LEGISLATIVE COUNCIL

Tuesday, March 7, 1967.

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

QUESTIONS

THEVENARD CHANNEL.

The Hon. A. M. WHYTE: Has the Minister of Labour and Industry obtained a reply from the Minister of Marine to the question I asked on March 2 about the channel at Thevenard?

The Hon. A. F. KNEEBONE: The Minister of Marine has informed me that the Harbors Board has for some months been investigating the possibility of finding an alternative channel (28ft. at low water) into the jetty at Thevenard. When the investigations are completed, a report will be submitted by the board recommending that the proposal be referred to the Public Works Standing Committee for inquiry.

GAS.

The Hon. Sir LYELL McEWIN: I ask leave to make a statement prior to asking a question of the Minister of Labour and Industry.

Leave granted.

The Hon. Sir LYELL McEWIN: I think we all read with some concern this morning's newspaper report regarding the suggested postponement of the development of the Torrens Island power station. If the report is accurate, I assume that this postponement must have some effect on the programme suggested to the Commonwealth Government regarding the financing and establishment of a gas pipeline from Gidgealpa, as the Electricity Trust would be a principal consumer of the gas from the pipeline. Can the Minister say whether this will have any effect on the economics of the Government's proposal to bring the pipeline from Gidgealpa to Adelaide?

The Hon. A. F. KNEEBONE: I know that the Minister of Works is investigating this morning's press report and that he will be preparing a suitable statement on all its ramifications. I know from my own knowledge that even if the report is correct (and I do not say that what the paper states is correct) this will not have any effect on the Electricity Trust's work on the use of natural gas, because the gas is to be connected to the first two units and not the unit mentioned in the paper. Therefore, it will not affect the pipeline project. I shall have to await a report from my colleague.

The Hon. C. M. HILL: Can the Minister of Mines say whether the Government has definitely decided that the Gidgealpa to Adelaide gas pipeline is to be built on the proposed eastern route and, if that is so, will he give the principal reasons for such decision? Further, in view of the widespread public debate on the issue, will the Government reconsider the matter?

The Hon. S. C. BEVAN: The Government, as such, has not made any final decision in relation to the route, whether it will be on the eastern side of the range or on the western side. The other question relates to that particular problem. Until the Government has determined where it intends the pipeline to go, I shall be unable to answer that question. I could elaborate on the matter and about where I consider the pipeline should go. I could also answer the criticism we get from public meetings (if we may refer to them as such) and statements flowing from those meetings about new evidence being tendered. I have met the people concerned on many occasions and have explained the position to them.

Now they come up with the bright idea that, instead of bringing the natural gas to the city to be used as a fuel here, the pipeline be located on the western side of the range and the gas be taken to Port Augusta and treated (which means that it will be liquefied) and exported. That suggestion is made despite the fact that we are crying out for fuel in the city, because this is the only State in the Commonwealth that has no subsidiary fuel. We have only Leigh Creek coal. We are concerned about getting the gas for our own users for the benefit of this State and about inducing people to establish industries here. My own opinion is that the suggestion that the gas be taken on the western side of the range to Port Augusta for the purpose that has been mentioned will not be accepted.

SALISBURY INTERSECTION.

The Hon. M. B. DAWKINS: I ask leave to make a statement prior to asking a question of the Minister of Roads.

Leave granted.

The Hon. M. B. DAWKINS: As a result of a series of accidents at this intersection, some months ago the Minister closed temporarily a portion of Main Road 410, which travels from the Wakefield Road through

Angle Vale in more or less a northerly direction, and Main Road 101, which is the Salisbury to Waterloo Corner road. Shortly afterwards, I pointed out to the Minister in his office that semi-trailers and large vehicles coming down from the north on Main Road 410 and turning into the present Main Road 101 were forced, in some cases, to go on the wrong side of the road in order to negotiate the corner. I am concerned about this and the present lay-out of the junction. Can the Minister say what progress has been made in its reconstruction or improvement?

The Hon. S. C. BEVAN: As the honourable member says, he approached me some time ago about this intersection. At this stage I am afraid I cannot give him any further information about it. However, I will obtain a report about it and give him as soon as possible what information we have about its reorganization.

TRAFFIC LIGHTS.

The Hon. C. D. ROWE: I ask leave to make a statement prior to asking a question of the Minister of Local Government.

Leave granted.

The Hon. C. D. ROWE: As I drive around the city, I pass through a number of traffic lights. On occasions I notice there is a malfunction of those lights. I have never been able to find out for certain whom one should contact to report such malfunction so as to save traffic confusion. Can the Minister ascertain from the traffic authorities where one should telephone or whom one should contact if one discovers that the lights are not working correctly?

The Hon. S. C. BEVAN: If it happens within the confines of the city, I suggest that the person concerned should immediately contact the Town Clerk of the City of Adelaide and draw his attention to the fact, because these traffic lights are under the jurisdiction of the Adelaide City Council.

SOUTH-EAST ROAD JUNCTION.

The Hon. R. C. DeGARIS: I ask leave to make a short statement prior to asking a question of the Minister of Roads.

Leave granted.

The Hon. R. C. DeGARIS: Recently there was a fatal accident at the junction of the road from Mount Gambier to Millicent (the Princes Highway) and the road leading to Glencoe. Whenever there is a fatal accident, there is always some pressure for an alteration to be made at the place concerned, but in this instance people spoke to me prior to the accident and lodged complaints about the danger of that junction. In particular, the complaints were that there was a lack of room on the road when vehicles were making a right-hand turn to go to Glencoe. Will the Minister investigate the matter and report to the Council about this corner and whether there is any need to improve the safety of the junction?

The Hon. S. C. BEVAN: Yes; I will refer the honourable member's question to the appropriate department and bring down a reply.

CERAMICS INDUSTRY.

The Hon. R. A. GEDDES: Late last year the Government announced that a ceramics industry would be established at the old uranium treatment plant at Port Pirie. Can the Minister of Mines say what progress has been made and when it is planned that the industry will commence operations?

The Hon. S. C. BEVAN: It was never announced that a ceramics industry would be established at Port Pirie. What was announced was that inquiries were being made concerning the possibility of establishing a ceramics industry in what was previously the uranium treatment plant. The company that was interested has an option of six months on the plant, and that option does not expire until the end of next June. I have no further information at present.

SOUTH-EAST ELECTRICITY.

The Hon. Sir NORMAN JUDE: I ask leave to make a brief statement prior to asking a question of the Minister representing the Minister of Works.

Leave granted.

The Hon. Sir NORMAN JUDE: My question relates to the statement in this morning's *Advertiser* attributed to the Minister of Works. The statement concerns the position of the Electricity Trust at Torrens Island. Incidentally, he has just confirmed this statement in another place. The Minister has emphatically declared that the trust's planning must be governed by consumer requirements, which, in the near future, do not seem likely to meet earlier forecasts. If this is correct and a slowing up is desirable, will the Minister obtain an explanation of why the trust cannot step up the extensions already planned for the South-East, which appear to have been almost, if not completely, curtailed? It would seem that there is certainly a considerable consumer requirement there.

The Hon. A. F. KNEEBONE: Unfortunately, I was unable to hear what the Minister of Works said in another place. The honourable member has been quickly informed of what was said. I cannot pass comment, but I will refer the matters dealt with by the honourable member to my colleague and obtain a reply.

LOCAL GOVERNMENT COMMITTEE.

The Hon. L. R. HART: I ask leave to make a short statement before asking a question of the Minister of Local Government.

Leave granted.

The Hon. L. R. HART: The Minister of Local Government has on several occasions stated that there will be no major amendments to the Local Government Act until the Local Government Act Revision Committee has submitted its report. The Minister has not denied that the work of the committee will be slowed down through lack of finance. In view of this, does the previous decision of the Minister still hold?

The Hon. S. C. BEVAN: To the best of my recollection, I have never said that there will be no major amendments to the Local Government Act until the committee submits its report. What I said was that I am rather loath to bring down major amendments pending the committee's investigations into the Act. As members will understand, this will be governed by circumstances; if I believe that it is necessary to amend the Act I will have no hesitation in bringing amendments before members.

PRINCES HIGHWAY.

The Hon. Sir NORMAN JUDE: Has the Minister of Roads a reply to my question of February 28 regarding the state of the Princes Highway near Dawesley Hill?

The Hon. S. C. BEVAN: Work on the construction of the new approaches to the Dawesley culvert is actively in hand by the District Council of Mount Barker. It is expected that all work, including sealing, will be completed by mid-April this year.

MONEY-LENDERS ACT.

The Hon. F. J. POTTER: Has the Chief Secretary a reply to the question I asked last week regarding the Money-lenders Act?

The Hon. A. J. SHARD: Yes. As I promised in my closing remarks on the Money-lenders Act Amendment Bill last year, the matters raised by the Hon. Mr. Potter and other honourable members have been examined. I think it is clear from last year's debate that there are difficulties of definition in the particular aspect that was then under consideration. These have not yet been resolved. An examination of the Act has raised with the Government, as it has recently raised with the legal seminar to which the honourable member made reference last Tuesday, the question of whether the whole Act was in need of review. My own view is that it is in need of review and that this would be better than any piecemeal approach to the Act. I shall take the necessary action to get this complete review under way as soon as possible.

FARINA ROAD.

The Hon. Sir LYELL McEWIN: Has the Minister of Roads a reply to the question I asked last week regarding the Farina road?

The Hon. S. C. BEVAN: I have the following answer, dated March 3:

The implications of the proposed deviation at Farina were studied yesterday, in company with the Superintending Engineer, Mr. Butterworth, and the District Engineer, Mr. Gregson. The existing road has a sharp curve in the township whilst a short distance farther towards Marree there is a railway crossing which has very steep approaches from both sides. This crossing cannot be moved north because of a wide creek, whilst just south of it there are several rail tracks, switch gear, etc., this being the northern end of the station yard.

From road safety considerations, the proposal to move this crossing to level country south of the railway yards has much to commend it. The District Engineer will, however, be giving the matter some further consideration. It might be mentioned that the number of vehicles a day on this road may be of the order of 10 to 20. The one store (Bell's) on the road approaching from Leigh Creek has no indication on it that it is a store. Farina is already a derelict town, in which many of the houses have been abandoned and are in a poor state of repair. Because of the low traffic volume, it is doubtful whether the claim regarding loss of business from passing trade is valid.

SCHOOL WINDOWS.

The Hon. L. R. HART: Will the Minister of Labour and Industry representing the Minister of Education say whether it is true that, because of the policy of the Education Department in discontinuing the cleaning of school windows, some schools have had to resort to artificial lighting during daylight hours?

The Hon. A. F. KNEEBONE: I would hardly think so, but I will convey the question to my colleague in order that an investigation may be made. I shall inform the honourable member when a definite reply has been obtained.

POLICE OFFENCES ACT AMENDMENT BILL.

Read a third time and passed.

SUPREME COURT ACT AMENDMENT BILL (DAMAGES).

In Committee.

(Continued from February 28. Page 3264.)

Clause 6—"Enactment of section 30a of principal Act."

The Hon. F. J. POTTER: When this matter was last before the Committee I was making an explanation prior to moving an amendment. I was giving some background history of the measure and I pointed out that it was universally believed that it arose from certain proposals put forward by Their Honours the Judges of the Supreme Court. I was telling the Committee that the main problem in claims involving personal damages from vehicular accidents arose from the long delays that ensued because the person's medical condition was not stabilized. These delays have a twofold effect: they mean that the injured person waiting for an assessment of damages has to subsist in all the intervening time as best he can as far as his living is concerned and probably has to receive social services. Generally, the whole matter is, and is acknowledged to be, very unsatisfactory.

The other aspect I mentioned was that the recollection of witnesses to an accident generally became very hazy after a long period, that sometimes witnesses were dead or could not be found, and that this posed further procedural difficulties when the case finally came to court. For that reason alone, if for no other, the purpose behind this Bill is very good indeed, because it is in the interests of all parties that at the earliest possible date, when the evidence is fresh in the minds of the witnesses, some hearing should be conducted by the court so that the liability in one form or another (by which I mean either that total liability can be placed on one party or some estimation can be made on how far the defendant may be partially liable in any particular case) can be established. That alone, without the other great advantage flowing from the provisions of this Bill, is justification for the Committee to consider this matter favourably.

I have dealt with the delays associated with waiting for an injured party's medical condition to reach some point of stability and predictability. The other unsatisfactory feature involved in the present requirements of the courts to fix a lump sum payment in all cases is that in many cases some unsatisfactory features are associated with awarding lump sum payments. These features are present particularly when life expectancy and future prospects are uncertain, whatever the medical report may be. Obviously there are cases where in the process of time it is possible for medical people to say that the injured person will not get any better or any worse. It seems to me that at that time some kind of interim assessment of damages might be made in selected cases, as the awarding of a lump sum payment may not be appropriate.

It may not be appropriate for payment to be made to a man who is a paraplegic who has a short expectation of life and who is without dependants in this country. It is more in his interests to establish for some period of time, however uncertain it may be, some compensation that will be of immediate benefit and use in his medical condition, and not for him to be paid some enormous sum which, if he died in a very short period, would provide nothing more than a windfall to some relative or next of kin whom he might not have seen for many years.

I think the principal defect that the Bill is intended to cure is the long delay where the injured party is required to get along on his own resources in the best way he can without receiving any payment. To overcome these difficulties, this concept of an interim award provision has been suggested and put into the Bill. Its whole purpose is to enable a seriously injured person to be given some adequate periodic payments, such payments to include out-of-pocket expenses such as the hospital account, medical and nursing fees, and perhaps necessary pharmaceutical supplies. It may be necessary for the injured person to have a housekeeper to do certain things that cannot be done by him, and he should get periodic payments from the moment the liability is determined so that he is not put in the invidious position of having to get along with his own resources.

Perhaps in many cases it would be desirable that these particular periodic payments should continue for a considerable time, but I question whether in every case, without any right by the party found liable to question the matter, they should continue indefinitely. Some approach should be possible to the court finally to fix damages in a lump sum. There are certain problems, mentioned when the matter was before the Committee last year, that are principally legal and procedural problems that arise out of this idea of an interlocutory judgment. I am

pleased to note that this matter has been carefully considered in the interim by several bodies, including the Law Society, and that the Hon. Mr. Rowe has placed on honourable members' files suggested amendments to alter a later subclause. This will substantially deal with all the outstanding legal and procedural matters that arise as a result of any interlocutory judgment that may be given.

I do not want to take up the time of this Committee by debating the honourable member's amendments, but I indicate that when they are moved they will have my complete support. However, as my amendments attempt to deal with one or two other important problems, I wish to comment on matters arising from them. The main problem is whether any limit should be placed on the amounts to be awarded by a court by way of interim periodic payments. In this connection I remind honourable members that, as I understand it and as I think other honourable members understand it, the judges' suggestions were originally aimed particularly at cases involving very serious injury and disablement.

On the question whether or not some limitation should be placed on the discretion of the court when fixing the amount of interim periodic payments at the interlocutory judgment stage, it is important to bear in mind that, from the stated object of the judges—namely, that they should be given power to grant interim periodic payments in cases of serious injury, because it is in those cases that the real difficulty arises (and, indeed, if nobody suffered very serious injuries but only injuries that could be fairly and easily assessed, this amendment would never have arisen)—under the Government's Bill the interim award provisions that may be used are in no way limited to serious cases. That is the first important point I want to make: they apply to all cases, cases that may range from the humble bruise all the way through to total and permanent incapacity. While it may be true that some alteration in the method of assessing damages is desirable in all cases, there are at least two compelling reasons against the court's being given power to award unlimited periodic payments for indefinite and unlimited periods in all cases. This is a wide discretion. I suggest it ought to be reserved for the serious injury cases involving permanent disablement.

The first reason I put to the Committee for limiting the discretion of the judges is that anybody in the profession engaged in the business of assessing liability (insurance assessors and the like), will tell us—and ample evidence can be given to support this statement from experience gained in the administration of the Workmen's Compensation Act—that experience in those fields shows that a right to unlimited periodic payments will operate as an incentive to the injured party never to get better or never to make any serious effort to get better. Particularly is this criticism apt in the present case, because under the Government's Bill periodic payments can include not only out-of-pocket expenses—hospital and medical benefits and loss of earnings (and there would be no objection to these out-of-pocket expenses being met as and when they fell due)—but also payments on account of pain and suffering. It is suggested that the right to include all these elements in the periodic payments should be again reserved for the serious injury cases involving permanent disability, and in all cases periodic payments should be limited, as far as loss of wages is concerned, to 75 per cent of the actual loss of earnings involved.

It may be asked, "Why should that be?" I say that this is exactly the position as it is under the Workmen's Compensation Act. The reason why it is in that Act and why it ought to go into this measure is that that particular percentage operates as a real incentive for the injured person to get better and to get around to working to his full earning capacity again as soon as possible. It seems inappropriate to have a provision of that kind, that he gets 75 per cent of his weekly wages under the Workmen's Compensation Act disability and full wages under a common law damage claim. I do not suggest that these limitations should be the only matters applying to the seriously injured person who, I suggest, in the discretion of the court could be allowed a periodic payment that included also payment for pain and suffering. This is the remedy that the judges want and I do not oppose their having the right to award in addition to the out-of-pocket expenses some payment to the seriously injured person on account of the pain and suffering involved. But I do want to limit the wide discretion of the judges in that kind of case.

The other argument against unlimited discretion to be given for all cases under the Government's Bill is that from the defendant's point of view it is impossible to make any sort of estimate of the amount of money likely to be involved in any claim. This is

not to be dismissed lightly. In saying this, I do not want to appear to be holding a brief, as it were, for the insurance companies involved in this kind of business, but it is a fact (and we cannot dismiss it) that the insurance companies are the real defendants in these actions. A person who is found liable in a court of law is nothing more than a figure, a name in the proceedings. He is completely covered by the insurance companies, which are charged under third party provisions of our State laws with meeting the actual costs and damages.

I put to honourable members that there is really nothing magic about an insurance business. Like any other kind of business it has to be worked out on the basis of a budget. Governments could not function anywhere without working, or endeavouring to work, to a budget. Sometimes it happens that things do not work out according to their budget, and perhaps it is not their fault. In this case, there may be more accidents in one year than in another. There are not unlimited sources of money available to do these things and to meet these claims. In this field nearly all personal injury damages have to be paid for by the public, in the long run, through premiums for third party insurance.

In addition, it is well known that insurance companies generally have to reinsure with other companies in Australia and throughout the world, and they do this largely because only in that way can they protect themselves against an unexpected series of claims. Consequently, it is necessary to have, in at least a rough form, a budget of the likely expenditure in the forthcoming 12 months in connection with judgments concerning road accident cases. If an unlimited discretion is given to the court in all cases, whether it is a humble bruise or a serious injury, it will make a reasonable assessment of the amount likely to be involved for the forthcoming year almost impossible.

The Hon. C. M. Hill: Is this the basis of your argument: unlimited discretion as opposed to limited discretion?

The Hon. F. J. POTTER: Yes; the basis of my argument is limited discretion, that is, discretion limited to serious cases, and a discretion that could be limited, on the application of the party found to be liable, to a specific period of time if it appeared to the party liable that some final assessment ought to be made. I believe that the discretion should be limited in those two ways.

Since I last spoke on this matter in Committee, I have somewhat drastically reduced my amendments because it seemed to me that they were unnecessarily long. Concerning the amendments that I have placed on members' files, the first important point is that the judge's discretion should be limited to actions for damages for personal injury and that those damages should be finally assessed as soon as the medical condition of the party entitled to recover them is such that neither substantial or material improvement nor substantial or material deterioration therein is likely to occur, but in any event on the application of the party held liable at any time after the expiration of three years from the date of the interlocutory judgment. There should be a right for him to apply to the court to ask that the damages be finally assessed. This does not mean, of course, that in every case there would be an application; indeed, in many cases I can foresee that it may be expedient to allow the interim periodic payment for pain or suffering for an indefinite period. Where the condition is stabilized, there should be some opportunity for the person found liable to approach the court and say, "We want this matter finally fixed, once and for all, so that there will be a lump sum to be paid."

That will not involve any difficulty to the court because they have been doing this kind of thing for years; it is only fair that a final sum should be awarded once the condition is stabilized. I agree that as an interim measure an immediate payment should be made for out-of-pocket expenses and an immediate payment should be made of up to 75 per cent of a person's wages. It is only right, and in accordance with the law as set out in the Workmen's Compensation Act. However, concerning damages for pain and suffering, there ought to be a limit to the court's discretion in the making of interim award payments both as to the type of case and as to the final time limit.

I have dealt with the substance of my amendments; I hope that they will receive serious consideration. I believe that the Chief Secretary may wish to consider the amendments I have placed on the file; he may also wish to consider those placed there by the Hon. Mr. Rowe. If the Chief Secretary wishes to consider my amendments, I will not move them now. He might be prepared to report progress.

The Hon. C. D. ROWE: I have on the file amendments to clause 6; they follow those foreshadowed by the Hon. Mr. Potter, which I approve. In some respects, the amendments that I propose to move concerning subclauses (7) and (8) are related to the same matters.

My amendments are on members' files; an explanation of them has been prepared and I shall be pleased to make it available to members. I believe that it is the Government's wish to have a look at this matter. I believe also that the Government may bring down amendments which incorporate those I have in mind.

In the circumstances I would be wasting the Committee's time if I gave a detailed explanation about something on which we might all agree. I shall be pleased to give the Chief Secretary a copy of the explanation; it may be in the Government's files at present. I shall simply follow my usual procedure in this matter: if the Government sees my viewpoint, its legislation will be good legislation.

The Hon. A. J. SHARD (Chief Secretary): I thank the Hon. Mr. Potter and the Hon. Mr. Rowe for their help concerning this Bill. This is not an easy Bill, and I have discussed it with the Attorney-General. At my request the Hon. Mr. Potter and the Hon. Mr. Rowe have stated their views to enable the Government to have a look at all aspects of the matter. It will enable the Government to ask Their Honour the Judges of the Supreme Court for their comments on the proposed amendments. Amendments on the file, as well as some possible Government amendments, have been referred to Their Honours and it is expected that a report will be obtained by the end of the week. We do not want to rush this Bill and bring down something that will not be workable.

I am told that, from a legal point of view, this is a highly technical matter and has some difficulties associated with it. I asked the two honourable members to speak today so that the Government and Their Honours would be able to examine the points of view expressed and gain assistance in regard to the proposed amendments. It may be that some of the Hon. Mr. Potter's suggestions will be accepted and that some of the Hon. Mr. Rowe's suggestions will be accepted. I do not think that time has been wasted. I ask that progress be reported.

Progress reported; Committee to sit again.

HEALTH ACT AMENDMENT BILL (DISEASES).

Adjourned debate on second reading.

(Continued from March 2. Page 3380.)

The Hon. Sir LYELL McEWIN (Leader of the Opposition): This Bill follows a Bill that was considered earlier in the session, when certain amendments were made to the Health Act regarding the notification of the diseases gonorrhoea and syphilis. The reasons were fully discussed at the time and I, in speaking in support of the Bill, explained an experience that I had when I was Minister of Health regarding the disadvantage of the non-inclusion of these diseases in the normal provisions regarding notification to the Board of Health.

The amendment made at that time inserted words in one provision, but they should also have been inserted in another. I do not know how the necessity to make the two alterations was overlooked. When two Bills amending the same principal Act are dealt with in a short interval, difficulty is experienced in ascertaining just what is being amended, because the measures are not yet in print. However, I think I have been able to find the real purpose of the Bill. Earlier section 127 was amended by adding words. Before that time that section had read:

> Where any inmate of any building or part of a building is or is supposed to be suffering from any infectious disease or any notifiable disease, unless the building is a public or licensed hospital into which persons suffering from infectious diseases are received . . .

After "disease" we inserted "other than gonorrhoea and syphilis". That meant that, if a person in a boarding house was suffering from either of these diseases, it was not necessary to notify. However, the same amendment was not made at the end of the subsection, where the words "infectious disease" were used. Apparently, according to the Minister's explanation, it is impossible to administer the Act without including the words again in that part of the section. Therefore, we are asked to make the amendment now. Similarly, it is necessary to include the appropriate words in subsection (3).

The Bill contains amendments that were intended to be made when the legislation was before us previously. I regret that it is necessary to amend the measure so soon because of an oversight. I support the Bill, because it is necessary to achieve what we set out to do in the first place.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

ABORIGINAL AFFAIRS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from March 2. Page 3367.)

The Hon. C. D. ROWE (Midland): This is a fairly short Bill and I think its purpose is fairly clear. I cannot see any objection to

it and, consequently, I support it. It attempts to do two principal things. First, it proposes to enact and insert new section 41 to provide for the establishment and constitution of Aboriginal reserve councils, and for the defining of the rights, duties, powers and functions of such councils. The Government takes the view that it already has power to make regulations in respect of reserves and reserve councils but that power is not spelt out in so many words in the Act at present.

The Government hopes that these councils will be established and that they will extend and assume a much more important part in the effective running of reserves. Therefore, it wants to be sure it is on safe grounds in establishing the councils and, accordingly, it is asking Parliament for specific power to be inserted in the legislation. I agree with that contention. I believe that this is the correct approach and that the progress made by Aborigines on reserves will be, perhaps, a little slower than we had hoped or expected. However, if some power can be placed in the hands of the Aborigines, so enabling them to manage their own affairs, this may help to expedite that process.

I believe in giving people as much power as it is possible for them to use in their own interests. However, frequently when such power is placed in the hands of a person, either he proves himself capable of using it properly and benefitting from it or he finds it too much to handle. In the latter case such power has to be taken from that person. I think this provision is a worthwhile experiment and I approve of it. We are merely giving the Government power to make regulations and I take it that they will be prepared and submitted in order that we may be able to study them in due course with a further opportunity to examine the matter fully at that time. A second matter in the Bill concerns regulations, and is covered by new section 41 II, which reads:

Providing for the establishment, constitution, incorporation, management, regulation and registration of societies for carrying on any industries, businesses or trades upon Aboriginal institutions notwithstanding the provisions of the Industrial and Provident Societies Act, 1923-1966, or the Companies Act, 1962-1965.

I agree with this. It is suggested that the procedures set down under the Companies Act and the Industrial and Provident Societies Act are too complicated for the type of co-operative envisaged on these stations and that a more simple procedure should be provided. I have some knowledge of the working of the co-operative on the Point Pearce Mission Reserve and I think that has been working satisfactorily. If the people concerned can be relieved of some of the more detailed clerical work in connection with such establishments it will be a good thing.

I notice from the second reading explanation that the Government proposes to establish other similar co-operatives, one of them a mining co-operative in connection with the North-West Reserve. I imagine that something in the nature of an orderly marketing system will be required to bring some order into what I think is at present a chaotic market, and this will perhaps ensure that the parties concerned receive justice.

The Hon. Sir Lyell McEwin: Is it confined to the reserve?

The Hon. C. D. ROWE: I am not quite certain on that point at present.

The Hon. R. A. Geddes: Does it refer to Aboriginal institutions?

The Hon. C. D. ROWE: The first part of the proposed new section in relation to council reserves makes regulations with regard to their control, but perhaps the Minister will provide further information. I think they could establish a co-operative that would operate off the reserve. In some cases—for instance, in connection with mining activities—it may well be that they are carrying on outside the actual boundaries of the reserve.

The Hon. Sir Lyell McEwin: There is no limit to what the regulations can do.

The Hon. C. D. ROWE: That is so. That should be dealt with when we deal with the particular regulations, but it would be difficult in drafting a Bill to set out the limits that should be placed on such co-operatives. However, I am prepared to support the Bill but I would be glad if the Minister would supply information relating to the points raised by the Hon. Sir Lyell McEwin whether these co-operatives, when established, may operate not only on the reserves but elsewhere.

The Hon. R. C. DeGARIS (Southern): This is a short Bill of three clauses and it adds to the principal Act the power to make regulations in respect of Aboriginal reserve councils. We have considered one Bill this year that relied to a great extent on the establishment and operation of these councils. Without the necessary power to establish the councils there is some doubt whether the legislation passed earlier could be completely effective. I do not think that any honourable member objects to the establishment of reserve councils and I

think it could be shown that the idea of so doing could be an improvement in legislation relating to Aboriginal people. I now quote a portion of the second reading explanation of the Bill:

Although it has been the Government's view that power already exists to make regulations in relation to reserve councils, it is not a specifically contained power.

I point out that councils have already been set up (and indeed are at present operating) and I believe such reserve councils were operating before this Government took office. I may be wrong in the use of the plural but I believe one such council was then operating. However, whichever Government began the move towards the establishment of such councils, I think every honourable member supports the idea of administration rights being granted to our Aboriginal people. I believe that the establishment of reserve councils fills a worthwhile gap in the transition period through which the Aboriginal people at this stage must pass. There is a problem in assisting such people to learn local government at such a level, and possibly at the reserve council level, so that they may govern themselves effectively. There has always been a natural resentment amongst Aboriginal people towards the white man's law. Of course, we know that in times gone by the tribal elders maintained control of the tribe but as time has gone by this control by the elders has disappeared.

The Hon. R. A. Geddes: It is like our own children—they have taken over!

The Hon. R. C. DeGARIS: Yes, that may be so, but the point I make is that we cannot exempt Aboriginal people from the laws of the community, and they cannot expect to enjoy the best of two worlds. If they are to accept all the benefits of the white man's world they must also accept the responsibilities that go with them. I had hoped that the Minister did not propose that these regulations would be so wide as to supersede the laws of the community at the present time. In the extract quoted by the Hon. Mr. Rowe a number of questions would be raised in the minds of many people. These regulations amount to a large dragnet that takes in practically everything. For example, portion of clause 3, which adds new section 41, reads:

. . . for empowering any of such Reserve Councils to do, perform and exercise, any of the powers or functions of the Minister or superintendents for reserves under this Act, and providing that, notwithstanding anything in this Act, any such Reserve Council may grant with or without conditions, or refuse permission to any persons or classes of persons to enter, or be in, or remain upon, any Aboriginal institution for and in respect of which such Council is constituted and providing that entry into or remaining upon any such institution without the permission or otherwise than in accordance with the permission of such Council shall be an offence.

In other words, all the powers of the Minister, the present board and the superintendents can be passed on under these regulations to a reserve council. Although I freely admit that the regulations must come before both Houses of Parliament, the powers that can be granted under them to reserve councils are almost complete. I should like the Minister to say what powers the police and, say, the Pastoral Board would have if these regulations giving these complete powers to a reserve council were passed. Although they must come before both Houses, the scope covered in these regulation-making powers is extremely wide.

I support the second reading, as I have no objection to reserve councils being established. I think this move is the correct move in the administration of our Aboriginal people, but I am somewhat concerned at the very wide powers that may be contained in the regulations.

The Hon. R. A. GEDDES secured the adjournment of the debate.

PLANNING AND DEVELOPMENT BILL.

Adjourned debate on second reading.

(Continued from March 2. Page 3375.)

The Hon. G. J. GILFILLAN (Northern): I have listened with interest to the points made by previous speakers. I believe this is one of the most difficult Bills with which Parliament has had to deal during the present session, because not only is it a very complex Bill containing 81 clauses covering 65 pages but also many of the issues are not clear cut. I believe that all members agree that we need effective town planning legislation because of the very rapid growth of our metropolitan area and places adjacent to it and because of the rapid development taking place in our larger country cities. We need an Act that has some powers, because without certain powers it would not be possible to administer such legislation and it would therefore not function effectively.

I have examined the Bill in detail, and I believe that many members are somewhat concerned at the far-reaching effect it could have on all sections of the community should there be any fault in administration. If we could be sure that our present Town Planner and his

staff would be there indefinitely and not be subject to any outside controls that might emerge over a period of time, we could perhaps pass the Bill without having any worries. Howevbr, I believe that many people who have publicly expressed their support of the Bill do not fully realize what extensive powers it contains. I think very few people realize that the powers of the Minister will be so extensive that in some instances he could override the decisions of Ministers, such as the Minister of Roads, the Minister of Education and the Minister of Works. In fact, this department could become the most powerful that we have and the Minister could become the most powerful Minister in Cabinet if this legislation were administered to its fullest extent.

The Bill also overrides the decisions of local government: even existing council by-laws could be superseded by the regulations if they conflicted with them. The legislation also overrides the provisions of the Real Property Act and some sections of the Land Acquisition Act. This authority will have power to acquire and sell land. Although this is perhaps taking it to the extreme, it could acquire a business and, if it wished, sell it even to a competitor.

I believe the problem that concerns honourable members most is to have written into the legislation some further protection for members of the public, who could be adversely affected if the Act were administered unfairly. We must give the Director of Planning power to act, but the legislation should contain reasonable safeguards for the protection of the community as a whole.

I shall not refer to each clause in detail, as this has been done most effectively by previous speakers, all of whom have, with some reservations, indicated their general support. However, I shall query some minor points, one of which is in relation to the nominees of various bodies to the authority. The Bill provides that the nomination shall be made within a period of not less than two weeks, and I question whether these bodies meet frequently enough for this to be done. I agree with other speakers that the nine members to be appointed to the authority will not give a representation that is wide enough. I will most heartily support any move to increase the number required to constitute a quorum. Four for a quorum is not enough. If four people are present one of them with the chairman can decide an issue because, if it was an equal vote, the chairman would then have the casting vote. The present composition of this authority is not sufficient protection for the community.

Clause 18 causes me some concern. Generally, it covers a wide field. Subclause (1) reads:

Subject to this Act, the authority is charged with the responsibility of promoting and co-ordinating regional and town planning and the orderly and economic development and use of land within the State and shall have and may exercise and discharge such powers, duties, functions and authorities as are conferred on, imposed on or vested in the Authority by or under this Act.

This brings an important issue to light. We know that the metropolitan and adjacent areas are clearly defined in the Bill and that if this legislation is passed those areas will be under a town planning authority. Further on in the Bill we find reference to a proclamation covering other areas of the State. These words "and use of land" go too far. We should have a clause in this Bill exempting primary producing land from its provisions, because although control of the use of land in the metropolitan area could be restrictive, it may not interfere with the use of machinery by industry and the general business within the buildings on such land. However, when we are dealing with rural land, the actual use of the land is the operation of the enterprise itself and we have adequate controls, through other departments and through district councils, of land use throughout the State. When we invest an authority such as this (particularly under the present appeal provisions) with such extensive powers as to be able to direct the use of land, we must in the interest of this State exempt primary producing land from all the provisions of this Bill.

In Part VI clause 43 exempts primary producing land from the control of land subdivision, and this is right; but, reading clause 18 together with proposed regulations, I think this could be used, if it was administered restrictively, throughout primary producing land wherever this Act was proclaimed. I view this clause and this problem with some concern.

The Hon. S. C. Bevan: Wouldn't clause 43 exclude all the agricultural land that you have in mind?

The Hon. G. J. GILFILLAN: It is excluded only under Part VI.

The Hon. S. C. Bevan: Wouldn't that exclude all such land?

The Hon. G. J. GILFILLAN: It does not exclude the control of agricultural land other than in subdivisions.

The Hon. C. M. Hill: Zoning, for example; it may mean a control on primary production.

The Hon. S. C. Bevan: It could come into effect on subdivision.

The Hon. G. J. GILFILLAN: I do not profess to understand the full implications of this Bill in respect of the use of land, and just how far it can go. There is no reference to primary producing land throughout the Bill except in Part VI. As I read it (and I stand to be corrected on this) it could be used to control the use of primary producing land and it could even go so far as controlling what happened to the products of that land afterwards, if this was taken to extremes.

The Hon. C. M. Hill: You are worried about the possibility of primary production being classified and involved?

The Hon. G. J. GILFILLAN: Yes. I am concerned about this clause and others, which give the authority power, in the areas proclaimed, to control the use of the land. I hope honourable members will examine this clause closely. They will be glad to have their anxiety relieved on this point. This Bill is comprehensive and complicated. I have already mentioned the writing of suitable safeguards into it. I understand that other honourable members propose to place amendments on our files; we shall be able to debate this matter in detail when we get into Committee. I am concerned about the provisions of the Bill as they stand at present.

Part III—"Planning areas and development plans"—deals with the proclamation of any part of the State to be a planning area. As I said earlier, the metropolitan and adjacent areas are clearly defined in the Bill. The rest of the State under the provisions of this Part can be proclaimed a planning area. As we know, these provisions can override decisions of local government. Involved in this also are the wishes of the people in the area concerned. Any planning area should be declared by regulation, not by proclamation. Then the people concerned would be able to appeal to Parliament, which would have the final decision. We deal with matters by regulation that are far more trivial than the proclamation of an area as a planning area. I am sure that many people who support this Bill do not realize the powers it contains, nor do they realize the powers that will be exercised by regulation. We do, of course, have protection in that regulations must come before Parliament. Various authorities and interested people will be able to give evidence before the Subordinate Legislation Committee. In this way, councils also will have protection, particularly in the matter of defining new areas. The portfolio of the Minister administering this Act is important in this connection. If the Minister of Local Government (who is a member of this Council) were administering the Act, there would be further protection for local government.

The long clause dealing with land acquisition goes further than the Land Acquisition Act itself; the clause also deals with the disposal of land. We also have a provision whereby the use of land can be virtually frozen for a limited period until the authority decides whether it wishes to acquire the land. We should compliment the Parliamentary Draftsman on the excellent job that he has done in drafting this Bill. The principle of the Bill has general support in this Council, subject to reservations with regard to these contentious clauses.

I would now like to refer to an article that appeared in the *Advertiser* on November 19, 1966, concerning the handling of this Bill in this Council. The article had these big, black headlines—Dunstan attacks Council. It went on to say:

> The Attorney-General (Mr. Dunstan) yesterday accused the Legislative Council of "obstructionism" in not putting through the town planning and other Government Bills. Mr. Dunstan said the events of the past week had shown what kind of a block to progress and the will of the people the Legislative Council was.

We have lately seen on television and in the press, and heard on radio, attacks on the Council; they appear to be an easy way to obtain publicity. Many of these comments have related to the theory of the two-House system rather than a complete analysis of the work done here. I am sure that the care that members have paid to Bills in this House has substantially added to the stability of this State. The second reading of this Bill took place on February 3, 1966, in another place; it did not reach the Council for the second reading until November 8, and so it was held up in another place from February 3 to November 8, and in a House which is controlled by the Government and of which the Attorney-General is a member. The period between November 8 and the adjournment on November 17 was a period when many new Bills were introduced and the Council was sitting at night. The Notice Paper was controlled by the Government, and the Government was responsible for the precedence of this Bill on the Notice Paper. Consequently, only five

days were left to consider this long and complex Bill, and those five days were days of very heavy work.

The Hon. C. M. Hill: It had to be reprinted during the first two days of that period.

The Hon. G. J. GILFILLAN: That is right. I want to emphasize the value of the two-House system in watching the interests of the community because since Parliament resumed last week, no fewer than 19 Government admendments to this Bill have been placed on our files. With the reservations I have made, I support the second reading.

The Hon. F. J. POTTER (Central No. 2): I, too, support the Bill because I support the principle of effective town planning in this State. At the same time I desire to see that the rights of the people of this State are not subjected to tyranny from the authority or from those concerned with the administration of this legislation. We must provide adequate safeguards for the ordinary landowner of this State and see that he has a voice in the way in which this Act is administered. The attitude of many people towards town planning is not unlike their attitude towards religion. They say, "Oh yes, religion is a really good thing; we could not do without it; we would live unhappy lives without it. At the same time, we still want our individual freedom to determine whether we go to church or do not go to church, or whether we believe certain things or do not believe them." In many ways people think of town planning in the same way. They agree that the principle of town planning is right; they agree that it will lead to better organization of our society, but at the same time they seek for themselves the right to be heard, the right to retain what they now hold, and the right to be able to exercise their general powers and privileges under the law. I think that is fair enough, and we should, in every possible way, see that the rights of the individual are not trampled on. It seems to me to be beyond doubt that the provisions of this Bill are some of the most far-reaching provisions that have ever been considered by this Parliament. The new section 36, dealing with implementation of various development plans and the making of regulations to implement those plans, covers every possible contingency and power is given, in the planning regulations, to do just about everything that one could think of.

Apropos of the point raised a short time ago by the Hon. Mr. Gilfillan regarding the control of the use of land, clause 36 provides that any planning regulation may regulate, restrict or prohibit, either absolutely or subject to any prescribed conditions, the manner or circumstances in which or the purposes for which any land, buildings or structures of any class may be used , either generally or in specified zones or localities within the planning area. It must be said that that is a wide power. It is a power to control even the use of agricultural land in a planning area.

We must not lose sight of the fact that a planning area could be any area within the State. It does not have to comprise what we normally think of as a township. The provisions are so wide that any part of a council area can be a planning area. As a result, the point raised by the Hon. Mr. Gilfillan may be correct and it may be that land can be so controlled. I am not suggesting for a moment that that is intended. Nevertheless, the provision is there. Clause 36 (4) shows its tremendously wide scope. I, like other honourable members, am most concerned that there should be a proper right of appeal in all cases. We know that the matter goes, in the first instance, to the authority. The Minister proposes to move to increase the membership of the authority from nine to 10. I consider that this body should represent the widest possible section of interest concerned with the administration of the Act and I should personally support any increase in the number of personnel. However, I shall deal with that aspect in Committee. The point I want to make now is that the authority will deal with these matters in the first instance. Clause 19 sets up a Planning Appeal Board comprising three people. One of the members of the board is to be a judge, magistrate or a legal practitioner as defined in the Legal Practitioners Act, another is to be selected by the Governor from nominations submitted by the Municipal Association and the Local Government Association, and the third member is to be selected by the Adelaide Division of the Australian Planning Institute.

This board is to be charged with the duty of hearing appeals. I keep an open mind about whether there should be another member on the board. I do not want to express an opinion one way or another, because I think the proposed constitution of the board is, in many respects, good. However, I am concerned that, from the stage where a decision is given by the appeal board, there is no provision for further appeal, except to the Supreme Court

on a matter of law. In some respects, I am mystified about why the provision for appeal to the Supreme Court on a matter of law was inserted, because it seems to me that it gives no more than an easy method of using the Supreme Court for these purposes and a clear statutory right of appeal.

However, I am satisfied that, without that provision, the Supreme Court has inherent jurisdiction, by means of one of the prerogative writs, the writ of *mandamus*. In any case, whether on a question of law or on the interpretation of a Statute, the Supreme Court has that inherent right to give a decision on a legal matter. The necessary procedure may be more involved and more costly than the procedure by way of a direct right of appeal, which could be the subject matter of rules of court, but irrespective of the provision for the right of appeal, I consider that the Supreme Court still has a final decision on questions of law. That means that the important matter to consider is whether we should establish some other kind of authority or tribunal not only to deal with limited questions of law that may arise in these matters of appeal but also to be the final arbiter on matters of fact.

A lead can be taken from the provisions in the present Town Planning Act for an appeal from the Town Planning Committee to a Parliamentary committee appointed in terms of the Act. I do not like the drafting of the present Town Planning Act in this respect, because I think there is doubt about whether the appointment of the committee in terms of that Act has constitutional validity. However, it seems to me that a good precedent for what I have in mind already exists in the Industries Development Act. That legislation sets up a committee of five members, two being members of the Legislative Council (one from each Party), two being members of the House of Assembly (again, one from each Party) and the fifth member being appointed by the Governor.

It seems to me that a committee of that kind would be a good authority to watch the interests of all concerned in an appeal and to be the final arbiter of the facts and the law involved in any appeal. As I have said, we should not think that whatever may be laid down in the statutes concerning arbiters that the question of law is final because there is always the Supreme Court. I think a permanent Parliamentary committee of five set up under the Act along the lines of the Industries Development Committee, and comprising two members from each Chamber with, perhaps, the Minister making the fifth member, and acting as Chairman, would be an ideal final appeal committee. Questions of fact and law involved in an appeal could be submitted to such a committee. I suggest that serious consideration be given to amending clause 19 in order to give effect to my suggestion, because I think it is the best method available to deal with this complicated question and so ensure that the final result of questions of planning presented to a Parliamentary committee can be dealt with satisfactorily. Such a committee would protect the interests of both the ordinary citizen and local government bodies.

The Hon. S. C. Bevan: Would not a planning committee, as suggested in the Bill, serve the same purpose as an appeal board?

The Hon. F. J. POTTER: If the Minister means the planning board in the Bill, then I would say no. Perhaps he is speaking of the appeal board?

The Hon. S. C. Bevan: Yes.

The Hon. F. J. POTTER: That is a board of three. I suggest that a Parliamentary committee would be one to which an individual could still go as a final source of appeal. In effect, I am suggesting three stages. First, a decision of the authority; secondly, an appeal to the appeal board, and thirdly, a final review of the decision of the appeal board by a Parliamentary committee. I point out that I make this suggestion for special cases and not for every case, but it would be a matter for the individual to decide whether his case should be taken to the final source of appeal, the Parliamentary committee. Not only is this the right type of committee to protect the interests of the individual, but it is also one that could deal promptly with a matter with little expense to the person wishing to take advantage of that final right of appeal.

The Hon. C. M. Hill: Perhaps the Government has overlooked this because it has not referred to the Industries Development Act for some time.

The Hon. F. J. POTTER: Yes, perhaps it has forgotten that Act. However, I think this is a proper method of dealing with the rather vexed question of appeals. The Supreme Court is not the best kind of tribunal to deal with questions of fact arising in town planning matters. Certainly it should deal with matters of law and I do not suggest that that jurisdiction be taken from it.

Only one other matter concerns me, because so many aspects of the Bill have been commented upon by other members and dealt with

fully. I wish to speak on Part VII of the Bill dealing with land acquisition and special provisions relating to compensation. Section 63 gives power to the authority to acquire land, and I think that matter was mentioned by the Hon. Mr. Hill. However, within the wide powers contained in section 63 I foresee the possibility that the town planning authority could become a gigantic octopus and the provisions could go so far as to make the town planning authority the only developer of land within this State. I say that that is going too far. If it is a question of redeveloping a site for housing purposes, there is something to be said for the authority to have the power to compulsorily acquire areas of land for such purposes.

I am thinking of run-down areas used for housing purposes. Someone has mentioned the Bowden area, where a need for redevelopment exists. It may well be that the only effective method of bringing about redevelopment in that area would be to empower the authority to acquire land and resubdivide it in order to sell it again. Such rights should be given to people prepared to redevelop it as an area for house building. Consequently, I think we must be careful about giving such wide powers to the authority as suggested in section 63, thus enabling it to develop or redevelop any land for any purpose. To do this would be dangerous. The powers granted should be limited to the redevelopment of land for housing purposes, and for that purpose only. I believe some honourable members have indicated support towards a similar attitude on this clause and I think eventually an amendment may be moved along these lines. If that is so, I indicate that such an amendment will have my support. That is the kind of thing we want the authority to do, but not more than that.

The Hon. S. C. Bevan: What if a special area is required for recreational purposes, and an open space exists but there is no power to acquire it? What would be the position then? Many areas completely built up are still without a recreation ground.

The Hon. F. J. POTTER: This would be considered as part of the redevelopment of any area for housing purposes.

The Hon. S. C. Bevan: The power is there for acquisition.

The PRESIDENT: Order! Honourable members must address the Chair.

The Hon. F. J. POTTER: When the Committee stage is reached I expect a vigorous debate to ensue on clause 63. I think the powers contained therein should be carefully examined and limited to redevelopment for housing purposes. I support the Bill because, as I have said on other occasions, I support town planning. If this Bill is properly administered, and the fair and proper rights of appeal are given to the ordinary citizen to protect the long-cherished and long-held legal rights of such people for the use and enjoyment of their land, it will be a good thing. I do not believe that such rights and privileges should completely override a carefully devised and properly prepared plan. I would not suggest that the rights of the citizen are paramount and that they must be considered to the detriment of any plan, because that is not the spirit of town planning at all. Nevertheless, the ordinary landowner should be given the right to be heard at all stages and tribunals to which he can appeal should be established. With those comments and reservations, I support the Bill.

The Hon. Sir NORMAN JUDE secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (GENERAL)

Adjourned debate on second reading.

(Continued from March 2. Page 3380.)

The Hon. C. R. STORY (Midland): One does not quite know when one is speaking on a road traffic Bill nowadays whether one is dealing with Bill No. 1, No. 2 or No. 3. This Bill, which is No. 2, is to be amended by Bill No. 3, so I am virtually speaking to Bill No. 3. This is very awkward. In the first place, the Act has not been brought up to date yet, and we have another Bill before us and a sheaf of amendments to it. It is difficult enough at any time to work out road traffic problems, but when one has to do research into the matter it is more difficult.

The Hon. R. C. DeGaris: There is also a Motor Vehicles Act Rectification Bill before us.

The Hon. C. R. STORY: Yes, and that is quite complicated. I ask the Minister to consolidate the amendments before the Bill reaches the Committee stage. Although this is very much a Committee Bill, I should like to discuss one or two changes, the first of which is in relation to the definition of "air-cushioned vehicle". The Minister has an amendment on honourable members' files to clarify the definition so that it will read:

> "air-cushioned" vehicle means a motor vehicle (commonly known as a ground effect machine or "hovercraft") . . .

The Hon. C. M. Hill: That is the cushioning effect!

The Hon. C. R. STORY: It is. The definition of "carriageway" is altered. We had much discussion about this when debating the 1965 Bill. Clause 3 provides:

"carriageway" means a portion of a road improved, designed or ordinarily used for vehicular traffic and includes the shoulders and areas at the side or centre of the carriageway used for the standing or parking of vehicles (including parking embayments) and if a road has two or more of such portions divided by a dividing strip or strips "carriageway" means each portion separately.

This will clear up a matter regarding the shoulders of a road. Honourable members will remember the long debate that took place regarding footpaths because it was not certain whether the unmade footpath was part of the carriageway. This new definition will make it clear. It is necessary to have a clear definition of this in view of the succeeding clauses that deal with cross-overs. I agree with Sir Norman Jude that this amendment is an improvement.

I am interested in clause 7, which amends section 40 of the principal Act and deals with sidecars. This is a forerunner to a later amendment dealing with helmets, but I shall leave that until I reach that portion of the Bill. I am particularly interested in clause 9, which enacts new section 53a (1) as follows:

A person shall not drive a vehicle which is carrying or has seating accommodation for more than eight passengers at a greater speed than 50 miles per hour. Penalty: $100.

I cannot get enthusiastic about this provision. I have taken the trouble to read again the Minister's second reading explanation. Although I have no doubt that there are instances to which one could point in other States where buses have tipped over and people have been injured, some fatally, I do not think these accidents have been caused by the buses travelling at a speed greater than that at present applying in South Australia. The buses I know particularly well are the passenger buses that are air-conditioned and have particularly efficient air braking systems, and I cannot see why they should have to paddle along at 50 miles an hour in the areas where they are now permitted to do that speed (there are many areas where the present zoning rules of the Road Traffic Board prescribe a lower speed). The only way a bus can keep to any schedule is to do the speed it can do with safety on the open road. I know that safety is important. However, the onus is on the driver of an ordinary vehicle to show that he is not travelling in a manner dangerous to the public, and I believe this onus should be on the bus operator.

Buses have regular inspections by the Transport Control Board whereas ordinary vehicles do not. Buses must be roadworthy, and the driver is tested regularly for his physical condition and driving ability. Therefore, I do not think there is any real problem in this matter, and I intend to oppose the provision, although I do not know how I shall go about this.

The Hon. D. H. L. Banfield: What speed do you suggest?

The Hon. C. R. STORY: I suggest that the speed limit be the same as at present.

The Hon. D. H. L. Banfield: There is no speed limit outside the metropolitan area.

The Hon. C. R. STORY: Oh, yes, there is. The honourable member could easily be caught if he thought that. I suggest that he read the Act, where he will find that there is a speed limit.

The Hon. D. H. L. Banfield: Only where the word "safety" is used.

The Hon. C. R. STORY: It is more clearly defined than that. The honourable member will find that he is in great difficulty with the law if that is what he thinks.

The Hon. D. H. L. Banfield: I always keep below 50, because my passengers are valuable to me.

The Hon. C. R. STORY: I intend to oppose clause 9. New section 53a (2), which is inserted by clause 9, provides:

A person shall not drive any vehicle to which a trailer or other vehicle is attached at a greater speed than 45 miles an hour. Penalty: $100.

New subsection (3) provides:

Subsection (2) of this section shall not apply to a trailer which, together with the load thereon, does not exceed 15cwt.

This will have the effect of bringing many buses into the 45 miles an hour category, because some of them carry a trailer weighing more than 15cwt. I am suprised that such an eminent body as the Australian Road Traffic Code Committee could have thought this up and attempted to have it become law. It was stated the other day by the Hon. Mr. Kemp that the most dangerous trailer on the road was the one which, together with its laden weight, was 15cwt. One can have anything from a disused spring dray with the axles cut off and two stub axles welded on with any sort of pneumatic tyres affixed. That may in itself weigh at the most 2cwt. and one can

load on to that 13cwt. of goods and cruise around the country at any speed up to 60 m.p.h. without any problem with the local council. That is not right.

On the other hand, a person can have a strong custom-built trailer weighing 3cwt. or 4cwt., which is well constructed and cuts down considerably his load on it. He can move at the same speed as the man with the home-made trailer, built in the backyard. This provision has not been well thought out. The other night I had occasion to follow on the Gawler road a gentleman with a station wagon heavily overloaded with fruit, which caused the front of the vehicle to be almost off the ground and its tail to be almost scraping the ground. Attached to it at a rakish angle was a trailer, also heavily loaded with fruit. The result was that the axle was bent and the sides of the tyres were almost scraping on the axle. Obviously, he had his full 15cwt. on something that should not have carried more than 5cwt.

Three things occurred to me: first, that the vehicle was grossly over-loaded; secondly, that the trailer was a danger to the public because the hitch from the rear of the station wagon to the trailer was at an angle that it was never designed to be; and, thirdly, that this was obviously a poor type of trailer. The Minister should take away this whole Bill and look at it again, because I do not think we are ready for it. If this is the best the board can produce at the moment, I do not think it is good enough. If the Minister takes it away, it will give us more time to digest some of the provisions we considered last session, because we are still getting sheaves of amendments on the road traffic legislation that we have already put through, the main reasons being: (1) the Parliamentary Draftsman has not had time to draft it; (2) honourable members have not had time properly to consider it; and (3) I do not believe the Road Traffic Board has really settled some of these matters. So I suggest we forget about them for a while.

Whilst I have some sympathy for caravan owners, we see heavy boats and caravans moving through the country at high speeds. We could look at that aspect of the problem and especially at their braking systems, which is the most important point of all. The braking on caravans is almost *non est* in South Australia. In New South Wales it is compulsory. I do not want to increase the cost of caravans by about $400 but, when we are looking at this from a practical point of view, we shall be far better advised to examine the braking on some of these trailer-type vehicles than worry about exempting any sort of trailer that does not exceed 15cwt. I cannot go along with the Minister on clause 9.

Clause 20 amends section 74 of the principal Act. We have lost most of this provision and are substituting far more by the amendment that the Minister has on the file. This is important, because it deals with signals for diverging or turning to the left. Once again, we may not have thought this out very well. I can see the aim of this provision but, when two vehicles are being driven parallel to each other in two lanes and they both wish to diverge at the same time, no matter how many flashing lights are used, one driver cannot see what the other is doing. If one driver decides to diverge to the right and the other to the left, they both start their indicators to show what they are going to do, because they want to make a turn in different directions. Being parallel to each other will not prevent an accident, because both drivers are worried about the people behind them, about indicating to them what they propose doing. This clause will not solve all our problems. It certainly is a step in the right direction, but we must remember that we have no indicators on the sides of vehicles: they are at the front and the rear. Therefore, a driver cannot observe the indicator of a car running parallel to his, indicating that he is going to diverge to the right or the left.

Clause 22 deals with angle parking. There has been much discussion about this. We should look at this carefully. Generally speaking, councils are competent to decide whether or not they should have angle parking. I know of an instance where the highway goes through a town and the council may decide to have angle parking, which may restrict the carriageway for through traffic to a considerable extent. Surely the Road Traffic Board and the council can come to an agreement on this matter. I have read the amendment that now gives the Minister some power to look at this provision, but the board and the council concerned should be able to arrange this between themselves without our taking away from the council the power to decide how it should regulate the parking of vehicles in the whole of its area, not just in one street.

The Hon. S. C. Bevan: We have been talking about that. The council is adopting one attitude and the board another.

The Hon. C. M. Hill: Could the Minister intervene in the matter?

The Hon. C. R. STORY: I suggest that the Minister be given some discretion in these difficult cases. An amendment is on the files that makes all the difference to clause 23. The clause, as drafted, states:

Section 94a of the principal Act is amended—
(a) by inserting after the passage "travelling in" in subsection (1) thereof the passage "or on";
(b) by inserting after the words "motor vehicle" in subsection (1) thereof the passage "other than a bicycle".

The amendment inserts the words "other than a motor bicycle". We debated this matter earlier; this amendment will alter the thinking of some members on this clause.

Clause 25 concerns a problem that has caused much trouble over the years; it deals with the height of the mirrors on a vehicle. It states:

Section 141 of the principal Act is amended—
(a) by striking out the words "four and a half" in subparagraph (i) of paragraph (b) of subsection (4) thereof and inserting in lieu thereof the word "six".

This is what we agreed to do when this Bill was before us when loadings were fully discussed. Now the Bill states:

(b) by striking out the passage "and that mirror or device is five feet or more above the level of the ground" in subparagraph (ii) of paragraph (b) of subsection (4) thereof.

I recollect that it was at that time considered essential that these devices be at least five feet above the ground from the safety viewpoint, and I thought we had taken counsel from the Road Traffic Board on this matter. However, apparently it does not matter, according to the board, whether the mirrors are placed five feet, six feet, seven feet or eleven feet above the ground. It does not matter, either, whether they are placed three feet above the ground except, of course, from a practical viewpoint: they would be knocked off. I thought that when we considered the extra height allowed for mirrors we also took into account the fact that it was important that we should have a minimum height of five feet from the ground. No doubt the Minister will reply on this matter.

Turning to the question of safety helmets, I listened with interest to honourable members' remarks on this matter. I believe that safety helmets are desirable; they are like seat belts in that they are part and parcel of the outfit. However, there are difficulties concerning the application of an overall law when we deal with this matter. Although provision has been made for the police to issue permits in certain circumstances, I believe that it will be difficult to administer. I shall listen to further debate in Committee on this matter, but at present I am inclined to agree with the Hon. Mr. Hart and the Hon. Mr. Hill, who have already given their views. I also notice that there is power for the type of helmet to be prescribed by regulation, and this also will require much working out because the Standards Association will be faced with oversea standards for helmets. There are United Kingdom standards, European standards and United States of America standards. We have no fixed standard here at present; standards will have to be fixed on an Australia-wide basis. I believe that each State is at present adopting an oversea code.

Clause 26 of the Bill states:

Section 146 of the principal Act is amended by striking out the passage "on that axle must not exceed eight tons" in subsection (2) thereof.

After much thought I have satisfied myself that this clause is not something that is being put over us. The only problem is that when we amended section 146 we did not do so in such a way that we could hang a new clause on it. So, before it can be properly incorporated in the Act, we have to remove the words quoted in the clause in order to substitute other words. The last clause is interesting and it is undoubtedly one for our legal friends:

29. Subsection (3) of section 175 of the principal Act is amended by inserting after paragraph (ba) thereof the following paragraph:—
(bb) a document produced by the prosecuting officer and purporting to be signed by the Warden of Standards or the Officer-in-Charge of Testing, Civil Engineering Testing Laboratories of the University of Adelaide and certifying that any weighbridge or weighing instrument had been tested on a day mentioned therein, such day being within twelve months of the date of the offence, and was shown by the test to be accurate to the extent indicated in the document, shall be *prima facie* evidence of the facts certified.

Undoubtedly there has been much dispute whether the scales were accurate. There will be no doubt now: if we have a certificate for a certain weighbridge, that certificate will be sufficient as *prima facie* evidence. When the Minister has this Bill consolidated and it reaches the Committee stage it will be much easier to read. I do not see many problems,

but I cannot support clause 9 and I am still open to a good deal of convincing on one or two other clauses. By and large I support the Bill.

The Hon. A. M. WHYTE (Northern): I agree with the Hon. Mr. Story's remarks about clause 9, namely, that to enforce a speed limit of 45 miles an hour on perfectly roadworthy vehicles driven by experienced and tested drivers would be unfair, and such a provision would be difficult to enforce. Competent drivers are capable of driving modern vehicles on modern highways with safety at much greater speeds. A severe penalty should be provided for anyone who drives any vehicle so as to endanger the lives of other persons. However, the restriction of competent drivers at all times to the speed at which push-button authority tells them that they shall travel is not needed in modern transport. I agree with what the Hon. Mr. Story said in regard to clause 9, and, although I am not opposing the Bill, I oppose that clause and also clause 28, which provides:

> A person shall not, after the thirty-first day of December, 1967, drive or ride a motor cycle unless that person is wearing a safety helmet of a type approved by the board.

Such a provision is not desirable, even if it can be enforced, which I doubt. I am not opposed to the wearing of safety helmets: indeed, I should be the first to advocate that people wear them. However, I have had much experience of the use of motor cycles in pastoral areas and I do not think there are any more accidents involving motor cycles in these areas than there are involving horses used for the same work. Certainly, the number of serious accidents is not greater. Fatalities occur when people riding motor cycles do not avoid trouble. This occurs in the metropolitan area and in built-up areas, where the motor cyclist has no means of escape.

Generally speaking, in open spaces a driver can abandon his motor cycle without being injured himself, as I have seen on many occasions. It is not right to expect a person doing six or eight hours stock work on a motor cycle in the northern part of this State in the middle of summer to wear a safety helmet. An employer would not ask his employees to do that. Any person who could put up with wearing a safety helmet at Oodnadatta in December would not be endangering his head, regardless of what may happen to the vehicle. Therefore, I suggest that this clause be deleted, or amended so as to cover the metropolitan area, built-up areas and highways.

It would not be a safeguard to try to enforce a provision that any person who rides a motor cycle anywhere in the State without wearing a safety helmet is liable to prosecution. I do not doubt the effectiveness of safety helmets, and the price of one is a mere pittance if it saves lives. In fact, the prices at Harris Scarfe range from $15 to $17. Any person who rides a motor cycle or travels on one or in a sidecar is foolish not to avail himself of this protection, not because of the likelihood of his being hurt as a result of the vehicle crashing, but because of the likelihood of being struck by a heavy vehicle or forced into an accident. I strongly recommend that people wear safety helmets when they are travelling in dangerous zones, but I suggest that the present clause 28 should be deleted.

The Hon. S. C. BEVAN (Minister of Roads): I thank honourable members for the attention they have given to the Bill. Many points have been made and objections have been raised. The principal objections were to the compulsory wearing of safety helmets and the prescribing of speed limits for motor cyclists. One could not, in closing the second reading debate, deal with all matters. They can be dealt with in Committee. However, I shall deal with some aspects now.

First, regarding the wearing of safety helmets, we have the admission of most motor cyclists who now wear safety helmets voluntarily. I see one honourable member shaking his head but I suggest that, if he examines the statistics, he will find that I am correct. Only a small minority does not wear them at present. If it is necessary to prove this, one need only walk out to North Terrace and observe the number of motor scooter riders going past wearing helmets.

The Hon. A. M. Whyte: That is the metropolitan area.

The Hon. S. C. BEVAN: I am aware of that, and I am not speaking of people riding motor scooters who muster sheep. This legislation is State-wide in its operation and not for one section only. It must not be examined on anything but a State-wide basis. I do not dispute what honourable members have said relating to the mustering and droving of sheep because I am well aware of that. It would be foolish for a pastoralist to wear a crash helmet, and nothing in the Bill will force him to do so: it merely provides that if a person rides a motor scooter on a road he must wear a crash helmet, because the danger lies on the road and not in the paddock. A speed of 15 miles an hour

is not sufficient to ensure safety because other people use the roads and these other people may be the causes of accidents.

The Hon. G. J. Gilfillan: He is not endangering other people.

The Hon. S. C. BEVAN: No, but other people may be endangering him. Research has shown that the most common cause of death to persons involved in any type of road accident is injury to the head. This occurs in 60 per cent of all road deaths and in 46 per cent of deaths of occupants of motor vehicles. It is held that the motor cyclist incurs the greatest risk of all road users of being involved in an accident. He is concerned in 71 per cent of the deaths. It is estimated that a motor cyclist is 17 times more likely to be killed for every mile that he travels than a motor car driver, a motor scooter rider 10 times, and a motorized bicycle 8 times.

In order to assess the effect of this legislation a study was carried out in relation to legislation that has operated in Victoria from January 1, 1961. There appears to have been no difficulty in policing the matter in Victoria or in other States. Because of that I do not see why we should experience any difficulty in South Australia, even though the Hon. Mr. Whyte has stated that the legislation could not be properly policed. In order to assess the effects of the legislation, a study was conducted in Victoria to ascertain the general effect of the use of helmets. The study resulted in a conclusion being formed that the introduction of legislation making the wearing of safety helmets by motor cyclists compulsory became virtually self-enforcing after a short time. It is now estimated that 99.5 per cent of all such road users voluntarily wear a safety helmet, and motor cycling fatalities were reduced by 50 per cent. That study shows, in my opinion, that the legislation embodied in the National Code, adopted and working satisfactorily in other States, could well be introduced into South Australia. In spite of this, it has been said that legislation of this type cannot be enforced.

I notice that honourable members have been given circulars containing comments by the Auto Cycle Union of South Australia. It was interesting to note the main points commented upon in relation to the wearing of safety helmets. Many have been quoted previously by honourable members but I would like to go further and quote from the recommendations made by that organization. They are:

> We understand that a Bill which will make it compulsory for all motor cyclists to wear safety helmets is to be presented to Parliament shortly. On behalf of all motor cyclists in the State, the Auto Cycle Union of South Australia seeks your assistance in the practical intent of this Bill. Recently a similar item was dealt with in Victoria with a result that anyone on a motor cycle is compelled to wear a safety helmet, irrespective of the speed or circumstances.

That is the legislation I referred to previously that has operated since January 1, 1961. The circular continues:

> We have no objection whatsoever to the use of helmets, in fact we demand their use for any sport under our control where speed is the determining factor, but we are strongly of the opinion that some latitude should be allowed for certain instances. For ease of policing a compulsory helmet law we feel that if a maximum speed of say 20 miles per hour were allowed for any motor cyclist, scooter rider, or motorized bicycle without a safety helmet then no difficulty or extenuating circumstances should arise.

This is an auto club with a vast affiliation and a large membership. It says it has no objection to motor cyclists being compelled to wear safety helmets. It does not qualify that comment by stipulating that when a certain minimum speed is reached a safety helmet need not be worn.

It will be found that most fatal accidents involving motor cyclists have occurred within the precincts of the homes of the motor cyclists involved and when travelling at low speeds. In many cases it is somebody else who has hit them. I do not think honourable members are giving sufficient consideration to this aspect. I suggest that one honourable member in particular believes that if a motor cyclist is not travelling at a high speed he is not in any danger. In fact, the opposite applies to a large extent. It is where a motor cyclist is travelling at a slow speed and is hit by another vehicle that danger occurs. In such cases the motor cyclist's head comes into contact with the road or some other object, thus resulting in the death of the rider.

The Hon. R. C. DeGaris: Isn't it an argument for making push bike riders wear a helmet, too?

The Hon. S. C. BEVAN: They do not go fast.

The Hon. Sir Norman Jude: But you have just said that motor cyclists were not going fast.

The Hon. S. C. BEVAN: I do not think it is necessary, although a person on a push bike is inclined to be a danger, just as I am suggesting a motor cyclist is. Perhaps in

the future we can look at what a push bike rider does to protect himself.

The Hon. Sir Norman Jude: You will be advocating the compulsory wearing of seat belts next.

The Hon. S. C. BEVAN: If the honourable member proposes stopping a car on the road to see whether the driver is wearing a seat belt or not, we already have legislation for that. If seat belts were available for every passenger in a car and they wore them, we would be much better off.

The Hon. Mr. Hart took out some statistics. Of course, we can look at the overall registrations and say that only .7 per cent, or something like that, represents motor cyclists. The honourable member referred to the Police Commissioner's report, citing the total number of accidents. He said that 1.8 per cent of the total number of accidents for the year ending January 30, 1965, involved motor cyclists. I suggest that the Police Commissioner's report referred to by the honourable member is for the year ending June 30, 1965. The latest figures are not available.

During this period 27,038 (not 25,138) accidents were recorded, and there were 232 fatalities, not 175, which was the figure given by the honourable member. This is the figure for males only. I do not know whether or not the honourable member knew that. There were 1,125 accidents involving motor cyclists, not 461, which is the figure for which motor cyclists were held legally responsible. It is the motor cyclist who gets injured if somebody else is negligent, not that somebody else. A report I have reports as follows:

For the year ending June 30, 1965, of the total number of road traffic accidents recorded, namely 27,038, motor cyclists were involved in 1,125 accidents, which constitutes 4.16 per cent. For the same period there were 7,464 casualty accidents, excluding animal drawn vehicles, involving motor vehicles, and motor cyclists were involved in 883 casualty accidents, which amounts to 11.8 per cent. In the 883 motor cycle accidents, 955 persons were injured and nine deaths occurred. The nine fatalities were all motor cyclists.

Motor cyclists on register as of June 30, 1965, totalled 11,642 out of a total of 447,726 registered vehicles, which constitutes 2.60 per cent of the total population. Motor cycles, therefore, although being represented as only 2.60 per cent of the vehicle population, are in turn involved in 11.8 per cent of all casualty accidents. Information which has just come to hand for America shows that, of the 1,350 motor cyclists killed on United States roads in 1965, two-thirds to three-fourths died of head injuries.

The Hon. Sir Norman Jude: Have they compulsory helmet wearing in America?

The Hon. S. C. BEVAN: My information is "Yes", and also in Great Britain, for which I have figures. I do not think it is perhaps germane to this discussion to cite what goes on in Great Britain and the United States. We are dealing with local problems.

The Hon. Sir Norman Jude: You said that those people were killed in America by accidents to the head.

The Hon. S. C. BEVAN: In view of the dense vehicle population and the congested state of the roads over there, the position would be 100 per cent worse than ours. I am answering points raised by honourable members during the debate, which could be perhaps better dealt with during the Committee stage. I indicate that, when the Bill reaches the Committee stage, I shall move the amendments in print in my name on the file, which could prove confusing and difficult to handle in Committee. If they are accepted *pro forma*, the Bill will be reported with amendments, reprinted and recommitted when the Order of the Day for the adoption of the report is moved on the next day of sitting. The Committee will then have before it a Bill with all the amendments included, thus making it easier to understand. Some of the amendments mentioned are drafting amendments. I intend to move them in Committee later, because it would be better to handle them then than at present.

Bill read a second time.

In Committee.

Clause 1—"Short titles and commencement."

The Hon. S. C. BEVAN: I move:

That the Bill be amended *pro forma* by the inclusion of the amendments in print in my name.

Motion carried.

Bill reported with amendments.

ADJOURNMENT.

At 5.20 p.m. the Council adjourned until Wednesday, March 8, at 2.15 p.m.