered office, but if it were desired to use the address of that office for the purpose of getting people to come in and inquire about a property it would have to be a registered office, and a registered person would have to be in charge of it. I think that answers most of the queries raised in this debate, but if there are other matters on which members want information I shall be pleased to answer their queries in Committee. I do not propose to answer now the references made to the Breadcarters' Union and the Prices Act. I shall do so when we come to the relevant clauses in the Bill. I am anxious to get the measure passed. The representations made to me by the Land Agents Board and the Real Estate Institute were serious, and both organizations were anxious that the Bill should pass before we had the Christmas vacation, but for the reasons mentioned I was not able to get the Bill passed. Now I am anxious to get it through in the dying stages of this session, so that it can go to another place as quickly as possible.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—“Amendment of principal Act, s. 27.”

The Hon. S. C. BEVAN: I listened with interest to the views expressed by members on this clause and to the explanation given by the Attorney-General. I cannot agree with the Hon. Mr. Potter when he says that the qualifications are set out in section 27 and that consequently it is not necessary to have the proviso in clause 4. In my view this proviso overrides the provisions of section 27.

The Hon. F. J. Potter: Subparagraphs (i), (ii) and (iii) are all provisos.

The Hon. S. C. BEVAN: I am a layman, whereas Mr. Potter is trained in legal matters, but I have had considerable experience of industrial provisos, and I know that another proviso overrides previous provisos, which is the position respecting this clause. I agree with the Attorney-General when he says that the board will have discretionary powers in this matter. We will know what the educational standard will be after January, 1966, because then the matter will be dealt with by regulation. It is necessary for us now to cover the period to January 1966, so I move:

At the end of the proviso to add “by regulation”.

If this is accepted the matter will come before Parliament and then we shall all know the standard.

The Hon. F. J. Potter: Is that not dealt with under clause 14?

The Hon. C. D. Rowe: I suggest that the honourable member have a look at that clause.

The Hon. S. C. BEVAN: I agree with the Attorney-General and ask for leave to withdraw my amendment.

The Hon. Sir ARTHUR RYMILL: I am happy with the explanations given by the Attorney-General and the Hon. Mr. Potter. They have shown me the light and I am grateful for their explanations. This is a tricky clause to interpret, but when it is consolidated in the Act it will be easier to follow.

The CHAIRMAN: I take it that the Hon. Mr. Bevan has withdrawn his amendment?

The Hon. S. C. BEVAN: I do not press it. I ask leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Clause passed.

Clause 5 passed.

Clause 6—"Prohibition of employment by two agents"

The Hon. Sir ARTHUR RYMILL: I am happy with the lucid explanation given by the Attorney-General on every clause except this one. So far, I am not convinced that this is a good clause. In his explanation, the Attorney-General made about four points, which I jotted down. First, he said that if this clause is not passed it can become a question whether the bond of one land agent or another land agent can be called upon if a salesman has more than one master. That is not a thing in itself that should bother anybody. At least some bond has to be called on, and that is all that is necessary for the protection of the public. Surely we are out to protect the public rather than the land agents as between themselves? The public are the people who employ them and, if land agents see fit to allow a man to be employed by another agent, they have to sort those things out for themselves. If they want to employ a man exclusively, they can. If they want to employ a man part-time, they are taking those risks and, if they are not prepared to let him go and work for another agent and he wants to, they need not employ him at all.

Then the Attorney-General raises the point that the salesman employed by more than one land agent can put through a sale on his own initiative and then it becomes an argument as to which land agent he was working for. Again, that does not concern the general

public: it is a problem for the land agents who choose to employ these freelance men to sort out. That is a risk they take. It is purely their own business. The fourth point is that a land salesman may get a commission from both the vendor and the purchaser. That could apply even if he was exclusively employed by only one land agent. If the Attorney-General has any other reasons to add, I shall be grateful to hear them and try to assist.

The Hon. C. D. ROWE: I do not know that I have any more reasons. My view is that those reasons I have given are sufficient.

The Hon. Sir Frank Perry: They would be good reasons for an Act of Parliament?

The Hon. C. D. Rowe: I think they are good reasons and sufficient to warrant the inclusion of this clause in the Bill. The Real Estate Institute raised these points with me because they were getting into difficulties, in that the men they were employing were being employed also by other people. That is not in the interests of good ethics or of the general public who are dealing with the matter of buying and selling houses. We can envisage the difficulties that arise if a man who is working for one firm is at the same time working for another firm of land agents.

The Hon. K. E. J. Bardolph: It applies not only to houses but to real estate.

The Hon. C. D. ROWE: Let me give honourable members a concrete example. A man is working for a firm A and he has on his books a house to be sold for that firm A. At the same time he is employed as a land salesman by firm B and he has from that firm on his books another house which he is selling, and he has one client. He has to decide which of those houses he is going to sell and then push as hard as possible to sell it. In those circumstances it is completely impossible for him to do justice to both his employers.

The Hon. Sir Arthur Rymill: Isn't that for him to decide?

The Hon. C. D. ROWE: Unfortunately, I have had complaints about these salesmen who are serving two different firms. I have had complaints from house purchasers who have been adversely affected because of this. In general terms, I am still getting complaints of improper practices that are occurring in connection with the purchase and sale of houses. This legislation will close one of the doors being used at present to enable improper practices to be carried on. It is a clause recommended by the Land Agents Board,

whose primary concern is the protection of the public. It is supported by the land agents themselves. I do not think that many land agents would employ a land salesman if they knew that at that time he was also employed by another employer. I ask the Committee to accept the clause.

Clause passed.

Clause 7—'Amendment of principal Act, s. 56.'

The Hon. F. J. POTTER: I join with other members in thanking the Attorney-General for his explanations of the points raised in this debate. However, this clause deals with the qualifications, etc., needed by registered managers. The Attorney-General has clearly explained to the Committee that this matter of having a registered office or a branch office is one that really impinges on the question whether or not one wants to advertise from one's branch. It seems to me that stock and station firms would be the very people who would want to get the benefit of a registered branch office so that they could advertise properties at their registered branch offices in country towns, because it is likely that, if a house is for sale in a place such as Gladstone, most inquiries will come from in and around the Gladstone district and obviously the agents will want inquiries directed to the Gladstone office. They will want to advertise properties from Gladstone. It could apply to many other country towns. If a stock and station firm wishes to get the advantages, I agree with the Attorney-General that there is no compulsion upon them to do it, but most likely they would be the people who would want to have the advantage of a registered office; and, if they did, they would have to have a registered manager. If they are to have a registered manager, he must comply with these qualifications. Although educational standards, as has already been pointed out, are only something additional, it may involve some difficulty to the stock and station agents in these circumstances

unless they are prepared to appoint somebody who will satisfy the board in other respects.

The Hon. K. E. J. Bardolph: The Bill provides for that.

The Hon. F. J. POTTER: Whether they would be able to do this I do not know, but it is not a very important point. I do not want to vote against the clause but the Attorney-General may like to comment on it because it seems that a registered branch office is the very thing that a stock and station firm would want.

The Hon. C. D. ROWE: I do not think the difficulty which the honourable member has mentioned will arise because, as I understand most stock firms, when they advertise they are quite happy to insert the address of the registered office as well as the address of the local branch office. I have had no representations on this aspect but I think that we are quite safe in proceeding.

Clause passed.

Remaining clauses (8 to 14) and title passed.

Bill read a third time and passed.

TRADES HALL BILL.

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

That the Legislative Council give permission to the Hon. A. J. Shard, member of that Council, to attend and give evidence before the Select Committee of the House of Assembly on the Trades Hall Bill.

The Hon. C. D. ROWE (Attorney-General) moved:

That the Hon. A. J. Shard have leave to attend and give evidence before the Select Committee of the House of Assembly on the Trades Hall Bill if he thinks fit.

Motion carried.

ADJOURNMENT.

At 4.15 p.m. the Council adjourned until Thursday, February 20, at 2.15 p.m.