LEGISLATIVE COUNCIL

Wednesday, March 22, 1967.

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

CARRIBIE BASIN.

The Hon. M. B. DAWKINS: Has the Minister representing the Minister of Works a reply to my question of March 16 with reference to the development of the Carribie sub-artesian basin on Yorke Peninsula?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Works, has informed me that the report by the Mines Department has been received and some preliminary consideration given to schemes to utilize water from the basin. The basin is only of small extent and carefully controlled development would be necessary to prevent ingress of sea water. A full investigation of schemes has not yet commenced because of staff limitations and pressure of urgent works. A considerable amount of work will be necessary to examine the most effective method of utilizing the water available and assessing whether it is economically sound to develop this comparatively small basin. On present indications, it appears that Loan funds available to the Engineering and Water Supply Department for a number of years will be fully committed on schemes already approved, or urgently needed to cope with increasing demands, and it is unlikely that funds could be available for this scheme, if it should be approved, for several years. Consequently, it is necessary to use the available staff on more urgent work. The investigation will be commenced as soon as possible but it is unlikely to be completed for at least 12 months.

SNOWTOWN POLICE STATION.

The Hon. L. R. HART: Following a deputation that I introduced to the Chief Secretary late last year in relation to the Snowtown police station, when he stated that the position in regard to that station would be reviewed in February, has he any further information with regard to the situation there?

The Hon. A. J. SHARD: This question followed a deputation from the Snowtown council, I believe, introduced by the honourable member; and you, Mr. President, also asked a question on it before being appointed to the high position you now hold. The building of a police station with residence attached at Snowtown should receive fairly high priority. Police duties at Snowtown have been kept under review since the resident officer was transferred. Police officers from Brinkworth and Bute spend four days a week at Snowtown and one is on call at all times. In addition, visits are made by the motor traffic constables from Clare and Kadina. This system is proving satisfactory under the present circumstances, and no change is contemplated until a new police station and residence is erected at Snowtown. This depends on Government allocation of the money necessary for such a building.

MAITLAND AREA SCHOOL.

The Hon. C. D. ROWE: Yesterday I asked the Minister representing the Minister of Education when the new area school at Maitland would be opened. Has he a reply?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Education, has replied as follows:

The Director of the Public Buildings Department has advised that all the buildings and a majority of the site-works will be completed in time to enable the school to be occupied at the commencement of the second term. It was expected that a portion of the school would be ready for occupation at the commencement of the first school term. However, heavy rains late last year seriously handicapped progress, particularly the site-works, making it impossible to have the necessary work completed in time.

PUBLIC WORKS COMMITTEE REPORTS.

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Engineering and Water Supply Department Depot at Kidman Park,
Whyalla Technical College.

PARLIAMENTARY PAPERS.

The Hon. A. J. SHARD (Chief Secretary): I move:

That Standing Order No. 455, dealing with papers and returns after prorogation, be so far suspended as to dispense with the necessity of incorporating in the Blue Book with the minutes of proceedings for the current session those Parliamentary Papers which are not laid upon the table during the session.

This is the usual motion at the completion of a session. It enables the records to be kept up to date and in printed form and made available at least two months earlier than would otherwise be the case. The carrying of

this motion will assist the Clerks and the Government Printing Office to keep abreast of their work.

Motion carried.

ABORIGINAL AFFAIRS ACT AMENDMENT BILL.

The House of Assembly intimated that it had agreed to the alternative amendment made by the Legislative Council without amendment, and that it had amended the Bill accordingly.

THE ELECTRICITY TRUST OF SOUTH AUSTRALIA (PENOLA UNDERTAKING) BILL.

Adjourned debate on second reading.

(Continued from March 21. Page 3823.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I look on this Bill as a tragic conclusion to the question of the supply of electricity to the township and district of Penola. I wish to point out in the first place that in commenting on this Bill I am not taking the side of the contractor or the district council or the Electricity Trust. The Bill vests in the Electricity Trust of South Australia certain assets pertaining to the electricity distribution system situated at Penola and it breaks entirely new ground. Assets owned by certain persons are to be acquired, but only portion of their assets are to be acquired. I invite the Council to consider section 51 of the Compulsory Acquisition of Land Act, 1925-1966, which states:

> No person shall be required to sell a part only of any house or other building or manufactory if such person is willing and able to sell the whole thereof.

In the present circumstances the franchise holder, or the contractor as he is referred to in the Bill, is willing to sell the whole of his undertaking. Also, as far as I know, the Electricity Trust has on previous occasions purchased the generating plant, the buildings and the land of a private supplier of electricity even though it did not intend to use that generating plant. A very recent example occurred at Kingscote, Kangaroo Island, where a similar set of circumstances existed; there was a franchise holder and the trust wanted to supply the island with electricity, and the whole of the plant, land and buildings was taken over by the acquiring authority. Therefore, I believe that this Bill breaks new ground in that it provides for the acquisition of portion of the assets of the undertaking.

I shall deal briefly with the history of the Penola electricity supply. As far as I know there have been three franchise holders supplying electricity to the Penola district. From the 1930's to 1947 the franchise holder was a gentleman called Mr. Umpherston who had a 15-year franchise. In 1947 this franchise was to be taken over by the District Council of Penola but somewhere along the line negotiations broke down and a gentleman called Mr. J. F. McElroy became the franchise holder.

However, because of misfortune, ill-health and other troubles Mr. McElroy's supply was not a satisfactory supply to the town of Penola. The council negotiated to purchase the undertaking, but in 1947 these negotiations broke down on the score of price; the price required by Mr. McElroy then was $15,100, but the council was not prepared to pay it. At that stage the present franchise holder, the Murrell brothers, bought the undertaking from Mr. J. F. McElroy and from that time until now has made available an excellent supply of electricity to the town and district of Penola.

The taking over of this supply by the Murrell brothers saved Penola from a complete loss of electricity supply. As one moves around the Penola district one finds that most people are extremely satisfied with the service being given. Even until the present time the Murrell brothers have been placing new machinery and new equipment in the power station in order to give a first-class supply of electricity to the people. They did that because they had faith in clause 23 of the agreement. That clause is of interest, and provides:

> At the end of the said term the council shall have the option (that is, the district council) of purchasing from the contractor the works and powerhouse, and/or office, as hereinbefore defined on giving to the contractor 12 months' notice in writing of its intention to purchase the same, such notice to be left at the office of the contractor or posted to the contractor by registered post. The purchase price of such works and powerhouse and or office shall be a sum to be mutually agreed upon between the said parties and any difference of opinion between the parties as to the amount of purchase price shall be ascertained by arbitration in the manner set out in the succeeding clause. In the event of the said option not being exercised by the council the council will grant to the contractor the first option of taking a new franchise at the expiration of this agreement upon terms stipulated by the council and in the event of the contractor failing to exercise such option within a time to be limited by the council the council shall have the right to grant such new franchise to some other person on condition that such other person shall purchase from the contractor who shall sell to such person the works powerhouse and office of the contractor at a price to be agreed with

the contractor, or in default of agreement at a price to be fixed in the same manner as is set out in the next succeeding clause.

Twelve months before the expiration of the franchise the council had the right to acquire the undertaking of the Murrell brothers and, if it wished to acquire it and there was a disagreement regarding price between the council and the contractor, the price was to be fixed by arbitration. Secondly, the council could have offered the present franchise holder a new franchise for a further period and if this franchise was not taken up the council would have had the right to offer the franchise to another contractor. Any disagreement about price was to be fixed by arbitration.

In terms of that clause the contractor confidently kept the plant modern and provided equipment in the powerhouse. At present that equipment is of little value to anyone unless it is taken over by the Electricity Trust. The contractors felt protected by clause 23 of the agreement. As I have said, only a portion of the total assets of the contractor is to be acquired. I will return to clause 23 at a later stage. I also point out that since 1949 the tariffs at Penola have not been increased. When the Government subsidy scheme was introduced it was accepted. Further, the company has engaged in rural expansion and I believe that it has 15½ miles of 11,000-volt transmission line. That, briefly, is part of the history of the company up to the present.

I remember visiting Penola in 1963 in order to discuss with an officer of the Electricity Trust and officers and councillors of the district council matters relating to the future supply of electricity at Penola. At that time several statements were made. I can state clearly that the policy of the trust at that time was that the problem was a district council matter; that the council had given a franchise to the Murrell brothers to supply electricity at Penola and that the trust would not in any way deal with a private franchise holder but only with the council. I want to submit a statement made by a trust officer at that time. It appeared in the Penola *Pennant* in April, 1963. It reads:

We (the Electricity Trust of South Australia) make a valuation on any undertaking we take over. We make that valuation on two methods—firstly, we value the physical assets, poles, wiring, etc., transformers. We then value it as a business concern. The two values may not necessarily be the same. We have to calculate how much it will cost us to generate the electricity and how much revenue we would receive and we have to see that it is a business proposition. You can see the necessity for that. We have to keep the trust solvent. If we went bankrupt, it would be very serious for South Australia, and therefore every proposition has to be examined. Therefore we examine each undertaking as a business proposition. We make a compromise between the two values and that is what we pay for it. We would never take over an undertaking and leave a council financially embarrassed.

Further, trust officers have had discussions with the contractor on this point and, as far as I can understand, that was the firm policy of the Electricity Trust—that it would deal only with the council. If the council gave a franchise it was up to the council to deal with the franchise holder, and the guarantee so given was that the trust would not see a local government body financially embarrassed.

I could quote further statements by trust officers in this respect, but for the sake of brevity I will not do so. However, it is obvious that there has been a change of policy. Further to my earlier quotation, in the Penola *Pennant* of December 15, 1966, there was a complete statement by the council regarding the electricity supply at Penola. It is a long statement and sets out much of what I have already related to this Council. Included in it was the following:

The alternative would be to negotiate an arbitrated price with the present suppliers and the district stand the amount of difference between such arbitrated price and the known price that the Electricity Trust of South Australia will eventually be prepared to pay council. Now for the pertinent question. Which section of the district could legitimately be expected to meet this difference? Certainly not the hundreds of Grey and Nangwarry, who are happily free of this problem. Equally certainly not the unlucky people who are still waiting for supply—they will in turn have to meet their share of cost of future extensions. The only section remaining and undoubtedly the logical section to meet this cost is the people in the township of Penola who have been connected in the past free of capital costs on the next line basis laid down by the old franchise. This discrepancy in price could amount to $100,000 or more, and spread between present consumers would represent a considerable sum for each consumer to meet.

I take this statement to mean that, if the spirit of the franchise originally signed with the suppliers was met and the council had to go to arbitration in the spirit of the franchise, the council would be involved in $100,000 more than the price of $110,000 that the trust offered to the suppliers. From this statement made by the council it is obvious to me that, if the spirit of the franchise had been observed,

a further $100,000 would reasonably be available to the contractors or the franchise holders in Penola.

Briefly, I should like to run through the negotiations that have taken place since that time. On June 17, 1966, the Electricity Trust of South Australia wrote to the Manager of Penola Electricity Supply Pty. Ltd. making an offer of $106,000, or thereabouts, for the undertaking. It said:

The franchise granted to your company by the District Council of Penola expires on July 1, 1967. The council has inquired from us whether the trust would be prepared (1) to supply the district with electricity after that date; and (2) to purchase your company's undertaking; and has requested us to discuss with you the possibility of the latter. The trust is not interested in obtaining a franchise from the council but it would be prepared to supply the district under its own statutory powers.

That is a very important point. The letter continued:

Likewise, the trust is not prepared to negotiate for the purchase of the assets of your company's undertaking pursuant to clause 23 of your company's franchise agreement, but it is prepared to purchase those assets (should your company wish to sell them) through an independent contract containing (*inter alia*) the terms and conditions summarized below: (1) Purchase price of $106,000.

On June 25 the Murrell brothers replied, saying that their company was not interested in negotiating a sale at a price of $106,000 and pointing out that:

Under clause 25 of this company's franchise agreement with the District Council of Penola, it is precluded from making any offer to sell its undertaking unless an option has been given to the district council at the same figure for a period of two months.

On December 19, 1966, a further letter came to Penola Electricity Supply Pty. Ltd. about the purchase of the undertaking. In this letter the price was lifted from $106,000 to $110,000, and certain other terms and conditions were suggested. On January 13, 1967, Penola Electricity Supply Pty. Ltd. employed consulting engineers and valuers, Thomas Anderson and Partners, to do a detailed survey of Penola Electricity Supply Pty. Ltd. and its assets. They made a valuation of the undertaking of $201,475. On January 13, there was a letter to the Electricity Trust of South Australia from the Murrell brothers:

As you are well aware, my company has been obtaining a valuation of its assets as well as of the land. The valuation of the assets which are concerned with the generation and distribution of electricity was carried out by Messrs. Thomas Anderson and Partners, and the valuation of the land by Elder Smith Goldsbrough Mort Ltd. (The valuation received was $201,475.) . . . In these circumstances, the trust's offer of $110,000 as proposed in your letter, is not acceptable.

They are the negotiations as regards the price of this undertaking: the trust with $110,000, and the Murrell brothers, with their consulting engineers advising a valuation of $201,000-odd. I should like to compare that with the Kingscote scheme, which was also valued for the franchise holder by the same people, Thomas Andersons. A comparison between the two undertakings is interesting. At Kingscote the number of consumers at the time of valuation was 365; at Penola the number of consumers at the time of valuation was 540. At the Kingscote power station the installed horsepower was 750; at Penola it was 1,180. At Kingscote the low tension mileage was 19; at Penola it was 18½. At Kingscote the high tension mileage was 4½; at Penola it was 15½. At Kingscote the number of transformers was eight; at Penola it was 15. The price paid by the Electricity Trust of South Australia to Kingscote was $148,000, and the price offered for Penola is $110,000.

There are two pertinent facts in this matter. If we read the franchise through, we see the spirit was that, in respect of any franchise offered to another franchise holder by the District Council of Penola, any disagreement that might arise between the present contractor and the new franchise holder would be subject to arbitration; but, unfortunately, the Electricity Trust of South Australia operates under statutory powers and, therefore, cannot be looked on as a franchise holder. This allows a loophole in the spirit of the franchise. So I am rather sorry that this legislation is necessary, because I believe there is a moral obligation for the spirit of the franchise to be observed. The Electricity Trust should have gone to arbitration with the present franchise holders. We realize that at the end of June, 1967, the assets of the Murrell brothers will be worth virtually nothing. The franchise period ends then. However, there are other considerations in connection with other franchise holders that have been taken over both by district councils and by the Electricity Trust of South Australia.

This Bill takes a different view on compulsory acquisition from that taken in other legislation. In other words, it acquires the distribution system in Penola as at the vesting day as a going concern. Therefore, the part which is to be acquired is to be acquired as a going concern, and the part which is not to be acquired is to be left as so much scrap. I pose the question: what is the position if the

Electricity Trust of South Australia is unable to supply in the township of Penola on the vesting day? At present the nearest powerline to Penola is seven miles away, and between now and the vesting day a high tension line to carry 33,000 volts has to be constructed between that point and Penola. I know this area well, and I know that in six weeks' time it could be quite impossible to carry out any work in the area. Therefore, it is possible that on the vesting day (July 1 this year) no power could be available to supply the town of Penola.

If the Bill passes, what is to be the position of the contractor, with half of his assets acquired and with the only supply available being in his powerhouse that virtually has value only as scrap? I suppose the acquiring authority could bring in standby equipment at great expense to supply the Penola area. However, it appears to me to be a rather foolish way to handle the problem. Looking at the South-East as a whole, I sincerely believe that the correct procedure in this matter was to allow the District Council of Penola to negotiate further with the franchise holder to continue supplying the township and the near rural areas. This would have allowed the trust to continue with its programme and to supply areas which at present have no supply.

I believe that what is being proposed would retard the supply of power to other parts of the South-East that very badly need it. I believe it must also retard rural expansion in the South-East because of the capital requirements that will be needed to meet not only this acquisition but the hurried erection of a high-tension line from Krongart to Penola to supply that town. I believe this policy on the acquisition of these assets can only retard the trust's present programme.

The Bill appears to me to take no heed of reality. It could, in its concept, cost the trust more than if the whole of the undertaking were taken over following arbitration, even if the trust itself had to operate the supply in Penola. From the practical angle, I feel that the present approach is wrong. I refer honourable members to the Bill itself. The schedule shows that the distribution system is to be acquired but that the land, buildings, generating plant and everything inside the powerhouse is not to be acquired. As I pointed out earlier, the franchise holder, believing that clause 23 would protect him, has maintained a very high standard in his powerhouse. The equipment, which at the moment the trust is not taking over in this acquisition, will be left there.

The important point is that, while the acquisition embraces the distribution system, part of the distribution system is in the actual powerhouse. Technically, the proposition does not seem to me to be a reasonable one. Let us suppose that the 33,000-volt high-tension line from Krongart to the outskirts of Penola is built, a substation is built outside Penola to break the voltage down to 11,000 volts, and from this substation this 11,000-volt supply is fed into the 11,000-volt high-tension system of the Penola undertaking. This would mean that all high-tension services and all substations of the present system would be supplied. However, a large part of the town now covered from the switchboard of the powerhouse would not be supplied. It would be necessary for the trust to build further substations if this part of the distribution system at present in the powerhouse was not utilized or taken over. It means that the trust would be involved in further expense to buy land and to build this distribution system somewhere else in Penola in order to supply that town. I point out that Penola is supplied on a low-tension system direct from the powerhouse.

I am quite certain that if the trust does not acquire the distribution system, which is at present part of the existing powerhouse, it will be involved in greater expense in supplying Penola. The present powerhouse, with its distribution system within that powerhouse, is like the hub of a wheel, and from that hub the spokes go out. The hub is part of the distribution system which the trust is not going to acquire, and it would be necessary for all those spokes to be picked up and for a new substation or a new hub to be created for that wheel.

I suggest that it would not involve the Electricity Trust in any further expense to acquire this portion of the distribution system that rests in the present powerhouse. In fact, I am convinced that it would be cheaper for the trust to supply Penola from a substation of 11,000-volts outside the town by means of a high-tension system fitted directly to the present powerhouse and out through the present distribution system. I am quite certain that it would lessen the amount of work that would need to be done to supply Penola efficiently by the early time of July 1 this year. Further, I point out that the trust in Penola will have 540 consumers but that very shortly this number will rise to about 1,000.

The trust will require in Penola a depot, an office, and land from which to work. In a

small country town like Penola, land has a certain value but, unlike the metropolitan area where at any time there is a number of willing buyers, although the township properties have a value it is difficult for a person to find a willing buyer when he wants one. At present the trust must be a willing buyer for land and buildings in Penola on July 1, and the Murrells must be willing sellers, yet the land and buildings are to be excluded from the assets to be taken over by the trust.

I consider that this is placing a further burden on the franchise holder who, as I have pointed out, has given excellent service over the years to the people of Penola. I point out that the trust should be a willing buyer for the land and buildings. If the trust found other land and erected other buildings, it would be more costly, and it would place the Murrell brothers in the position of losing possibly the only willing buyer in the field for their land and buildings. I could say much more on this matter: I shall refer to one other matter of vital importance.

What effect will this Bill have on other franchise holders in South Australia? There are franchise holders supplying Arno Bay, Beachport, Cowell, Frances, Iron Knob, Kingston, and one or two other places. In these towns franchise holders operate under similar conditions to those of the Murrells. I pose the question: how will these people feel when hanging over their heads is this question of the acquisition of portion of their assets? How can the people in these towns expect an efficient supply of electricity to their townships?

Put yourself, Sir, in the position of a franchise holder who knows that in the next five or seven years there is the possibility of this type of acquisition of portion of his assets, leaving him with his power station and generating plant. It is quite logical for a franchise holder to say to himself, "Well, it is no use my maintaining this valuable plant. I shall let it run down so that it is worth nothing when the franchise expires, because hanging over my head is this question of the acquisition of portion of my assets." This is the position in Kingston and Beachport and other parts of the Southern District.

Having said that, I must add that I am not under-estimating the difficulties that the Government has faced in this matter in trying to maintain certainty of supply to the people of Penola, but I believe that this situation has been handled with a very heavy hand. There were other ways in which this problem could have been handled; I am not placing any great blame on the Government in connection with this question. There are three groups involved: the Government and the trust, the present contractors, and the District Council of Penola. Some blame must be attached to each group: I state this quite frankly. However, I believe that the Government has dealt with this matter in a very heavy-handed manner.

I realize that there has been a Select Committee whose report is before us and which report recommended alterations to the original Bill. The committee has, in particular, recommended an amendment to clause 6 so that the amount of compensation payable for the distribution system shall be the value of the distribution system as a going concern.

Finally, I should like to refer to a matter dealt with in today's newspaper. There is a report that a Royal Commission is to inquire into what has become known as the Murrie case. Here we have a member of the Education Department—

The Hon. A. F. Kneebone: What has this got to do with the Bill?

The Hon. R. C. DeGARIS: I think, Sir, with your indulgence, that it has something to do with the Bill, if I may continue. Here we have a case of a person who was disciplined by a Minister. This gentleman was demoted and it will cost him $1,000 a year.

The Hon. A. J. Shard: It has not cost him a cent yet.

The Hon. R. C. DeGARIS: I have referred to a report in the newspaper.

The Hon. A. J. SHARD: You cannot believe everything you see in the newspapers. You have heard that before, too. It has nothing to do with the Bill. I rise to a point of order, Mr. President. I usually allow plenty of latitude on a Bill. I understand that a second reading speech should have something to do with the Bill. The subject matter of the Leader of the Opposition has nothing to do with this Bill and in my opinion he is totally out of order.

The PRESIDENT: Order! I have listened to the remarks made by the Leader of the Opposition, and I am watching what he is doing. He has indicated that he is tying them up with the Bill. I ask him to do so clearly and indicate how he is doing it.

The Hon. R. C. DeGARIS: The Murrie case is to be heard by a Royal Commission and it will not cost Mr. Murrie anything. In this Bill we have a case that is similar in some respects: the franchise holder at present stands

to lose a great deal, and in this Bill the only way in which he can achieve justice is to take his case before the Supreme Court. Recently this Council considered a Bill which has been adjourned; a guarantee was given that the Government would look at this question of costs of a Supreme Court case. I believe that in connection with the costs of the Murrell brothers we should go some distance and see that their costs in any Supreme Court case are met by the State.

I realize that my reference to Mr. Murrie may not have been completely tied up with this matter, but I believe there is some parallel. I realize the difficulty of the Government's position, and I hope that in the Committee stage the Government will seriously consider the two matters I have raised: first, that the Government should meet the costs incurred by the people (whose assets are being acquired) in receiving justice at the Supreme Court level; and, secondly, that consideration should be given to the question of acquiring not his engines and generators but at least the Murrells' land, buildings and the total distribution system of the undertaking. I support the second reading in the hope that the Government will consider these matters in the Committee stage.

The Hon. L. H. DENSLEY (Southern): I have had many dealings with the Electricity Trust and have always found it co-operative. My honourable colleague put the position fully, firmly and with great ability. Although he said that he was not going to take sides, I am sure that 99 per cent of his speech took the side of the Murrell brothers regarding the matter involved in the Bill.

I have known the Penola district since I have been in Parliament, because it is in the district that I represent, and I have followed closely the matter of electricity supplied there. I say unhesitatingly that the Murrell brothers were welcomed by the council with open arms when they put the Penola electricity supply into proper and decent order. Their franchise is to terminate at the end of June and the council has had an opportunity for a long time to discuss with them any action that the council cared to take in the matter. When Mr. Murrell came to Penola the electricity supply was chaotic and he was faced with much work and reconstruction.

My sympathies rest strongly with him in this matter. With the exception of an odd word or two, I agree with all that my honourable colleague said. I consider that an injustice could easily be done to the Murrell brothers. Instead of being rewarded, they could be penalized after 18 years of hard work and the expenditure of much money. I am sure that the taking of actions of this kind is not the normal practice of the Electricity Trust. As far as I am aware, the trust has always been prepared to negotiate matters to a satisfactory conclusion. At present the council, in its wisdom or because of a lack of courage, if I may put it that way, in not wanting to face up to the position, has asked the Electricity Trust to undertake responsibility for the acquisition of this undertaking.

That in itself would not be quite so bad. However, the trust is not negotiating with the Murrell brothers for the acquisition of the whole of the scheme: it is negotiating merely for the part that would be necessary for the implementation of the electricity supply to Penola within a few weeks. Obviously, the Murrell brothers stand on the brink. They have been offered a little more than $100,000, whereas a valuer with much experience has valued the undertaking at a little more than $200,000.

I do not think any honourable member wishes to see the whole scheme fall down because of this position. However, if only portion of the undertaking is taken over, the balance will be of little or no use. The Murrell brothers have met the demand for electricity supply at all times. Because the engine at the timber mill occasionally had breakdowns, the Murrell brothers installed an engine in order to be able to maintain supply on the odd occasions when this occurred. I maintain that these people should be recompensed to the full value of their undertaking. It seems peculiar for a council to throw this responsibility on to the Electricity Trust and get out of it itself.

I have been in the powerhouse on many occasions and I understand that seven diesel engines are installed. One knows what these engines cost and what they are worth today. Obviously, the Murrell brothers will suffer greatly if the proposal now being discussed with the Electricity Trust is put into effect. If the trust were prepared to take over the whole of the undertaking, including the good houses and offices that have been built and the land, the figure would be brought up to a negotiable amount.

I say firmly that I am disappointed about the action of the trust and that I consider

that the Murrell brothers have earned something better from the people in the Penola district. They have been supplying power to between 500 and 600 families for about 18 years. I do not consider that we, as members of the Legislative Council, should take something from a private individual and give it to somebody who is not prepared to pay adequate compensation. I oppose the Bill.

The Hon. Sir NORMAN JUDE (Southern): I think most honourable members would agree that they have rarely heard such a clear exposition on a Bill as they heard this afternoon from the Hon. Mr. DeGaris. I noted the carefully made points when he attributed the blame to no one party on this matter. He sympathized with all three parties and at the same time set out the really important points brought about by the Bill. I am not going to be repetitive at this time of the night because the points have been thoroughly made. My colleague, the Hon. Mr. Densley, also emphasized some of them. However, I would briefly draw the attention of the Government to some of the major points that I noticed in the debate, as put forward by Mr. DeGaris.

First, there is the all-important point that it is most probable if the Government proceeds with the acquisition of the partial assets of the Murrell brothers in Penola in the way intended under the Bill, it will probably cost far more than it would if a fair and just policy on compensation had been pursued. This Council has always prided itself that it treats the compulsory acquisition of anything with the greatest care.

I know it is for that reason that the Hon. Mr. DeGaris this afternoon was especially reasonable in his statement regarding action that the Government seemed to think was necessary. I believe the matter of comparative costs should be more carefully examined by the Electricity Trust. In addition, the time factor is important and all honourable members realize that July 1 is near. If the trust has to pursue temporary means of providing a service to the residents of Penola—it already has an excellent service in going order—it might well find that it will, first, cost just as much to go about it in this indirect way and, secondly, a large number of people in the South-East expect to get electricity. I know the Government will agree that electricity has been given to large portions of the State in recent years, but I remind the Minister that a large portion of most valuable land in the State has not been given electricity reticulation. If the Government is side-tracked into this issue it will undoubtedly mean that the planning programme of the trust will probably be set back a few years.

I put it to the Government that it should think about this; and, more particularly, think about the point made that the trust may gain nothing financially by going into alternative methods of distribution. Do not forget, also, that when the trust and the Government do so they enter something very distasteful indeed, because in my mind to pay a person less than assets are genuinely and morally worth is not a thing to swallow with composure. That is what I put to honourable members and particularly to the Government. I think nothing can be gained by continuing to do what I very much regret the Government is doing under this Bill. There are amendments on the file with regard to the schedule and I shall be pleased to support them.

The Hon. F. J. POTTER (Central No. 2): The hour is late and much business still remains to be dealt with; therefore I do not wish to speak at any great length on this measure, particularly when the Hon. Mr. DeGaris so adequately covered the Bill this afternoon. I have no personal knowledge of the situation in Penola. I am not familiar in any detail with the town or the history of this matter. However, it seems to me that here we have three parties, all of whom are in some way or another at loggerheads. I have not been concerned in the matter at any time but I have been concerned for many years with parties that have been at loggerheads. The only sensible, decent and proper way for such matters to be dealt with is for these three parties—the council, representing the residents of Penola, the trust, representing the people who will be the ultimate suppliers, and the franchise holder, or contractor—to get around a conference table, place their cards on that table and state precisely where they stand and how far each is prepared to go.

In spite of the circumstances as I understand them, I am certain that such an attempt has not been made; because of that we are in the present unfortunate position of having a Bill before us for the compulsory acquisition of portion of the undertaking. I think this Council should look carefully at the situation. I know it is a unique set of circumstances in some ways and because it is unique perhaps it calls for a unique remedy. A long-recognized principle concerning acquisition of land was referred to by the Hon. Mr. DeGaris this afternoon; that is, that such land is not

severed when it is acquired. It is the principle of non-severance in compulsory acquisition. In this Bill we are seeing a departure from that principle and whenever such a departure occurs a dangerous precedent is established. I hope the precedent set by this Bill will not be followed at any time in future.

This afternoon I was impressed by one outstanding fact that came out of the Hon. Mr. DeGaris's comments. It was that the trust is taking a gamble on being able to supply electricity to Penola by July 1 this year. All kinds of unknown factors may arise. It is also obvious from what has been said that the trust needs some of the equipment, such as transformers, switchboard and distribution equipment, to supply Penola by that date. I am at a loss to understand why in the schedule to this Bill these matters are excluded, because obviously they are needed. If the existing equipment is not taken over by the trust, it will have to improvise in some way or another (and obviously it will be costly) in its distribution equipment. Furthermore, it is apparent that the trust must have in Penola land on which to build a transformer station. This land is available, and it would be suitable for that purpose. It should have been acquired by the trust as part of the assets to be acquired under this Bill. Had this been done, we should have gone some way towards doing reasonable justice to the contractor, to the Murrell brothers, who, incidentally, proceeded in all good faith on the basis of their franchise agreement and it was only by a legal technicality (for that is all it was) in the franchise agreement that they were prevented from disposing of their assets to another party at their full value as a going concern.

It is unfair that in those unfortunate circumstances and with their record they should be in the position they are in, having only part of their assets acquired today. More substantial justice will be done if the trust takes over the transformers, switchboards and distribution equipment, which are there and needed, and the land on which the powerhouse at present stands, because it can be used. It is not taking over anything that will be a dead loss to the trust; it is not taking over something it does not want. If the gamble does not come off, it may eventually have to take over some of the generators, if they are still there.

The Hon. R. C. DeGaris: Would it be in a very advantageous position at that stage?

The Hon. F. J. POTTER: No; it would be in a disadvantageous position, worse than it is now. Therefore, the way to do proper justice in this matter is to enforce (because, after all, we are in the position of being only an enforcing authority here) a more equitable settlement than it appears the parties are prepared to come to by normal agreement. Had this matter been settled in the usual way, around a conference table with everybody putting his cards on the table, a much better offer would have been made.

The Hon. A. F. Kneebone: They had the opportunity to do that, but they did not take it. That is why this matter has got to this point.

The Hon. F. J. POTTER: I am not in a position to know what was done, but whatever was done was not done, it seems to me from what I have heard, in a spirit of willing compromise.

The Hon. A. F. Kneebone: By whom?

The Hon. F. J. POTTER: I do not know. I am not prepared to attribute the blame to any one party.

The Hon. A. J. Shard: How do you bring parties together when they say "No"? I have been trying that for a long time.

The Hon. F. J. POTTER: It can be done.

The ACTING PRESIDENT (Hon. C. R. Story): Order!

The Hon. F. J. POTTER: The only real issue here is the price. It is not a question of saying "No". Here we have a willing buyer and a willing seller. The only thing is that they are both a little cautious, not completely putting their cards on the table and saying how far they are prepared to go.

The Hon. A. J. Shard: You cannot bring them together in those circumstances.

The Hon. F. J. POTTER: I think you can, and that is what should have been done. The proper solution to this problem is for this Council to insist that the trust take over the equipment (which it will need) and the land (which it will need at some stage in the future). This is the opportunity to see that substantial justice is done. Unfortunately, complete justice will not be done in this case because, if the proper thing had been done, the whole undertaking would have been acquired, there would have been no severance and Mr. Murrell would have been treated as every other electricity supplier under franchise has been treated in this State. I support the Bill because we have no option but to support it, but I intend to move some amendments during the Committee stage.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): Mr. Acting President, I have not heard such impassioned speeches before in my life as we have heard from those honourable members interested in this Bill. As the Hon. Mr. Banfield said, the Hon. Mr. DeGaris was 99 per cent in support of Mr. Murrell, and the Hon. Mr. Densley went to 100 per cent. However, we have not heard anything about the urgency and necessity of this Bill.

The Hon. R. C. DeGaris: We question its necessity.

The Hon. A. F. KNEEBONE: If this Bill does not pass, members will see what will happen! Vote it out and see what happens! There will be a blackout in Penola after June. Go ahead and do it. I am inviting you to do it.

The Hon. C. M. Hill: You are playing politics.

The Hon. A. F. KNEEBONE: I am not. This Bill was recommended to us by the board of the Electricity Trust. The only person who has not recommended that this be done is Mr. Murrell himself. The matter is urgent. It is a hybrid Bill, which went before a Select Committee, which came down with recommendations. It is important that this Bill be passed before Easter, or the township of Penola will be without electricity after June 30.

The Hon. R. C. DeGaris: Can you be sure of that?

The Hon. A. F. KNEEBONE: I am taking the advice of the board of the Electricity Trust, which members opposite were so proud to put before us sometimes when we were in opposition and when we had some criticism to make. Honourable members opposite said that the trust was efficient and looked after the interests of the Government, and it was there for that purpose. It is looking after the Government and the people of this State and should be allowed to do so. I want to draw honourable members' attention to the history of this matter. We heard some of it this afternoon from the Hon. Mr. DeGaris. Although in the past the company has provided an adequate supply of electricity to the township of Penola, it has done very little to provide power for the remainder of the franchise area. The Electricity Trust in the South-East has provided a supply to rural consumers up to the boundary of the franchise area, but was precluded by the franchise from supplying within the nominated hundreds. The undertaking had almost 20 years in which to provide power in these rural districts, but it did not do so. According to the terms of the franchise, the council offered a new franchise to commence from July 1, 1967. One condition was that power should be supplied throughout the franchise area, a situation which the council is naturally anxious to see brought about. This offer was rejected by the company.

The Hon. L. H. Densley: Because it was impossible to do it.

The Hon. A. F. KNEEBONE: How is it impossible? The company was offered the new franchise but did not accept the conditions. It rejected the offer of its own free will. The council also offered to purchase the assets of the company, and the trust agreed to provide a bulk supply of electricity from its main power network a few miles away, but the offer was rejected by the company. The council decided on December 5, 1966, that it would build its own distribution system.

The Hon. R. C. DeGaris: The council could have gone to arbitration.

The Hon. A. F. KNEEBONE: It decided to build its own distribution system to replace that owned by the company. What position would the company have been in then? It would have practical difficulties resulting in blackouts during the overlapping period after the existing franchise expired. The company made a new approach to the trust to sell its undertaking, and on December 19, 1966, the trust made an offer of $110,000 to purchase the company's assets, leaving the offer open until January 13, 1967. On that date the company rejected the offer, but made a counter-offer to sell the shares of the company plus certain other assets to the trust based on a valuation almost twice the trust's offer. The trust rejected this offer, and, in view of the short time before the franchise expired, informed the council that agreement could not be reached.

If we do not do something about this, there will be a blackout in Penola after June 30. The Hon. Sir Norman Jude referred to compulsory acquisition, and he agreed that everyone should receive reasonable recompense. However, we are being asked to agree to what the company asked for its assets, not what is a reasonable acquisition price. The Hon. Sir Norman knows much about acquisition because some instances occurred when he was Minister of Local Government. Many people came to the then Opposition and complained that they were not receiving reasonable recompense

for the compulsory acquisition, but they had to accept what was offered to them. In many cases they accepted it although they considered it was not satisfactory.

The Hon. Sir Norman Jude: Can you name the cases they took to court?

The Hon. A. J. Shard: They were isolated.

The Hon. A. F. KNEEBONE: The people were not satisfied, and if they had gone to court they would have had to pay their costs. Mr. Murrell can go to court if he wishes. Today we had an impassioned plea that we should pay for the costs of his appeal to arbitration if he were not satisfied with the amount of compensation payable. An extraneous matter was brought into the argument for the purpose of saying that someone else should have his costs paid. This has not been decided, and it is not the usual practice, yet members opposite want the Government to do it in this case. The extraneous matter was brought in for political purposes. The Hon. Mr. Potter said that the parties did not get together. They did: the company got together with the council, the council with the company, the council with the trust, the trust with the council, and the trust with the company. Surely that is enough of getting together. The matter was placed before a Select Committee, and everyone with an interest in it was invited to put his case before the committee, and many did so. As a result, the Bill was amended to provide other measures suggested by the committee, and now we have the present Bill. I ask honourable members to pass this legislation so that there will be continuity of electricity services for most people in the Penola area, and so that essential services can continue. The Government is thinking of these things, and the members representing the district should be doing the same instead of thinking of the interests of one or two people connected with the company.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

The Schedule.

The Hon. F. J. POTTER: I move:

To strike out "and" between paragraph (1) and paragraph (2).

This amendment proposes to add two further items to the assets which are to be vested in the trust, first, the transformers, switchboards and distribution equipment situated on the land, and, secondly, the whole of the land comprised in the nominated certificates of title. Looking to the future, these assets are assets that the trust will need; it will need some of them on July 1, 1967, and it will also need the land then, if I am correct in believing that it needs the equipment as well. This will mean, of course, that there will still be generators, alternators, diesel and petrol engines and associated equipment, switches, meters, motor vehicles, petrol, oil, fuel and lubricants, all of which will not be required. The Hon. Mr. DeGaris clearly demonstrated this afternoon that these items in my amendment are needed by the trust, and I shall be very interested to hear from the Minister why they should not be acquired by it.

The CHAIRMAN: The first amendment will be a test as to the other amendments.

The Hon. A. F. KNEEBONE: We will accept it as a test, Mr. Chairman. I am prepared to take the Select Committee's advice and the trust's advice as to what is necessary. I believe that the trust's experts would know more about what was necessary than would honourable gentlemen in this Chamber. I ask the Committee to reject the amendment.

The Hon. C. R. STORY: I support the amendment. This is not just a matter of what the trust thinks about the valuation or what it requires or what the Government thinks that the trust requires: it is a far deeper matter than is suggested by the points that have been glossed over by the Minister. This is a matter of high principle, and it is this Committee's duty to see that a fair proposition is arrived at. It would be a very simple matter if it were just a matter of deciding what the trust requires but, if the Minister reflects on it, there is more to it than this. If it goes to a conference I hope that we will approach things in a conciliatory manner and not be dogmatic; I see hardening on the part of the Government, and I do not like it. I think that this is open to negotiation. I support the amendment.

The Hon. A. F. KNEEBONE: I base my argument on the Hon. Mr. Potter's closing remarks. Mr. Potter based his argument on what is necessary for the trust, and the Hon. Mr. DeGaris did the same thing.

The Hon. R. C. DeGARIS: I would like once again to refer to clause 23 of the original franchise agreement between the District Council of Penola and the present franchise holder. Under clause 23 the contractors continued to maintain their standard of efficiency in their generating plant. They went on buying new equipment, which is still in the powerhouse but is not included in the schedule of compulsory acquisition. Acting on what they

thought was the spirit of the franchise agreement, the franchise holders believed that they had every reason to think that at the termination of the franchise arbitration would take place for the whole of their plant and equipment. As the Hon. Mr. Potter pointed out, a legal technicality prevented this procedure.

Reference has been made to the distribution system; as I pointed out in my second reading speech, part of the distribution system is situated in the actual powerhouse. I believe that we are quite just in asking that this section of the distribution system, which has been excluded, should be included in the schedule. I also pointed out that this Bill breaks new ground in the severance of an asset. Under the schedule, the trust will take the distribution system, but once again there is a further severance because only part of the distribution system is being taken over. I see spitefulness in this whole Bill.

The Hon. S. C. Bevan: By whom?

The Hon. R. C. DeGARIS: I am not saying by whom. There has been spitefulness on the part of all parties. It is obvious from the tenor of the Bill that there is spitefulness, but I am not blaming anyone in particular.

Reference has been made to the Select Committee. In evidence it mentions that the value placed on the land and buildings is reasonable from the trust's viewpoint. On the matters I have dealt with, there is no evidence at all. I have pointed out the difficulty in a small country town where a half-acre block of land with a big shed has a value but it may be a long time before a willing buyer comes along. In this case it is obvious that the trust must have some land and buildings, and from my information it does not have this in Penola at present. However, it will require it.

The Hon. F. J. Potter: It wasn't mentioned before the committee.

The Hon. R. C. DeGARIS: I agree. I have no alternative but to support the amendment. Regarding distribution, reference was made before the Select Committee to the fact that the trust could bring in movable gear, both transformers and engines, if necessary. I contend that this whole attitude is heavy handed. I have much pleasure in supporting the amendment.

The Hon. M. B. DAWKINS: I must indicate that I intend to support the amendment. The measure has given me much concern, because the company has been offered $110,000, whereas the assets of the undertaking have been valued by a competent valuer at almost twice that amount. A dangerous precedent could be set by this Bill. If assets are to be severed when something is taken over by an instrumentality and a man is to be left stranded with the balance, it will be a sorry day for South Australia.

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter (teller), C. D. Rowe, C. R. Story, and A. M. Whyte.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone (teller), and A. J. Shard.

Majority of 10 for the Ayes.

Amendment thus carried.

The Hon. F. J. POTTER moved:

After paragraph (2) to insert—

> "(3) All transformers, switchboards and distribution equipment situated on the land referred to in paragraph (4) of this Schedule,".

The CHAIRMAN: Is the honourable member moving all his amendments? If he is happy to do that, I shall put the question that new paragraphs (3) and (4) be inserted.

The Hon. F. J. POTTER: Mr. Chairman, some words are to be left out and others inserted between paragraphs (3) and (4).

The CHAIRMAN: I shall put the amendment to insert paragraph (3).

Amendment carried.

The Hon. F. J. POTTER moved:

In subparagraph (*a*) to strike out "switchboards" and insert "and".

Amendment carried.

The Hon. F. J. POTTER moved:

In subparagraph (*a*) to strike out "conductors and transformers".

Amendment carried.

The Hon. F. J. POTTER moved:

To strike out subparagraph (*c*).

Amendment carried.

The Hon. F. J. POTTER moved:

After subparagraph (*d*) to insert:

> "and
>
> (4) The whole of the land comprised in Certificates of Title Register Book Volume 759 Folio 195, Volume 1953 Folio 116 and Volume 1953 Folio 117, together with all buildings, fixtures and improvements thereon".

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments; Committee's report adopted.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I move:

That the Council do not insist on its amendments.

When this Bill was previously before this Committee, I gave my reasons why I did not agree to the amendments that were made.

The Hon. C. R. STORY: I do not know whether it is desired that this Bill be proceeded with at this stage or whether the Chief Secretary would like us to take some other action, but I assure him that this will not be a five-minute job. It might help the Committee if we proceeded with something else. Perhaps the Minister will consider reporting progress.

The Hon. A. F. KNEEBONE: In view of the statement of the Hon. Mr. Story, I ask that progress be reported.

Progress reported; Committee to sit again.

Later:

The Hon. C. R. STORY: Before the Committee reported progress, we were considering a motion from the Minister of Labour and Industry that the amendment be not insisted upon. When we asked that progress be reported I indicated that it was likely that we would have things to say. I wish to report upon discussions I have had with the Premier and with the Minister in charge of the Bill in another place following a rumour that the House of Assembly would not grant this Council a conference on the matter. This is a matter that is very important not only to this Council but also to the parties involved. I have to report to the Council that I have been told that the House of Assembly will definitely not agree to give a conference and that if we insist on this amendment the Labor Party in the House of Assembly will drop this Bill. I think that I will receive confirmation of this at some stage from the Leader of the Labor Party in this Council.

I want to make it clear that this Council would like to go into conference with the House of Assembly on this Bill, for we believe there is plenty of room for discussion. I put the position clearly to the Hon. Mr. Hutchens that we see scope for negotiation between the two Houses. I further suggested to him that even at this late stage surely a conference between himself, the Electricity Trust, representatives from this Council, and, if necessary, a representative of Mr. Murrell (that is, of the electricity undertaking at Penola) would be valuable. This matter should have been thoroughly ironed out, and I am not at all happy that we have not known fully what negotiations took place between the Government and the Electricity Trust.

It seems strange that for the first time the trust has adopted its present attitude. I cannot conceive that this Government instrumentality will throw away money by being greedy and capricious in not taking over more of the assets of the Penola electricity undertaking; it will cost the trust money if it does not take them over because it will have to make alternative facilities available. I find it hard to conceive all the talk about having a regional area depot some 32 miles from Penola and the suggestion that the facilities will not be needed. The trust needs certain buildings and paved areas in most places where it is established: these are available and they are listed in the schedule which is now in dispute between the two Houses.

I am sure that the Electricity Trust of South Australia can utilize assets like alternators and switchboards. It seems that in denying the true asset value of the Penola undertaking the trust is making a mistake. It may appear a good thing for the State that something that is not new is not taken over, but I am sure that we have lost sight of the fact (or we do not want to see the fact) that this will cost a tremendous amount of money in the long run. If we later examine what this changeover actually cost the trust, I think we will get a great shock. Even at this late stage I appeal again to the Labor Party members of this Council to endeavour to discuss with their Leader the possibility of this Council getting to the conference table. We heard a lot last night (when the Industrial Code was being discussed) about how essential it is that we have round table conferences, and how problems can be ironed out through conciliation. What about putting this into practice now? Round table conferences are such a high principle of the Labor Party.

The Hon. S. C. Bevan: Did you ever hear what happened at Kadina?

The Hon. C. R. STORY: I am dealing with Penola at present; Kadina was not treated in this way.

The Hon. S. C. Bevan: The trust just walked in and took the lot.

The Hon. C. R. STORY: I rather doubt that, because I do not think the trust could do that. There has been a total absence of any sign on the part of the Government, as far as I can see (and I may be wrong about

this), to try to improve the position regarding this takeover. There is definitely a moral obligation and it is doubtful whether there is not also a legal obligation to see that this man gets a better deal. If this Council does not adopt the attitude I have suggested and if the need for this is not impressed upon the Labor Party very strongly, I believe that the Labor Party will have failed in its duty to the people. I again ask the Leader of the Government in the Council whether he will take up the matter with the Treasurer in order to see whether we can have a conference, which we have so far been denied.

The Hon. S. C. Bevan: You have a short memory. What about the conference you refused us last year?

The Hon. C. R. STORY: I have spoken to the Treasurer and to the Hon. C. D. Hutchens about this matter. The conference to which the Minister refers has nothing to do with this type of legislation. This is a case of an individual being wronged. What was happening with the legislation on which we refused a conference did not matter one bit.

The Hon. R. C. DeGaris: Did we refuse it?

The Hon. C. R. STORY: No.

The Hon. S. C. Bevan: The other place requested it and you refused it.

The Hon. M. B. Dawkins: No, you are quite wrong.

The Hon. C. R. STORY: The Minister will have an opportunity to speak about the matter. We are now dealing with the livelihood of an individual and we are here to look after individuals who are wronged. If we let this pass without registering the strongest protest, I consider that the Government will, as is said in common parlance, have us over a barrel. There is still time to negotiate and I sincerely ask the Government to give a better deal to this man, in the circumstances.

The Hon. R. C. DeGARIS (Leader of the Opposition): I strongly support the views put forward by the Hon. Mr. Story. No-one can say that this Council took an extreme view. Although we spoke about the principle of severance, we put forward, by our amendments, a fair case that has not been answered by the Government. First, we requested that the whole of the distribution system be taken over and we pointed out that this would possibly save money, but in any case it probably would not cost extra money. Secondly, we asked that the land and buildings be taken over at the same time, and we gave valid reasons for this.

The other place has indicated that it will refuse a conference on the matter. If a conference is refused and the Bill dropped there will be no ability to supply power in Penola after June 30. It will be possible to generate and reticulate power, because the plant will be there, but there will be no franchise holder. One Minister to whom I spoke on this matter said, "Why should the Government bear the cost of a district council's responsibility?" That is the crux of the matter. I ask why the contractor, Murrell Bros., should bear the responsibility. I pointed out previously that the matters dealt with in the amendments were not dealt with by the Select Committee. I consider that the committee did not adequately cover those aspects. No valid argument about why these assets of the undertaking should not be included in the schedule has been advanced in this Council.

The information that has been given by the Hon. Mr. Story must be disturbing to every honourable member, and I ask the Chief Secretary whether he can change this proposed course of action. I consider that, as the full facts of the case begin to be understood, the action of the Government will reflect against it.

The Hon. G. J. GILFILLAN: I did not speak previously because I considered that the honourable members from Southern District were more competent to deal with the details of the Bill. I think they have done this efficiently. I do not intend to speak about the responsibilities of the council, of the Murrell brothers, or of the trust. I add to the pleas of the two previous speakers my plea to the Government to reconsider the matter of further negotiation and conference.

This matter involves a principle that goes much further than the legislation before us. During this session we have had many Bills providing for the enforcement of controls and for the giving of wide powers about acquisition. One such Bill has received much publicity in the last few days and has received headlines in the newspapers. This Council was attacked strongly for its concern about the wide powers to be vested in an authority appointed under that measure. Surely the matter before us must give the public concern because of the way in which powers of acquisition have been used. A few days ago, in the debate on the other Bill to which I have referred, the Minister gave an assurance that, although wide powers were provided, the Government did not intend that they be used in a manner detrimental to the public. However, we now have this attitude adopted by the Government in regard to acquisition

and this must shake the confidence of the public in the administration of the powers contained in our various Acts.

The Land Acquisition Act has been taken advantage of to the disadvantage of a person who has become the victim of circumstances. In the interests of the confidence of the State and of a fair deal to the people concerned, I urge the Government not to close the door to further negotiations and a conference.

The Hon. L. H. DENSLEY: I feel it is my duty to protest against the Government's action in this case. There have been similar take-overs by the Electricity Trust over a number of years, where it has negotiated and given general satisfaction. The question arises: was it an instruction from the Government in this case that the Electricity Trust was not to pay the amount of money suggested or was it one of its own decisions? I am sure the public will be concerned if, with a few stations remaining to be taken over, the policy adopted previously by the trust is abandoned and action so inimical to the interests and welfare of the people is taken—people who have spent, in this case, 20 years of their life on this project and who now stand to lose much of what they looked forward to being able to enjoy in their declining years. It is desirable that the Government—

The Hon. S. C. Bevan: Why did they lose it?

The Hon. L. H. DENSLEY: I ask the Government to tell us why they lost it.

The Hon. S. C. Bevan: They can still receive compensation, if they want to. We still have laws in this country.

The Hon. L. H. DENSLEY: That is so, but the Minister has spent much time in the last few days pointing out to us the cost of going to the Supreme Court. Why has the Minister changed his mind in this matter at the last moment?

The Hon. S. C. Bevan: I have not changed my mind one little bit on this matter.

The Hon. L. H. DENSLEY: But the principle has been changed in this matter.

The Hon. A. F. Kneebone: Because the Supreme Court can assess the costs and make the necessary orders.

The Hon. L. H. DENSLEY: I think honourable members will agree with me that both Ministers have stressed the fact that it would cost much money to go to the Supreme Court. Surely there is some reason why at this stage the Government is forcing these people to go to the Supreme Court, or they will lose the money to which they are surely entitled.

The Hon. L. R. HART: Many years ago a certain gentleman by the name of Mark Anthony said that he had come to bury Caesar, not to praise him. I think this morning our main concern is to see that the subject matter of this Bill gets a decent burial. I have never been opposed to the acquisition of property if it is in the best interests of the State and the people in general. However, I have always been a firm believer that the Government should pay just and adequate compensation. It is on this point that the members of this Chamber are concerned about the acquisition of Penola Electricity Supply Pty. Ltd. There seems to be a change of policy here by the trust, because in recent times other acquisitions have been made on just terms. Now, suddenly, we have this acquisition before us on terms that cannot be described as just. There has been an independent valuation of the property to be acquired in this case. The price offered by the trust is only just over half of that valuation made by qualified engineers. In all acquisitions this question of loss through severance arises. In this case sufficient consideration has not been given to the loss incurred through severance.

I wonder what dictates the new policy of the trust in relation to acquisitions. Is the Government prepared to deny that the Electricity Trust is short of money? Is it prepared to deny that there is pressure on the Government by the trust to have the charges for electricity increased? If that is the case, and if the Electricity Trust is short of money, no doubt that is the reason for many of the delays occurring in the connecting of power to rural areas. It is not just that the trust should take advantage of this situation. Together with other honourable members, I ask the Government to look again at this matter to see whether there cannot be further discussions and, if necessary, arbitration by an independent body. After all, there are other electricity supply concerns that no doubt will be taken over in the near future, and I imagine they will be most concerned at this stage about their ultimate fate.

An electricity supply company in a country area is an example of decentralization. Is any industry prepared to set up in a country area? Is it prepared to take the risk of doing that if it may be acquired by a Government of the future? Principle is involved here, and principle should be the overriding consideration now. I urge the Government to look again at this matter to see whether some more satisfactory arrangement cannot be made whereby

the person who is no doubt at present being victimized can receive just compensation.

The Hon. H. K. KEMP: To me, it is unbelievable that it can happen in South Australia that a man is deprived of 50 per cent of his assets with no consideration given by the Government. The history of takeovers by the Electricity Trust has been detailed already in this debate. It is within easy memory that in every case there has been cordiality and full value has been paid. A comparable enterprise has been cited, of considerably less value than the one now under consideration, where a full price was paid. The price in that case was much more comparable with the valuation made by the competent authority who examined its assets.

The question before the Leader of this Chamber is whether this matter should be further considered. This is a blank refusal by the Government to rectify what is a completely unjust acquisition, and there can be no doubt where the responsibility lies. Will the Government further negotiate in this matter in which there is a manifest injustice being done?

The Hon. L. H. DENSLEY: It seems that the Minister does not intend to make a statement in reply. As this will be the last opportunity I shall have to speak in this Chamber, I make a special plea on behalf of the persons concerned. If both valuations were from competent valuators, but are so far apart, something must account for this. If the Minister could say that it was an instruction from the Government that the Electricity Trust was not to pay this sum, we would know where we stood. I plead with the Minister to do what he can to ensure that a fair deal is given to these men.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): For the information of the Hon. Mr. Densley, the recommendation on this Bill came from the Electricity Trust, and was not a direction from the Government.

Motion carried.

MARKETABLE SECURITIES TRANSFER BILL.

Adjourned debate on second reading.

(Continued from March 21. Page 3828.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This Bill was given its second reading in this Council last night and I have since had the opportunity to examine and consider it fairly closely, and as a result of that

examination I am satisfied in my own mind that the Bill is satisfactory and I cannot see that it calls for any amendment. When I first heard that this Bill had been mooted one of the things that struck me that would be entirely necessary if a transferee was not to be required to sign share transfers was that he would still have to sign in the case of shares having any uncalled liability in relation to them or in the case of an application for rights to new issues; in other words, in cases where the fact that he applied to be on the register of shareholders or was put on the register of shareholders of any company meant that he was liable to be called on for further moneys. That was an obvious thing to anyone experienced in matters relating to companies.

I am happy to be able to say that both matters are taken care of in the Bill and, in my opinion, in a satisfactory way. Under Form 3 in the Bill, in either of the circumstances I have mentioned the transferee has to actually sign an acceptance. The Bill, in the main, concerns sharebrokers, investors, companies and, of course, the Government itself in relation to stamp duties and revenue. It means a certain easing of work for brokers. Their procedures will be much more streamlined, and many difficulties and technicalities and matters that do not mean much will no longer have to be contended with. These matters can be irritating and costly. They are costly because we are living in a machine age, with our wage levels tuned to mass production, and in a broker's office much hand-work is involved because of this. The Bill is designed to simplify and minimize that handwork, and I think that it will do so. The Bill seems to me to be satisfactory as far as brokers are concerned. I checked with the President of the Stock Exchange of South Australia, who told me that he was happy about the Bill.

As far as investors are concerned, the Bill also simplifies their procedures and will make it easier for them to invest. They will not have to do many of the things that are not required in this enlightened age. I can see no disadvantage to companies in the Bill. Certain matters have been raised, particularly that where transferees do not have to sign transfers themselves companies will have no specimen signatures to compare to show that transfers are genuine when the transferees themselves come to transfer. It is also suggested that, as far as proxies to attend meetings are concerned, there will be no signature of transferees of

shares, who thereupon become the holders, to compare in order to show that the proxies are genuine or that the people attending the meeting are the people appointed to hold them.

I have had experience of shares, both in companies and in the legal field, and I can see no disadvantage in this provision at all. First, few companies compare signatures in either of the cases I have mentioned and, secondly, few companies get specimen signatures at all or use the transferees' signatures. The reason that companies do not use speciman signatures is because the prevailing legal opinion is that, if they compare signatures, they are taking unto themselves much more responsibility than is the case if they do not compare them. There are remedies for forged transfers and, in our history, few people have suffered damage from this. Indeed, various matters of law would ensure that these people were indemnified. So, I think the Bill is satisfactory so far as companies are concerned.

As far as the Government is concerned, we have the assurance of the Minister in charge of the Bill that the stamp duty will be about the same. That does not mean that it will be literally the same in all circumstances but it seems that, averaging it out, the stamp duty that transferees will have to pay will be much the same in general as has been the case before. The Minister, in his explanation of the Bill, expressed the opinion that it was likely that South Australia would attain an increased total revenue from this, not through people of the State but by arrangements that have been made with other States. I am not sufficiently informed to be able to hazard an opinion about whether that is so. I would not think the State would lose revenue by its new arrangements, although I cannot say whether it will gain any revenue from other States.

The main thing is that, on the face of it, State revenue will not suffer. The Government appears to be satisfied with the arrangements it has made with the brokers for collection of stamp duty in a different way. That is the Government's business and, if it is satisfied, I am happy to go along with it. I repeat that I personally am satisfied with the Bill, and I have examined it closely. Other people are satisfied with it and I consider it will probably get a speedy passage, without amendment. I support the second reading.

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

ADOPTION OF CHILDREN BILL.

Adjourned debate on second reading.

(Continued from March 21. Page 3821.)

The Hon. H. K. KEMP (Southern): I wish to speak in support of this Bill, particularly on the form in which it has come to this Council with amendments inserted at the instance of the honourable member for Mitcham in another place. It has put the Bill in order. My purpose in speaking to it is to reply to remarks made by the Attorney-General in another place when giving his closing remarks in his second reading explanation some time ago. I consider those remarks to be a serious reflection on officials who have administered the adoption of children in this State in past years, and also on people who have adopted children.

I do not need to elaborate on the system that has been working in this State because that was detailed by the honourable member for Burra in another place. However, there was the implication that it has been the practice of the medical profession to arrange for adoptions to help cure neurosis cases. It was implied that irregularities of that nature had been common. If such practices are possible, I am sure it has only been made so since the law on the adoption of children has been altered by having the board abolished.

Under the old procedure it was impossible for such irregularities to occur. When an application for adoption is made a preliminary investigation is made to ensure that the applicants for the adoption are incapable of having children. That examination is not made by the applicant's medical officer but by the Senior Medical Officer at the Queen Victoria Maternity Hospital.

It is thus impossible for such irregularities as mentioned by the Attorney-General to take place. The honourable member for Burra in another place has given details of the procedure that follows the actual adoption. Again, it is impossible for irregularities to occur when we consider the strict and able supervision exercised by welfare officers in such matters.

However, before an adoption takes place, the applicants have to be interviewed by one of the inspectors of the department. The inspectors are able officers, well practised in detecting irregularities, and particularly effective in detecting doubtful cases.

I believe our welfare officers are unique in Australia in the service they have supplied

and it has applied for many years. It is distressing that a reflection should be made on them simply to justify a Bill that is in itself of rather doubtful necessity. I do not see any point in labouring the matter, but I stress that it has been impossible for irregularities of the kind cited by the Attorney-General to take place in South Australia in the past. Certainly in my experience there would have been no possibility of any underhand adoptions occurring in this State on any scale at all. I think it will be an advantage to bring legislation concerning the adoption of children in this State up to date. I support the Bill.

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

CONSTRUCTION SAFETY BILL.

In Committee.

(Continued from March 21. Page 3807.)

Clauses 2 to 7 passed.

Clause 8—"Requirements for scaffolding gear, etc."

The Hon. C. D. ROWE: I have on the file an amendment to subclause (2), which I do not propose to move. However, I now move:

After subclause (3) to insert the following new subclause:

(4) No employee shall, without authorization, remove any safety equipment provided or fail to carry out such protective or safety measures as are required of him, or act in such a way as to render ineffective any safety or protective measures provided by his employer.

Penalty: One hundred dollars.

At the outset, I make it clear that I am not endeavouring to alter any provision about safety on the job in such a way that the move is against the spirit in which the Bill has been proposed. Far from objecting to safety measures, I support them where I consider they are necessary and desirable. I am going along with the general principle of promoting safety in construction, but where I feel that the Bill goes too far and will not achieve any further degree of safety, I shall move amendments. It is because I adopt that attitude that I have accepted without any amendment a large part of the Bill.

I think it is agreed that this matter of safety involves both the employer and the employee, and it is of little use the employer spending money and providing safety equipment and insisting on certain safety measures if the employee who is directly involved does not also accept his part of the responsibility. The purpose of my amendment is to ensure that the employee will play his part.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): It is agreed that both parties must share responsibility. However, some rather vague terms have been used. One of the purposes of this clause is to enable regulations to be made in respect of scaffolding, gear, etc., and subclause (1) provides that that scaffolding, gear, etc., shall be used in accordance with the requirements as are prescribed in the regulations. Under the present Scaffolding Inspection Act it is an offence if a person carrying out work, whether as an employee, contractor or subcontractor, does not use that scaffolding, gear, etc., in accordance with the provisions of the regulations.

I point out that clause 10 (2) provides that no employee shall fail to wear or use such protective equipment as is provided. The penalty for failing to observe this is $100. It is suggested that this would be a more appropriate place in which to insert the subclause.

The Hon. C. D. ROWE: I agree that possibly there is a more appropriate place in the Bill for the new subclause. Is the Minister prepared to accept its inclusion after subclause (2) of clause 10? Clause 8 sets out the responsibilities of the employer regarding safety equipment, and I thought that was the appropriate place to also deal with the responsibility of the employee. Subject to the Minister's approval, I would be prepared to have the subclause added in clause 10.

The Hon. A. F. KNEEBONE: Clause 10 says that regulations will be prescribed, and those regulations will go into the details that the honourable member is trying to insert in this clause. The regulations must come before the Subordinate Legislation Committee. The main principles of the legislation are spelt out and the fine details the honourable member is referring to will be covered in regulations, as is the case under the present Scaffolding Inspection Act.

The Hon. C. D. ROWE: I think the general idea is that the principles involved are set out in the Bill and the purpose of regulations is to say how those principles are to be implemented. I regard this new subclause as setting out a principle; in other words, placing a little more onus on the employee, and I believe the appropriate place for it is in the Bill.

The Hon. A. F. KNEEBONE: I consider that if this subclause is to go in at all (I still think it is not necessary) it should be put in clause 10. If it were inserted in that clause,

it would make the present subclause (2) redundant.

The Hon. C. D. ROWE: I am inclined to agree with the Minister that clause 10 is probably the more appropriate place, and in those circumstances I will not press the amendment but will move at the appropriate time that the subclause be added to the existing subclause (2) of that clause.

The CHAIRMAN: Does the Hon. Mr. Rowe seek leave to withdraw his amendment?

The Hon. L. R. HART: Mr. Chairman, clause 10 deals with protective equipment, more in line with wearing apparel, whereas the clause now being discussed deals with safety equipment. As I read the amendment, it deals with safety equipment and not with the wearing apparel of people employed on the job. I question whether clause 10 is the appropriate place for this amendment: I believe that clause 8 is the appropriate place.

The Hon. A. F. KNEEBONE: I believe that the Bill provides protective clothing but not wearing apparel in the sense used by the honourable member. I succeeded in convincing the previous Minister of Labour and Industry that this matter should go in clause 10. Surely the previous Minister should know more about it than the honourable member.

The Hon. L. R. Hart: I do accept that.

Leave for the Hon. C. D. Rowe to withdraw his amendment granted.

Clause passed.

Clause 9—"Appointment of safety supervisors."

The Hon. C. D. ROWE: I move:

> To strike out subclause (1) and insert the following new subclause:
>
> (1) On any multi-storey building exceeding three (3) floors in height to which this Act applies, the principal contractor shall, within twenty-four (24) hours after the commencement of such work, appoint or cause to be appointed one or more persons to be a Safety Supervisor or Safety Supervisors.

As the Bill stands at present, subclause (1) states:

> In any place where more than twenty workmen at any one time perform work to which this Act applies, the principal contractor shall, within twenty-four hours after the commencement of such work, appoint or cause to be appointed in writing one or more persons to be a safety supervisor.
>
> Penalty: One hundred dollars.

Work on a large building is performed by many groups of workmen; some work is done by carpenters, some by electricians, some by air-conditioning engineers and some by masons.

The Hon. R. A. Geddes: Subcontracting work.

The Hon. C. D. ROWE: Yes. Consequently, it is extremely difficult for an employer to know whether there will be 20 men employed on the job. I do not think he would know in the morning whether there would be sufficient subcontractors coming to the job to bring 20 men there. Consequently, it will be very difficult for the contractor to decide whether he must have a safety supervisor on the job, but I do agree that, where we are dealing with multi-storey buildings, there are greater hazards. It is appropriate that this clause should be applied in the case of a high building where more than 20 men are likely to be employed. So I accept the clause, except that I believe that it should apply to a multi-storey building exceeding three floors. If the Minister thinks that the clause should apply to a multi-storey building exceeding two floors, I am willing to listen to him. There are many minor jobs where it would be unnecessary to employ a safety supervisor, and that is the reason for this amendment.

The Hon. A. F. KNEEBONE: I am afraid that I shall have to disagree with the honourable member again. The proposed amendment overlooks the fact that not only multi-storey buildings will be subjected to the provisions of this Bill. It is equally necessary for a safety supervisor to be present on construction work such as the building of the oil refinery, the present extensions to the B.H.A.S. plant at Port Pirie, the Bolivar sewage treatment plant, the Jervois bridge, the Morphett Street bridge, the new Chrysler foundry at Port Lonsdale, and the B.H.P. coke ovens at Whyalla. These buildings go to a considerable height and their erection involves the use of lifting devices and scaffolding. I remember that somebody was killed in a silo at Port Adelaide and as a result of an inspection by the Department of Labour and Industry nets were provided. At Bolivar a trench caved in; at the Reserve Bank building, before shoring was done, an excavation caved in on somebody and he was lucky he was not killed. These are the sorts of building provided for under this clause.

The Government has looked at the points suggested by the Hon. Mr. Rowe. Some of the buildings to which this clause should apply have only one floor. It is not possible to confine this clause to multi-storey buildings. If the principal contractor does not provide a written notice, how can we be sure that a safety supervisor has been appointed? I sympathize with the honourable member's purpose, but the Government believes that the danger

is present in buildings other than multi-storey buildings.

The Hon. R. A. GEDDES: I believe that there are still anomalies in this clause. It states:

The principal contractor shall, within twenty-four hours after commencement of such work, appoint or cause to be appointed in writing one or more persons to be a safety supervisor.

It may well be, as the Hon. Mr. Rowe says, that the principal contractor will not know how many people are to be on the job on any one day. On one day one of the sub-contractors could bring 25 or 30 men to the job. The principal contractor has 24 hours in which to appoint a safety supervisor, but by the next day there might be only 15 men on the job. Is there provision to cover this sort of problem where there is a fluctuating turnover of men coming on and going off the job?

The Hon. A. F. Kneebone: There is only need for one notification.

The Hon. R. A. GEDDES: One firm in Adelaide could have one safety supervisor for many jobs?

The Hon. A. F. Kneebone: Provided they were close together.

The Hon. C. D. ROWE: We are running into the kind of difficulty that is to be expected when important legislation is introduced at the end of the session. This Bill completely alters the existing law. I have done my best to do my homework and to prepare properly the amendments placed on the files. However, it is obvious from the Minister's explanation that I have not spent sufficient time on this matter: I did not envisage the kind of construction that the Minister mentioned. To try to meet the situation I would like to amend my amendment to read:

(1) On any building or construction exceeding 30ft. in height to which this Act applies, the principal contractor shall, within twenty-four (24) hours after the commencement of such work, appoint or cause to be appointed one or more persons to be a safety supervisor or safety supervisors.

I think that gives what I want, because most of these constructions are more than 30ft. in height.

The CHAIRMAN: Does the Hon. Mr. Rowe wish to amend his amendment?

The Hon. C. D. ROWE: I do not know whether to do that or whether it would be better to withdraw the amendment and submit a new one.

The CHAIRMAN: I ask the honourable member to write out his amendment.

The Hon. A. F. KNEEBONE: This amendment does not overcome the difficulty I referred to in regard to excavations. It is important that a safety expert should see that these works are carried out in a way that is safe and that people working in these places are sufficiently protected by wearing the things they should wear. The amendment does not cover men working at ground level, yet safety is just as important at that level as it is above 30ft. I do not think there is any difficulty about the clause as it stands and I suggest that the Hon. Mr. Rowe give further consideration to what it provides.

The Hon. G. J. GILFILLAN: I understand the clause to apply to buildings where more than 20 workmen are employed at any one time, whereas the proposed amendment seems to apply to any number of workmen, even to one man servicing a windmill. Difficulties could arise because of that.

The Hon. C. D. ROWE: I am indebted to the honourable member and apologize for the omission. I am not in the same category as the Chief Secretary, who is always right. I intended the amendment to apply only where 20 or more men were engaged. Regarding the Minister's explanation about excavations and people working underground, I think that, ordinarily, where there is to be construction on earthworks of any depth, that construction would be 30ft. in height. Consequently, protection would be provided in respect of such buildings. I seek leave to again amend my amendment.

Leave granted.

The Hon. C. D. ROWE moved:

To strike out subclause (1) and insert:

"On any building or structure exceeding 30ft. in height to which this Act applies and where more than 20 workmen at any one time perform work, the principal contractor shall, within 24 hours after the commencement of such work, appoint or cause to be appointed one or more persons to be a safety supervisor or safety supervisors."

The Hon. A. F. KNEEBONE: I do not understand how the amendment covers the situation, because on my interpretation a safety officer would not be appointed until the construction of the building had proceeded. At the time the excavation work was being carried out, there would not be a building 30ft. in height above those excavations.

The Hon. R. A. GEDDES: The words "a safety supervisor or safety supervisors" should be clarified. Does the honourable member suggest that there be one supervisor where more

than 20 workmen are employed, two supervisors where more than 40 workmen are employed, and so on by multiplication?

The Hon. C. D. ROWE: No. My amendment provides for a safety supervisor where more than 20 men are employed, but the number of safety supervisors does not increase by multiplication as the number of workmen increases. I take it that the number of supervisors to be on the site will be left to the discretion of the contractor.

The CHAIRMAN: While the Hon. Mr. Rowe is drafting his amendment, I point out to the Committee that he has moved to delete the whole of subclause (1), which would include line 15, the penalty provision. It would be necessary to retain the penalty provision, even if effect were given to the purpose of the amendment. In putting the amendment I shall put that the honourable member moves for the deletion of lines 9 to 14 rather than that he moves for the deletion of the whole subclause. Otherwise, those words about the penalty would have to be inserted. The first procedure will be to move to delete lines 9 to 14 in order to insert the amendment.

The Hon. M. B. DAWKINS: May we have the amendment read, Mr. Chairman?

The CHAIRMAN: The words proposed to be inserted are:

"On any building or structure exceeding 30ft. in height to which this Act applies and where more than 20 workmen at any one time perform work, the principal contractor shall, within 24 hours after the commencement of such work, appoint or cause to be appointed one or more persons to be a safety supervisor or safety supervisors."

The Hon. M. B. DAWKINS: I ask the Hon. Mr. Rowe if he would be prepared to remove the words "or more" and also the words "or safety supervisors", and reduce the word "persons" to "person", thus having the effect of reducing it to singular instead of plural. That portion of the subclause would then read "appoint or cause to be appointed one person to be a safety supervisor".

The Hon. L. R. HART: In commenting on the remarks of the Hon. Mr. Dawkins it should be appreciated that a work force must have flexibility. A contractor must make provision to move his men from one job to another and therefore it may be necessary to appoint more than one safety supervisor. In addition, there may be only one safety supervisor in charge on a site who may be required to attend at another site. The appointment of more than one supervisor would overcome that problem. I would be glad if the Minister would clarify the point.

The Hon. A. F. KNEEBONE: I am afraid I did my honourable friend an injustice a moment ago; he has raised a good point. A contractor may be working shift work where it would be necessary to provide "one or more" in order to take care of all shifts. The Hon. Mr. Rowe has deleted from his proposed amendment the words "to be appointed in writing" and, as a result, the amendment does not fully cover the situation, because it does not take care of workmen employed on a building before it reaches a height of 30ft. The suggestion is that the name of the supervisor be written on a blackboard, and I agree that that appears to be sensible. However, it is important that the supervisor should have his appointment in writing so that it can be produced when an inspector arrives. It would not then be a matter of rushing down and writing a name on a blackboard in anticipation of the inspector's arrival. That is why I think the appointment should be in writing as provided in the Bill. Despite the hard work given to the amendment by the honourable member, it does not give the safety protection necessary and I ask honourable members not to vote for the amendment.

The Hon. Sir NORMAN JUDE: I am convinced by the Minister's statement that the amendment as moved by the Hon. Mr. Rowe would not cover the problem of excavations and I think the Minister has made it clear to the Committee that many accidents may occur on excavations. In fact, he referred to two such cases well known to honourable members. Unless the Hon. Mr. Rowe is prepared to alter his amendment in order to make provision for such excavations, I shall support the Minister.

Amendment negatived.

The Hon. C. D. ROWE moved to strike out subclause (2) and insert the following new subclause:

"(2) The principal contractor, or some person acting on his behalf, shall place or cause to be placed the name of the appointed safety supervisor or supervisors on a notice board on the site within twenty-four (24) hours after every such appointment is made.

Penalty: Twenty dollars."

The Hon. A. F. KNEEBONE: I am prepared to accept the amendment if the honourable member increases the penalty to $50.

The Hon. C. D. ROWE: We are living in a day when costs are increasing astoundingly, and I agree, subject to being granted leave to

do so, to amend my amendment and make the penalty $50.

Leave granted.

Amendment carried.

The Hon. C. D. ROWE: I move to strike out subclause (3) and insert the following new subclause:

> "(3) No such appointment shall comply with the provisions of this section unless the person appointed is experienced in the work being performed."

On occasion, the employer may not be able to appoint a man with the necessary qualifications. The employer must have a man who is experienced in the kind of work being done at the time.

The Hon. A. F. KNEEBONE: The amendment does not indicate who decides whether the person appointed is or is not "experienced in the work being performed". The intention of the words which this amendment seeks to leave out was to enable some regulations to be made as to the qualifications which should be held by a person before he is a safety supervisor, and the reference to the Chief Inspector was intended to be an alternative to the regulations so that the Chief Inspector would be able to permit a person who did not have all of the qualifications prescribed to be appointed. I thought that was fairly reasonable as it was. The wording of the subclause is:

> has the qualifications prescribed, or is certified by the Chief Inspector . . .

If there is nobody with the qualifications prescribed, the Chief Inspector can appoint somebody else to do the job. I thought that was going far enough. The amendment reads:

> No such appointment shall comply with the provisions of this section unless the person appointed is experienced in the work being performed.

Who is to say whether he is experienced? That is the point. I think the Chief Inspector should be able to say so. The amendment does not say how much experience the person appointed should have: he could have only half an hour's experience, and that would make him eligible for appointment. Some people are not able to protect themselves, let alone protect others. Some people do not know the safety procedures, so how can they look after safety procedures for other people? I do not know. The subclause provides that anyone without the prescribed qualifications, with little experience of a particular job, cannot be appointed. That is as it should be, both for his own safety and for the safety of the people he is looking after.

The Hon. C. R. STORY: I am not clear about paragraph (*b*). Can the Minister detail what are the "qualifications prescribed"? What does that really mean? What is the real meaning of "is experienced in the work being performed"?

The Hon. A. F. KNEEBONE: As a result of the education programme we are carrying out in industry, people are being trained in safety procedures. They would have some experience of them. The necessary regulations will be made by the Department of Labour and Industry; they will be laid upon the table of this Chamber, and be either accepted or rejected. We can ensure that the regulations are not too restrictive. They have not been drafted yet. If they prescribe conditions and somebody cannot meet them, then the Chief Inspector can appoint somebody else to the position, although he may not have had the experience required by the regulations. The Chief Inspector can then say, "This fellow is sufficiently experienced anyway to carry out the job successfully."

The Hon. C. D. ROWE: I am really worried about this matter of safety supervisors, for several reasons. For instance, let us take the work on the huge building opposite Parliament House. In the first place, the employer will not know whether or not there will be 20 men working on it today. He does not know what the contractor will bring along. Secondly, a man may be experienced in safety procedures in connection with plumbing or masonry but may not know enough about safety procedures in connection with power tools or electrical wiring. It would be difficult for the Chief Inspector to prescribe regulations to meet all situations in these various trades. Therefore, we have to proceed in the way I have suggested: the employer should satisfy himself that the person he appoints has some experience of the particular type of work. He may appoint a safety supervisor today who may be attached to the air-conditioning contractor. Tomorrow, that contractor may have gone, and the employer will have to appoint somebody else. If he has to go through the procedure of getting the approval of the Chief Inspector of Factories every time he wants to make an appointment, it will be an impossible burden on him. It is his job to see that, where more than 20 men are employed, at least one man is experienced.

The Hon. L. R. HART: The clause as it stands would be satisfactory if the Chief Inspector was on call at short notice at any

time, but where a contractor is faced with the situation of a safety supervisor moving off a job that job comes to a standstill until the Chief Inspector is contacted and a further safety supervisor is appointed. That is the problem. It may well be that all the operations on a building will come to a standstill for several hours, because the Chief Inspector is not on call at short notice. Therefore, this amendment will be satisfactory. It gets over the problem of the Chief Inspector not being available to certify that another person is qualified to act as a safety supervisor.

The Hon. A. F. KNEEBONE: I am afraid I cannot agree. There is no difficulty in regard to industrial safety. We give the Chief Inspector discretionary powers there, and there has never been any trouble or hold-up because he has happened to be elsewhere at a particular time. That is only a matter of administration. We are looking at safety supervisors and people with some experience of safety in industry. If these people are not available, the discretionary powers should be exercised. One does not have to be an expert at laying floor tiles to know what is safe work in that regard; one does not have to be an expert in painting to know that a trestle or a ladder is unsafe; nor does a person have to be an expert in laying bricks to know that when he is on the outside of a building he is working in unsafe conditions.

It will not be necessary for a safety supervisor to know how to carry out detail work. He would be a person who would be capable of looking after a number of different crafts in a building and probably the whole of the work on a building. There are people with experience of safety in industry who can do the job. This is the type of man the previous Minister of Labour and Industry was sponsoring for that work and we have continued doing that with the idea of protecting people. It is wrong to suggest that anybody, irrespective of his knowledge of safety in industry, could perform the work of a safety supervisor. If this amendment were carried, a person who was accident-prone himself could be appointed to such a position.

The Hon. R. A. Geddes: Is it envisaged that he should get extra wages?

The Hon. A. F. KNEEBONE: No. In any event, that is not our concern. We are saying that the supervisor can do other work; for instance, he can be a fellow who is a painter or something else.

The Hon. R. A. Geddes: Will he have to pass examinations?

The Hon. A. F. KNEEBONE: No; the requirement will be that he should have some knowledge of safety in industry. This clause gives the Chief Inspector a discretion in the matter.

The Hon. Sir NORMAN JUDE: I appreciate that the Hon. Mr. Rowe has gone to much trouble in drawing his amendments. However, I think we are a little too concerned about the details of this present amendment, for subclause (5) gives the clue to some extent to what the Minister has been saying. I imagine that the first thing a contractor would do would be to see that all his foremen or his subcontractors' foremen had the knowledge that was required to enable them to work in both capacities. Therefore, with all due respect to the Hon. Mr. Rowe, I do not think his amendment is necessary.

The Committee divided on the amendment:

Ayes (8).—The Hons. M. B. Dawkins, R. C. DeGaris, L. H. Densley, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter, and C. D. Rowe (teller).

Noes (10).—The Hons. D. H. L. Banfield, Jessie Cooper, R. A. Geddes, G. J. Gilfillan, Sir Norman Jude, A. F. Kneebone (teller), Sir Arthur Rymill, A. J. Shard, C. R. Story, and A. M. Whyte.

Majority of 2 for the Noes.

Amendment thus negatived.

The Hon. C. D. ROWE: I move:

In subclause (4) after "shall" first occurring to strike out "advise the principal contractor and every employer of persons working in the place in respect of which he is appointed of the requirements of this Act for the safety and protection of any workmen and shall".

If those words were deleted the situation would still be adequately covered. It is not necessary to impose on a safety supervisor the duty to advise the principal contractor and every employer of the requirements of the Act. I think this is an amendment I might reasonably expect the Minister to accept.

The Hon. A. F. KNEEBONE: I can be generous on this occasion, and I accept the amendment. However, I point out to the honourable member that it will now be necessary to strike out the word "aforesaid".

Amendment carried.

The Hon. C. D. ROWE moved:

In subclause (4) to strike out "aforesaid".

Amendment carried.

The Hon. C. D. ROWE moved:

In subclause (4) after "requirements" second occurring to insert "of this Act".

Amendment carried; clause as amended passed.

Clause 10—"Protective equipment."

The Hon. A. F. KNEEBONE moved:

After "Penalty" to insert "for any breach of this section".

Amendment carried; clause as amended passed.

Clause 11—"Provision of amenities."

The Hon. C. D. ROWE: I move:

That clause 11 be deleted.

It virtually places the responsibility on the principal contractor to provide the six amenities (set out in the clause) on the site of any construction work. The amenities comprise: wholesome drinking water; washing facilities; accommodation for meals, clothing and tools; sanitary conveniences; first aid equipment; and appliances for the prevention and extinction of fire. I believe that there are instances today where these kinds of amenity are not provided on a construction site. I certainly think that where people are working on a building or other form of construction it is necessary that they have these amenities, but this clause invokes a new principle.

At present the conditions under which men work are governed by awards applicable to their type of work. All these amenities relate to the conditions of a person's work and these conditions should be set out and prescribed in the appropriate award, not in a Bill of this kind. Matters connected with the welfare of workmen should not be removed from the arbitration and conciliation system. This provision weakens the jurisdiction of that system. If the principal contractor is required to provide these amenities, they will be used by people who are doing masonry and employed by someone else, or people who are doing plumbing and employed by someone else, or people who are doing air-conditioning work or electrical work and employed by someone else.

Everyone knows what happens to amenities provided by somebody and used by somebody else: they are not always used in the right manner. The situation should remain as it is at present. It is not that we have no provisions requiring that these things shall be provided; they are covered by separate awards and this is the appropriate method. The present position should remain as it is.

The Hon. A. F. KNEEBONE: I cannot agree. The whole object of this clause is to enable regulations to be made, and regulations are subject to scrutiny by a Parliamentary committee. Some awards provide for some of these amenities. However, different tradesmen are covered by different awards which prescribe different conditions, and in other cases no conditions of this kind are prescribed. The position is that each subcontractor has to make provision for the amenities prescribed by the award, but as these provisions vary from trade to trade this is unsatisfactory. In one case at present more than 200 subcontractors are engaged on a building; it is ridiculous that each should be responsible for providing wholesome drinking water, washing facilities, etc.

Years ago a building contractor employed nearly all the persons employed on a site, and he was the one responsible. However, nowadays there is so much work let to subcontractors that this situation no longer applies. This clause seeks to make the principal contractor responsible for ensuring that the facilities listed are provided. Employers have for years been required to provide such facilities in factories; it is only because of the special nature of the building industry that these amenities have not been provided in the past.

Recent meetings of Ministers of Labour and Industry from the various States have decided that these amenities should not be included in awards but should be the subject of legislation, and this legislation could well be made uniform. It could be applied more effectively if it were in one Act instead of a variety of different awards. In this case the principal contractor will provide the amenities and he will make the necessary financial arrangements with the subcontractors. He would see that those matters were attended to. The regulations are laid on the table and honourable members have the opportunity to disallow them. I consider that the clause should remain.

The Committee divided on the amendment:

Ayes (8).—The Hons. M. B. Dawkins, L. H. Densley, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter, C. D. Rowe (teller), and C. R. Story.

Noes (11).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, Sir Norman Jude, A. F. Kneebone (teller), Sir Arthur Rymill, A. J. Shard, and A. M. Whyte.

Majority of 3 for the Noes.

Amendment thus negatived; clause passed.

Clause 12—"Duty to keep copy of Act and regulations."

The Hon. C. D. ROWE: I move:

To strike out clause 12 and insert:

12. Every employer, when carrying out work to which this Act applies, shall provide and keep at his principal place of business a copy of this Act and the Regulations so as to be available for inspection by any of his workmen at all reasonable times. Penalty: Fifty dollars.

I think the Minister will agree to this amendment. If so, I do not propose to speak further on it.

The Hon. A. F. KNEEBONE: I am sorry if I have misled the honourable member and if he has not spoken on his amendment as much as he would have desired. I cannot accept it. The object of the clause is to enable the workmen to readily have means of ascertaining the provisions of the Act and the regulations. It would not be of much use if copies were in the employer's place of business in the case of a company whose place of business was in another State, nor would it be of much use having a copy in an office in Adelaide if the job was at Whyalla. In cases where there is any doubt about the provisions, copies will be on the site for the safety supervisor or workmen to look at. It is reasonable that the copies should be on the site rather than in an office somewhere else, such as in King William Street or North Terrace.

The Hon. C. D. ROWE: Everyone is presumed to know and understand the law and it is going too far to require that every person shall have copies of the Act and the regulations on the job. These copies would become disfigured and people would not know where they were. Anyone interested would have no difficulty in getting a copy. It imposes an undue burden to require that copies be available on each project around the city. In other cases, we do not have this provision.

The Hon. S. C. Bevan: It is required in the case of an award or determination.

The Hon. C. M. Hill: That is inside, in an office.

The Hon. S. C. Bevan: No, it is not.

The Hon. C. D. ROWE: If my memory serves me correctly, it is not prescribed that a copy has to be available on every particular job.

The Hon. L. R. HART: I support the amendment. If we take the clause to its logical conclusion, a copy of the appropriate Act will be required to be available in every place where people are employed. In the transport industry, a copy of the Motor Vehicles Act and of the Road Traffic Act will have to be available at depots.

The Hon. A. F. KNEEBONE: The Hon. Mr. Rowe does not seem to know that the Industrial Code provides that a copy of the Industrial Award or Determination shall be on the site.

The Hon. S. C. Bevan: Available at all times for the workmen.

The Hon. A. F. KNEEBONE: This clause is just as important to the safety supervisors, the employers and the workmen. Many disputes on sites can be prevented by such a provision as this, because otherwise people are likely to be standing around awaiting a decision about whether work can be carried out while someone goes to the employer's office in some other place to get a copy in order to see what the relevant provision is. The clause is necessary in order to keep industry operating.

The Hon. Sir ARTHUR RYMILL: I agree with the Hon. Mr. Rowe on this occasion. I think honourable members have found some difficulty in following and understanding this Bill. We are experienced in interpreting legislation, but what earthly use would it be to a workman to have an Act available so that he could rush to it in order to see whether one of the complicated provisions applied to his case? I imagine in the normal course of events that his organization or union official would have the Act at his fingertips.

The Hon. Sir Norman Jude: He would probably have it in his bag or in his lunch box.

The Hon. Sir ARTHUR RYMILL: I have had plenty of experience of workmen, some of whom are good friends of mine, but I cannot imagine any of them referring to an Act of Parliament in order to discover their rights, especially when on the job. I think this provision is carrying it too far.

The Hon. A. F. KNEEBONE: I thought that the Bill was written in understandable language; I am not having difficulty in understanding its provisions and I think many other people who have had a similar education to my own and then worked in industry would be able to understand it also. Provision is made for the regulations to be available and they are not framed in Parliamentary language but in simple terms. I think, perhaps, that the presence of the regulations could be more important than the Act.

The Committee divided on the amendment:

Ayes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone (teller), and A. J. Shard.

Majority of 11 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 13—"Special provision for rigging operation."

The Hon. C. D. ROWE: I move:

To strike out subclause (1) and insert the following new subclause:

> (1) On and after the expiration of a period of one year from day of commencement of this Act, wherever work of a greater height than 30ft. to which this Act applies is being undertaken, no employer shall cause or permit any work to be performed unless a person who holds a current certificate as in subclause (3) is, whilst structural steel, plant (not being scaffolding), building materials, are being erected, placed into position or dismantled, in charge of such operations.

I propose to move two further amendments to the clause and the three amendments should be considered together. The reason I am asking for this is that a rigger is presently a classification in the Builders Labourers and Metal Trades Awards. A number of contractors have other tradesmen performing steel erection (for instance, rigging carpenters, and so on) and there is a need for flexibility and adaptation, which is the essence of building efficiency. We insist on the rights of competent workmen of other trade classifications to do work as riggers when required.

So "rigger' has an official meaning. It is described as a classification in the Builders Labourers and Metal Trades Awards, which would mean that, whilst a person might be doing steel prefabrication work of a comparatively simple kind, with this Bill as drawn he would need a rigger with a certificate under those awards to which I have just referred. That would mean, virtually, that this would be a restricted field of people who could perform this work. Consequently, my amendment is that, first of all, these requirements shall apply only where we are erecting a building of a height of over 30ft. This amendment deals only with structural steel and plant of that particular kind. Therefore, as long as there was somebody competent to do this, we would not need a person who was a qualified rigger within the terms and conditions of the Builders Labourers and Metal Trades Awards.

Steel prefabrication work may be the simple work of constructing a shed on a farmer's property, or it may be work on a multi-storey building. I am not objecting to the terms and conditions being prescribed but I am objecting to the fact that they should be riggers within the terms of those awards.

The Hon. A. F. KNEEBONE: This is a situation similar to the one we faced earlier in regard to multi-storey buildings. This concerns a building of over 30ft. It is not only the height of the structural steel that must be lifted: its weight and condition, too, must be considered. We had an experience the other day at the Torrens Island plant where some people had rigged a hoisting device but it had not been done properly, or perhaps it was that proper materials had not been used. I do not say that the persons involved were inexperienced. Anyway, we had to send an inspector down there. He found that excessive weights were being lifted on gear that was not safe, having regard to the strength of the hawsers and steel wire. Therefore, the rigger has to be a competent rigger.

Height makes no difference. As a result of this, we have to call inspectors to look at certain situations. Difficulty is encountered with the weight of the material being lifted and certain classes of equipment that will not stand up to bearing certain weights. That is where the difficulty arises in providing that experienced people must be appointed. It is said that because a person is called a rigger it means he must be a certain classification in an award and belong to a certain organization. I do not think that applies in this case. In other trades, certificates have been given to people who have the required qualifications, not because they belong to certain unions. That is not intended to apply here. These people who do this work are known as riggers. That does not mean to say that they are riggers in a certain award: they are riggers within the meaning of this legislation, and according to its requirements. It is recognized that many tradesmen are certificated people. There is in the Act an interpretation of "rigger". It does not stipulate that he must be a member of a certain organization: he is a rigger because of the work he does.

The Hon. L. R. HART: Yesterday, in my second reading speech, I referred to pylons being erected. I should imagine that they would come within the ambit of this legislation, in which case, as the clause stands, it would be necessary to have a certified rigger on the site where the pylons were being erected. That is how I see the clause. Can the Minister clarify the position there?

The Hon. A. F. KNEEBONE: Knowing the Electricity Trust to be an efficient organization,

I am sure it would not employ anybody on erecting those high pylons—

The Hon. Sir Norman Jude: But the trust does not erect them; it gets contractors to do the job.

The Hon. A. F. KNEEBONE: They would come under it. The contractors would be employing people who had the qualification of being certificated riggers.

The Hon. SIR NORMAN JUDE: The Minister has made a complete *volte-face*. Only half an hour ago he said that a man did not have to be an expert tiler to be a man of general experience. Now that we are dealing with the handling of structural steel, it is obvious that the same man with the same experience need not be a rigger. The Minister now wants a man who is a certificated rigger. I shall support the amendment.

The Hon. A. F. KNEEBONE: This is the reason why an experienced man is needed. The interpretation clause defines "rigger" as meaning:

> An adult employee who is responsible for the rigging involved in the erection, placing in position, or dismantling of structural steel, plant, buildings, material, equipment and the like (other than scaffolding) and the safety of such operations, when the erection of tackle involving the use of wire rope, fibre rope or any other gear for lifting or moving is required in connection with such erection, placing in position or dismantling.

I draw honourable members' attention to an accident that happened in Melbourne recently in the erection and use of a very high crane on the top of a building. Such an accident could happen on the A.M.P. Society building if the contractors were employing as riggers people who were not skilled. For the protection of other people working on buildings, anyone who does this very dangerous work should be skilled.

The Hon. C. D. ROWE: I think I can simplify this matter for the Committee. The first question is whether or not we should leave in the word "rigger". The reason I want to take out that word is to make certain we do not get the situation where a rigger is a person who must have a certificate under the award or classification that I mentioned. We are still leaving power for regulations to be brought down prescribing the qualities and the abilities this person must have, so we are not interfering with what the Government can do regarding prescribing necessary qualifications.

Secondly, my amendment provides that only buildings of a greater height than 30ft. will come within the ambit of this provision. At present there are many single-storey structural steel buildings, such as sheds on farming properties, various manufacturing buildings, and so on, and it would be unduly burdensome if in that kind of work we had to have someone with all these qualifications. I believe that the amendment is reasonable, and I ask the Committee to accept it.

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe (teller), C. R. Story, and A. M. Whyte.

Noes (5).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone (teller), Sir Arthur Rymill, and A. J. Shard.

Majority of 9 for the Ayes.

Amendment thus carried; new subclause inserted.

The Hon. A. F. KNEEBONE: I move:

> At the end of subclause (1) to insert "Penalty: One hundred dollars."

In order to conform with the rest of the Bill, it is necessary to insert the penalty provision at the end of this subclause.

Amendment carried.

The Hon. C. D. ROWE: I move:

> In subclause (2) to strike out "as a rigger"; in subclause (3) to strike out "to riggers".

These amendments are really consequential on my earlier amendment.

Amendments carried; clause as amended passed.

Clause 14—"Report of accidents."

The Hon. C. D. ROWE: I move:

> In subclause (1) (*b*) after "employment" to insert "for more than twenty-four hours".

The clause prescribes that when an accident occurs the principal contractor shall keep for a period of not less than three years a record relating to the accident and containing certain particulars. It seems to me that we should not require a contractor to go to the trouble of keeping records of an accident involving only a very small and insignificant injury that does not result in a man being incapacitated for more than 24 hours. If he is completely recovered within 24 hours it must be obvious that the accident was of a very minor nature indeed, perhaps merely the removal of a small splinter. I think the object of the Bill in ensuring that proper records of serious injuries are kept is achieved if we exclude these minor accidents

which involve incapacity for less than 24 hours.

The Hon. A. F. KNEEBONE: I would like to explain why the provision was put in in its present form. I have known minor injuries to develop into something serious. On building sites men work in primitive conditions, especially in the early stages of construction. I have known people who have had a splinter removed and who later have had an arm amputated because of tetanus. This is the reason for the provision and I ask the Committee to leave the Bill as drafted.

The Hon. C. D. ROWE: I can see the Minister's point. A man might have a splinter removed and tetanus might develop and as a result he might be incapacitated a day or two later for more than 24 hours. So in these circumstances it might still be necessary to keep a record of the accident. However, I believe that my amendment covers the situation.

The Hon. S. C. BEVAN (Minister of Local Government): Under the Workmen's Compensation Act, if a man loses more than four hours' time he is entitled to compensation for loss of pay, provided he meets with the accident in the course of his duties. This whole question could lead to a legal argument as to whether an employee is entitled to compensation. Under the Workmen's Compensation Act he is entitled to it if he loses four hours' time, but under the Industrial Code he is only entitled to compensation if he loses 24 hours' time. I object to the period proposed by the Hon. Mr. Rowe.

The Hon. C. D. ROWE: I do not think these two matters are related. As the Bill stands, if a man is incapacitated for 10 minutes a record must be kept of the kind of incapacity. I believe that an employer should not be responsible for keeping a record of minor injuries. I do not think that the question involved in this clause has anything to do with the employee's claim for compensation. If his disability has resulted from his work and he is disabled for only five minutes, he can still recover workmen's compensation if a complication develops. So, with great respect to the Minister (and I know that he is experienced in these matters), I do not think the two matters are related.

The Hon. A. J. SHARD (Chief Secretary): The facts are not as the Hon. Mr. Rowe says. If an employee meets with a minor accident and it is not reported and recorded at the time, he has no end of trouble in securing workmen's compensation. I would like to cite an example of such an accident that occurred in the bread industry: a man pushed a rack of bread and he felt a pain across his chest. He immediately reported it to his employer and a record was made. The employee's condition deteriorated and unfortunately he died some months later. The mere fact that he had reported it and that it was recorded helped to secure a large amount of compensation for his widow. The trades union movement has for years been trying to educate employees that each accident, no matter how minor (even if the splinter is removed and the wound is dressed), should be reported and recorded. If we say here that a man does not have to report an injury unless he is absent for 24 hours, we are doing him an extreme injustice. I hope that the Committee will leave the Bill as drafted.

The Committee divided on the amendment:

Ayes (8).—The Hons. M. B. Dawkins, R. C. DeGaris, L. H. Densley, L. R. Hart, C. M. Hill, H. K. Kemp, C. D. Rowe (teller), and C. R. Story.

Noes (11).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. A. Geddes, G. J. Gilfillan, Sir Norman Jude, A. F. Kneebone (teller), F. J. Potter, Sir Arthur Rymill, A. J. Shard, and A. M. Whyte.

Majority of 3 for the Noes.

Amendment thus negatived; clause passed.

Clause 15 passed.

Clause 16—"Powers of inspection."

The Hon. C. D. ROWE: I move:

In subclause (1) to strike out all words after "works".

I do not think we have reached the stage where inspectors have to be accompanied by officers of the law to enable them to satisfactorily carry out their duties. On occasions this right would be abused. Ordinarily, the private citizen does not expect to be approached in this way, and we can manage without such a provision.

The Hon. A. J. Shard: Inspectors couldn't get into some places if they had 10 policemen with them.

The Hon. A. F. KNEEBONE: I appreciate the Chief Secretary's attempt to help me. The Industrial Code contains a provision regarding inspectors of the Department of Labour and Industry, and it is similar to this provision. Whilst members of the Master Builders Association are reputable people, unfortunately, in recent years, there have been a few cases of inspectors having to enlist the

aid of members of the Police Force when the work of some subcontractors has been inspected. In one case an inspector had his notebook grabbed from him and ripped up, and that was not the worst case. However, no reputable person has anything to fear from the inspectors. I am sure that the Hon. Mr. Rowe will recall that inspectors have had trouble in earlier times, and that it is not only recently that these things have been happening. One of our inspectors was physically interfered with.

The Hon. A. J. Shard: Is there a prosecution pending in relation to one case?

The Hon. A. F. KNEEBONE: There could be a prosecution pending in one case. This power will not be used frivolously. It will be used only when necessary. I have sufficient faith in the inspectors in my department to think that they will not embarrass people by bringing policemen with them when that is not necessary.

The Hon. C. R. STORY: I am in accord with much of what the Minister has said, but I wonder whether the inspector would not have the services of a policeman available to him in any case.

The Hon. A. F. Kneebone: He wouldn't. The power is given to the inspector.

The Hon. C. R. STORY: If the inspector could persuade someone to go with him because there was a danger of physical attack, would the inspector not have the same right as any other citizen?

The Hon. A. F. KNEEBONE: The previous Government inserted a similar provision to this in the Industrial Code. The only difference between the two provisions is that factories are inspected under the Code and the places provided in the clause are to be inspected under this measure. Surely if it is necessary to cover inspectors who inspect factories it is also necessary to give that power to inspectors under this measure. Section 379 (*b*) of the Industrial Code gives every inspector power to:

take with him into any such premises, place, ship, vessel, factory, shop, office or warehouse a member of the Police Force when he has reasonable cause to apprehend any obstruction in the execution of his duty.

Amendment negatived.

The Hon. C. D. ROWE: I desire to move:

In subclause (1) after "may" second occurring to insert "with the approval of the Chief Inspector".

I consider that an inspector should obtain the approval of the Chief Inspector before he takes a policeman with him on an inspection.

The CHAIRMAN: The honourable member's amendment refers to something that has already been dealt with.

The Hon. C. D. ROWE: I can deal with the matter in relation to a later amendment. I am going to ask that the Bill be recommitted.

Clause passed.

Remaining clauses (17 to 22) passed.

First and Second Schedules and title passed.

Bill reported with amendments.

The Hon. C. D. ROWE moved:

That the Bill be recommitted for the purpose of considering further amendments to clauses 10 and 16.

Motion carried.

Bill recommitted.

Clause 10—"Protective Equipment"— reconsidered.

The Hon. C. D. ROWE: I move to add the following new subclause:

(4) No employee shall, without authorization, remove any safety equipment provided or fail to carry out such protective or safety measures as are required of him, or act in such a way as to render ineffective any safety or protective measures provided by his employer.

Penalty: One hundred dollars.

That is the subclause I attempted to have inserted in clause 8. I mentioned that frequently accidents occurred because of failure by an employee to take necessary protective action. It seems to me that the Bill should ensure that an employee as well as an employer should do the right thing.

The Hon. A. F. KNEEBONE: The inclusion of this suggested new subclause is not necessary because the matter is already recognized and the relevant provision stipulates that safety clothing shall be worn. Clause 10 clearly indicates that this should be done because subclause (1) reads:

Every employer shall provide for his employees while they are engaged on work to which this Act applies such protective equipment as may be prescribed subject to such conditions as may be prescribed.

Subclause (2) reads:

No employee shall fail to wear or use such protective equipment so provided.

The penalty is specified and the regulations prescribe the type of equipment that shall be worn. The suggested new subclause states that the employer can provide any sort of thing. The Hon. Sir Norman Jude said something yesterday about a parachute being provided for an employee. If the employer provides it and instructs an employee to wear it, then under this amendment he must wear it or any other type of equipment that the employer may think

of. If the employee does not wear the equipment so provided he could be liable for a fine of $100, whether in the opinion of the people making the regulations it is wise for him to wear the equipment or not. I consider that many of the provisions of the employer may not be wise. I ask the Committee to vote against the proposed amendment because the position is amply covered already.

The Hon. Sir ARTHUR RYMILL: With respect, I think the Minister has missed the point of the proposed amendment. I agree with him about the penalty, which is already prescribed, but the Hon. Mr. Rowe has this amendment on file in relation to another clause. I draw attention to the subclause in question, the one quoted by the Minister which provides:

No employee shall fail to wear or use such protective equipment so provided.

That is perfectly clear: if protective equipment is provided the employee must use it if so required. However, this amendment refers to removal of safety equipment by an employee and not to the wearing of it. All honourable members know what can happen, whether in good faith or otherwise, and that is that an employee can remove equipment, and take it somewhere else. This proposed new subclause is designed to ensure that when an employer places the equipment there for an employee, that employee may not remove it unless authorized to do so. I think it is perfectly clear, and the suggested amendment should be accepted.

The Hon. L. R. HART: I think the Minister is confusing the Committee on this clause because earlier I said that I believed it should be included in clause 8 because clause 10 deals with protective equipment worn or used by an employee. In a particular case, it may be a simple protective rail that the employee decides to remove to do a certain job. It may even be necessary to remove it. He may remove it without authorization and so endanger the life or limbs of other employees. This amendment should stand although it should be to clause 8, not clause 10.

The Hon. M. B. DAWKINS: I, too, support the amendment. The Minister unwittingly confused the Committee, and possibly himself. He said something about a parachute. By no stretch of the imagination could a parachute be construed as safety equipment in this field. I agree with the Hon. Sir Arthur Rymill that this amendment refers specifically to the prohibition of removal of safety equipment. It should be stated clearly in the Bill that an employee shall not remove safety equipment provided by his employer. Although I am inclined to consider, like the Hon. Mr. Hart, that this amendment should have been made to clause 8, I support its addition to clause 10.

The Hon. A. F. KNEEBONE: The other subclauses refer to things that are so prescribed or provided; they are tied up with other clauses. This amendment means that there is no control. An employer can provide anything he likes, whether in the opinion of experts it is safety equipment or not. Such things are safety equipment only in his opinion. The amendment states that "no-one shall remove". When the effectiveness of these things is finished, what do we do? Do we leave them? It seems to be going to extremes. This amendment is not well drafted; it has not taken into consideration the regulations.

The CHAIRMAN: I have a report from the Parliamentary Draftsman that this new subclause would be inserted before "Penalty—One hundred dollars".

The Hon. C. D. ROWE: I have just noticed that. If I move that this new subclause be inserted before those words, we can leave them where they are to cover the whole situation.

The CHAIRMAN: Other words may be required. We do not want the penalty to be stated twice. I think it will simplify matters if the honourable member asks leave to amend his amendment accordingly.

The Hon. C. D. ROWE: I ask leave to amend my amendment by striking out "Penalty—One hundred dollars".

Leave granted.

Amendment carried; clause as amended passed.

Clause 16—"Powers of inspection"—reconsidered.

The Hon. C. D. ROWE: I move:

In subclause (1) after "may" second occurring to insert "with the approval of the Chief Inspector".

This means that it will still be possible for an inspector to enter but he will have to get the approval of the Chief Inspector before he does so if he wishes to take a member of the Police Force with him. It will remove the possibility of any precipitate action by an inspector who may, on the spur of the moment, become a little excited and seek the assistance of the police. This will give him time in which to cool off.

The Hon. A. F. KNEEBONE: I have looked at this amendment, but I see difficulties in it and am concerned about it. I can imagine an inspector in, say, Whyalla, Port

Pirie or Port Augusta being on a site and getting into trouble because the employers are trying to keep him out. He starts to take notes, and someone tears them up. He has then to go away, telephone to Adelaide, get one of the Chief Inspectors, discuss the matter with him and then go back to the site. By the time he gets back, he will find that the employer has taken away those things that he (the inspector) thought would be grounds for prosecution. He may find that things have been put right.

Perhaps the difficulty has been cleared up in his absence. Some people take advantage of this sort of thing. I put the matter to the Committee because, although I was inclined to accept this amendment earlier, I appreciate now that there are difficulties about it. I have had discussions with the employers and the unions. The Department of Labour and Industry is interested in these matters. We looked at the Industrial Code, and eventually we came up with this clause.

It is all right for inspectors in factories to take along somebody: there is less likely to be trouble of this nature in a factory where open permission is given for the inspector to seek the assistance of the police than on a building site where, under the present system of labour-only contracts, there may be 200 or 300 men engaged on a big building, some of whom might do something they ought not to be doing and would be more likely to be offensive to an inspector than people working under the Industrial Code in a factory. After giving thought to the matter, I ask the Committee to reject the amendment.

Amendment carried; clause as amended passed.

Bill reported with further amendments; Committee's report adopted.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1 to 4, 6, and 9, had agreed to amendment No. 5 with an amendment, and had disagreed to amendments Nos. 7, 8, and 10 to 12.

Consideration in Committee.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry) moved:

That the House of Assembly's amendment to the Legislative Council's amendment No. 5 be agreed to.

Motion carried.

The Hon. A. F. KNEEBONE moved:

That the Legislative Council's amendment No. 7 be not insisted upon, but in lieu thereof that clause 12 of the Bill be amended by striking out the word "ten" in line 1 on page 9 and inserting in lieu thereof the word "twenty".

Motion carried.

The Hon. A. F. KNEEBONE moved:

That the Legislative Council's amendment No. 8 be not insisted upon but in lieu thereof the following amendment be made:

In clause 13 to strike out subclause (1) and insert in lieu thereof:

> (1) On and after the expiration of a period of one year from the date of the commencement of this Act, wherever work to which this Act applies is being undertaken, no employer shall cause or permit any person to perform any work which involves the lifting, lowering, moving, placing in position or dismantling of structural steel, plant, material or equipment (other than scaffolding) unless a person who holds a current certificate as a rigger is in charge of such work: Provided that this subsection shall apply only in any case where the structural steel, plant, material or equipment (other than scaffolding) concerned
>
> (*a*) exceeds 2,000 lb. in weight; or
>
> (*b*) is to be lifted, moved, placed into position or dismantled to or at a height which is more than twenty-five feet above the horizontal plane from which the load is to be moved; or
>
> (*c*) is to be lowered, moved or placed into position at a level more than fifteen feet below the horizontal plane from which the load is to be moved.

Motion carried.

The Hon. A. F. KNEEBONE moved:

That the Legislative Council's amendment No. 10 be not insisted upon.

Motion carried.

The Hon. A. F. KNEEBONE moved:

That the Legislative Council's amendment No. 11 be not insisted upon.

Motion carried.

The Hon. A. F. KNEEBONE moved:

That the Legislative Council's amendment No. 12 be insisted upon.

Motion carried.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's alternative amendments in lieu of amendments Nos. 7 and 8, and that it did not insist on its disagreement to amendment No. 12 and had amended the Bill accordingly.

PLANNING AND DEVELOPMENT BILL.

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 5, 10, 22 to 28, 30, 39, 54, 55, 57 to 64, and 66, had agreed to amendments Nos.

3, 4, and 20 with amendments, and had disagreed to amendments Nos. 1, 2, 6 to 9, 11 to 19, 21, 29, 31 to 38, 40 to 53, 56 and 65.

Consideration in Committee of the House of Assembly's amendments:

Schedule of the amendments made by the House of Assembly to Amendments Nos. 3, 4 and 20 of the Legislative Council.

Legislative Council's Amendment No. 3.
Page 10, line 11 (clause 8)—Leave out "nine" and insert "twelve".

House of Assembly's amendment thereto—
Leave out "twelve" and insert "ten".

Legislative Council's Amendment No. 4.
Page 10, line 22 (clause 8)—Leave out "five" and insert "eight".

House of Assembly's amendment thereto—
Leave out "eight" and insert "six".

Legislative Council's Amendment No. 20.
Page 13, line 19 (clause 11)—Leave out "four" and insert "six".

House of Assembly's amendment thereto—
Leave out "six" and insert "five".

Schedule of the Amendments made by the Legislative Council to which the House of Assembly had disagreed.

No. 1. Page 1, line 15 (clause 2)—After "Board" insert "and the Planning Appeal Committee".

No. 2. Page 7 (clause 5)—After line 13 insert new definition as follows:

"'the committee' means the Planning Appeal Committee constituted pursuant to section 26a of this Act."

No. 6. Page 10, line 39 (clause 8)—Leave out "and".

No. 7. Page 10, line 41 (clause 8)—Leave out "jointly".

No. 8. Page 10, line 42 (clause 8)—Leave out "bodies" and insert "body".

No. 9. Page 11, lines 1 to 3 (clause 8)—Leave out all words in these lines and insert in lieu thereof:

", and submitted by that association to the Minister;

(vi) one shall be selected by the Governor from a panel of three names chosen by the governing body of the Adelaide Chamber of Commerce Incorporated and submitted by that association to the Minister; and

(vii) one shall be selected by the Governor from a panel of three names chosen by the governing body of the Real Estate Institute of South Australia Incorporated and submitted by that association to the Minister."

No. 11. Page 11, line 35 (clause 8)—Leave out "and" and insert a comma in lieu thereof.

No. 12. Page 11, line 36 (clause 8)—After "Incorporated" insert:

"or the Real Estate Institute of South Australia Incorporated."

No. 13. Page 11, line 36 (clause 8)—Leave out "them" and insert "that association".

No. 14. Page 11, line 38 (clause 8)—Leave out "jointly".

No. 15. Page 11, line 39 (clause 8)—Leave out "jointly".

No. 16. Page 11, line 39 (clause 8)—Leave out "bodies" and insert "body".

No. 17. Page 11, line 39 (clause 8)—Leave out "those chambers" and insert "that association".

No. 18. Page 11, line 41 (clause 8)—After "(v)" insert ", (vi) or (vii)".

No. 19. Page 11, lines 41 and 42 (clause 8)—Leave out "those chambers fail" and insert "that association fails".

No. 21. Page 15, line 16—After the word "Board" in the heading to Division 3 insert the words "and the Planning Appeal Committee".

No. 29. Page 19, lines 5-26 (clause 26)—Leave out subclauses (3) and (4).

No. 31. Page 19—After clause 26 insert new clauses as follows:

26a. (1) For the purposes of this Act the Governor shall appoint a committee to be called the "Planning Appeal Committee".

(2) The committee shall consist of five members.

(3) Members of the committee shall be—

(*a*) The Minister, who shall be Chairman;

(*b*) Two members of the Legislative Council, one of whom shall be selected by those members of the Legislative Council who belong to the group led by the Leader of the Opposition in the Council;

(*c*) Two members of the House of Assembly, one of whom shall be selected by those members of the House of Assembly who belong to the group lead by the Leader of the Opposition in that House.

(4) For the purposes of this Act a member of a House of Parliament whose seat has become vacant by effluxion of time or because the House in which he sits has been dissolved or the term of that House has expired, shall be deemed to be a member of that House until his successor is appointed.

(5) Every member of the committee shall, subject to this Act, hold office for such period and on such conditions as are determined by the Governor.

(6) Any matter referred to the committee for decision shall be determined by the committee at a meeting convened by the Chairman of the committee.

(7) Any four members of the committee, of whom the Chairman of the board shall be one, shall be competent to transact any business of the committee, and shall have and may exercise and discharge all the powers, duties, functions and authorities of the committee.

(8) A decision concurred in by any three members of the committee shall be the decision of the committee.

(9) The Chairman shall preside at all meetings of the committee and at the hearing of all appeals before the committee.

26b. The Governor may by notice in writing served on a member of the committee, remove him from office on grounds of misconduct or incapacity to perform his duties or functions as a member of the committee.

26c. The office of a member of the committee shall become vacant if—

(*a*) he dies;

(*b*) he resigns by written notice given to the Minister;

(*c*) he is removed from office by the Governor pursuant to section 26b of this Act;

(*d*) he is absent without leave of the Minister from four consecutive meetings of the committee;

(*e*) he ceases to be a member of the House of Parliament by virtue of which office he was appointed to the committee.

26d. The members of the committee shall be entitled to such remuneration and such allowances for expenses in respect of each separate sitting of the committee as the Governor may determine.

26e. (1) The office of Chairman or member of the committee shall not on account of any payment received pursuant to this Act or otherwise be deemed to be an office of profit within the meaning of Section 45 of the Constitution Act, 1934-1965.

(2) The Chairman or any other member of the committee shall not by reason of holding office or on account of receiving any payment under this Act be regarded as having undertaken, executed, held, enjoyed, entered into, or accepted any contract, agreement, or commission with, under or from any person or persons for or on account of the Government of the State within the meaning of any provision of the Constitution Act, 1934-1965.

(3) The seat in any House of Parliament of a person who is the Chairman or any other member of the committee shall not be vacant nor shall his election as a member of that House be void nor shall he be incapable of or disqualified from sitting or voting as a member of that House nor shall he be liable to any forfeiture or penalty for so sitting or voting by reason only of his holding the office of the Chairman or any other member of the committee or of accepting any remuneration or allowance to which he is entitled under this Act.

26f. No act, proceeding or determination of the committee shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

26g. (1) Any person aggrieved by a determination of the board under this Act may appeal to the committee and the committee shall hear and determine such appeal and review the board's determination and may by order either confirm the determination of the board or vary or reverse the determination of the board and the Chairman of the committee shall cause a copy of its order to be served on the board and on each of the parties to the appeal.

(2) If the committee varies or reverses the determination of the board it shall by its order give to the authority, the Director, or the council against whose decision the appeal was made such direction as the committee thinks fit and the authority, the Director, or the council, as the case may be, shall, as soon as practicable after receiving notice of those directions, comply with them.

(3) The committee shall cause its order to be published in any manner it thinks fit.

No. 32. Page 19, line 29 (clause 27)—After "board" insert "or committee".

No. 33. Page 19, line 32 (clause 27)—After "board" insert "or Chairman of the committee, as the case may be,".

No. 34. Page 19, line 33 (clause 27)—After "decision" insert "or determination".

No. 35. Page 19, line 34 (clause 27)—After "board" insert "or committee".

No. 36. Page 19, line 35 (clause 27)—After "board" insert "or the committee".

No. 37. Page 19, line 39 (clause 27)—After "appeal" insert "to the board or the committee was or".

No. 38. Page 19, line 40 (clause 27)—After "board" insert "or the committee, as the case may be,".

No. 40. Page 20, line 1 (clause 27)—After "board" insert "or the committee, as the case may be,".

No. 41. Page 20 (clause 27)—After subclause (7) insert new subclause as follows:

"(7*a*) In any determination which is the subject matter of an appeal to the committee all avidence taken before the board and all books or documents produced to the board shall be forwarded by the Secretary of the board to the Chairman of the committee."

No. 42. Page 20, line 40 (clause 27)—After "board" insert "or the committee".

No. 43. Page 21, line 5 (clause 28)—Leave out "proclamation", and insert "regulation".

No. 44. Page 21, line 7 (clause 28)—Leave out "proclamation" and insert "regulation".

No. 45. Page 21, line 9 (clause 28)—Leave out "proclamation" and insert "regulation".

No. 46. Page 21, line 10 (clause 28)—Leave out "proclamation" and insert "regulation".

No. 47. Page 21, line 11 (clause 28)—Leave out "Upon the publication of the proclamation in the *Gazette*" and insert "On the day on which the regulation takes effect as provided in this section".

No. 48. Page 21, line 12 (clause 28)—Leave out "the proclamation" and insert "that regulation".

No. 49. Page 21, line 16 (clause 28)—Leave out "proclamation" and insert "regulation".

No. 50. Page 21, line 22 (clause 28)—Leave out "on the publication of the proclamation in the *Gazette*" and insert "on the day on which the regulation takes effect as provided in this section,".

No. 51. Page 21 (clause 28)—After subclause (4) insert new subclauses as follows:

"(4*a*) every regulation made under this section shall be—

(*a*) published in the *Gazette*;
and

(*b*) laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

(4*b*) If no notice of a motion to disallow a regulation made under this section is given in either House of Parliament within fourteen sitting days after the regulation was laid before that House of Parliament, the regulation shall take effect on the day following the fourteenth sitting day after it was so laid before that House or the fourteenth sitting day after it was laid before the other House, whichever occurs later, but if any notice of motion to disallow the regulation has been so given in either House or both Houses of Parliament, the regulation shall come into effect only if and when that motion or those motions is or are negatived."

No. 52. Page 26, line 23 (clause 35)—After "thereof" insert:

"; but, if the area of a council or any part thereof lies within the planning area, the authority shall not prepare a supplementary development plan affecting any part of the area of the council—

(*a*) unless the council has requested the authority to do so;
or

(*b*) unless the council has failed or refused to prepare and submit to the Minister within twelve months after being requested to do so by the authority, a supplementary development plan relating to the area or part of the area of the council that lies within the planning area;
or

(*c*) unless a supplementary development plan of the area or part of the area of the council that lies within the planning area prepared by the council has been returned to the council by the Minister under this section."

No. 53. Page 27, Lines 15 to 28 (clause 35)—Leave out subclause (6) and insert new subclause as follows:

"(6) If the authority reports to the Minister that in its opinion the supplementary development plan is consistent with, or is a suitable variation of, the authorized development plan, the supplementary development plan shall be deemed to be a supplementary development plan prepared by the authority and duly submitted to the Minister in accordance with section 31 of this Act and the provisions of sections 32 to 34 (both inclusive) of this Act shall apply and have effect in relation thereto accordingly; but if the authority reports to the Minister that in its opinion the supplementary development plan is not consistent with, or is not a suitable variation of, the authorized development plan, the authority shall furnish the Minister with its reasons for such opinion, and the Minister shall either—

(*a*) inform the council accordingly and return the plan to the council;
or

(*b*) treat it as a supplementary development plan prepared and duly submitted to the Minister by the authority in accordance with section 31 of this Act and the provisions of sections 32 to 34 (both inclusive) of this Act shall apply and have effect in relation thereto accordingly."

No. 56. Page 47, lines 37 to 41 (clause 52)—Leave out—

"(iii) the amount of land in the vicinity of the land depicted thereon which is already divided into allotments and the extent to which such allotments have not been used for the purposes for which they were so divided;".

No. 65. Page 56 (clause 63)—After subclause (4) insert new subclause as follows:

"(4a) Notwithstanding anything contained in this section:

(*a*) the authority shall not subdivide or re-subdivide any land acquired or taken by it under powers conferred on it by this section unless such land, at the time of such acquisition or taking, was used for residential purposes or purposes associated therewith and except for the purpose of redeveloping it or rebuilding on it, or rendering it suitable for redevelopment or rebuilding on it, for residential use or other use associated therewith;
and

(*b*) the authority shall not sell any land so subdivided or re-subdivided except for residential use or other use associated therewith or for the purposes of being redeveloped or rendered suitable for such use."

The Hon. S. C. BEVAN (Minister of Local Government) moved:

That the amendments made by the House of Assembly to the Legislative Council's amendments Nos. 3, 4 and 20 be agreed to.

The Hon. C. M. HILL: I intend to vote against this motion, which I shall term motion No. 1. To support my contention that this motion should be not carried, I also indicate that I intend to move an alternative motion, which I shall term alternative motion No. 1. For the purposes of explanation, I indicate

that my motion will read "That the Council insist upon its amendments Nos. 3, 4, 6 to 9, 11 to 20, and 53," and I give notice to this effect.

As further explanation, I indicate that by proposing to move this alternative motion I am in effect yielding to the Government on three major issues to which I spoke very strongly at earlier stages. I still support the point (I supported it strongly earlier) that the authority should be widened in the manner I indicated earlier. I also indicated that I supported the increase in the number necessary for a quorum.

Amendment No. 53, to which I have just referred deals with the position in which a council may in certain special circumstances have its own plan approved by the Minister without the full consent of the authority. Because I intend to move this alternative motion, and because I have further motions to move after that, I ask the Committee to support me in voting against this first motion moved by the Minister.

Motion negatived.

The Hon. S. C. BEVAN moved:

That the Council do not insist on amendments Nos. 1, 2, 6, 9, 11, 19, 21, 29, 31, 38, 40, 53, 56, and 65.

The CHAIRMAN: I think the Minister means amendments 6 to 9, 11 to 19, 31 to 38, and 40 to 53. Is that so?

The Hon. F. J. POTTER: On a point of order, Mr. Chairman, I think the Hon. Mr. Hill by his circulated notice and by his speech has given notice that he intends to move an alternative to the Minister's motion No. 1 which has just been defeated. I suggest that he be given the opportunity to do this before the Minister moves a further motion.

The CHAIRMAN: Is the Minister prepared to temporarily withdraw his motion to allow the Hon. Mr. Hill to move his motion?

The Hon. S. C. BEVAN: Yes, Mr. Chairman; I ask leave to withdraw my motion.

Leave granted; motion withdrawn.

The Hon. C. M. HILL: I move:

That the Council insist on its amendments Nos. 3, 4, 6 to 9, 11 to 20, and 53.

This is what I described earlier as my alternative motion No. 1. As I have just pointed out, the moving of these amendments entails first the aspect of the authority. It deals with the size of the authority. Members will recall that the Council previously thought that in the best interests of the State the authority should be increased to such a number to include not only that representative that the Minister himself wanted included (and we indicated our willingness to include this member, namely, a representative of the Minister of Transport) but also three people representing private enterprise in lieu of one party which the Government had previously included in the Bill. That includes the amendments Nos. 3, 4, 6 to 9, and 11. Amendment No. 20 deals with quorums.

If we are to have an authority of 12 members, I think it is reasonable that the quorum should be six because that is half the number of members of the authority. Amendment No. 53 deals with another rather small point. I do not think that it will often come into actuality. However, it may well be that a country council might have some small aspect of its plan that it wants to insist upon, and then subject to the Minister's consent—and I emphasize that point—

The Hon. S. C. Bevan: Are you going to debate the clause?

The Hon. C. M. HILL: I thought I was giving an explanation but if the Minister knows all about it I shall not take up his time or the Committee's time. Amendment No. 53 covers the point that in some circumstances a council could have its plan subject to the Minister's consent without complete approval from the authority. I move my motion accordingly.

The Hon. R. C. DeGARIS: I move as an amendment to the motion:

At the end of the alternative motion to add "and 65".

My amendment would mean that the Council insists on its amendments Nos. 3, 4, 6 to 9, 11, 20, 53 and 65.

Amendment carried; motion as amended carried.

The Hon. S. C. BEVAN: I move the motion I earlier withdrew temporarily.

The Hon. C. M. HILL: I move as an amendment to the motion just moved by the Minister:

To delete from motion No. 2 "1, 2, 6 to 9, 11 to 19, 21, 29, 31 to 38, 40 to 53," and insert in lieu thereof "43 to 51".

The motion moved by the Minister was that the Council does not insist upon certain amendments. My motion reduces the coverage of the amendments that the Council does not insist upon. In view of the fact that the Committee just carried a motion regarding amendment No. 65, as I interpret the question (and I must admit that it is not easy to interpret), I am suggesting that the Council does not insist upon two major proposals that previously the Council had insisted upon.

I hope that this is interpreted by the Government as a gesture by this Council and that the Council is prepared to yield on these two points. One of the points deals with amendment No. 56 relating to subdivisions which I moved at an earlier stage. Members will recall that this dealt with the question of the Director having the opportunity to refuse a subdivision because in his opinion sufficient land in the vicinity of the proposed subdivision was already unbuilt upon and available for building; I am quite prepared to yield on that point and my amendment is worded accordingly.

The second point is one upon which there has been considerable public controversy in the last few days. I am speaking as an individual (because I did not move this amendment originally), and I am quite prepared to yield on the point that a proclamation be made rather than a regulation regarding development plans. Members will realize that this deals only with country areas because there will be no initial areas to be proclaimed in the metropolitan area because it will already have been covered by the 1962 plan once this Bill is proclaimed. My purpose therefore is to submit to the Committee that on these two questions (upon which I had felt very strongly previously and upon which there has been much discussion in the last two days) in the interests of town planning generally I am prepared to yield.

The Hon. R. C. DeGARIS: In view of the motion previously carried to add ''and 65'', I ask the Hon. Mr. Hill if he will include that in his amendment.

The CHAIRMAN: I do not think it is necessary. It has already been debated. I am checking at the moment amendments Nos. 40 and 53 on which we have already voted. It is very complicated and I am trying to follow it.

The Hon. Sir ARTHUR RYMILL: The motion that you, Sir, have accepted from the Minister includes ''and 65''. I think it will have to be deleted either by your order or by an amendment.

The CHAIRMAN: It also includes amendment No. 53 which has been voted on. I understand that the Minister wanted to include certain figures.

The Hon. S. C. BEVAN: I ask leave to delete amendments Nos. 53 and 65 from my motion. They have already been voted on.

The CHAIRMAN: And to insert ''52'' in place of ''53''?

The Hon. S. C. BEVAN: Yes.

The Hon. F. J. POTTER: On a point of order, Mr. Chairman, I think we are getting confused. Originally the Minister moved the amendment shown on the file as No. 2 and no vote has been taken on that motion. The Hon. Mr. Hill has moved an amendment to that motion. In view of the fact that the Council has added ''65'' to the original motion moved by the Hon. Mr. Hill as an alternative to No. 1, all that is necessary to put the matter in order is for somebody to move that ''65'' be now added to the Hon. Mr. Hill's motion No. 2 or, as the Hon. Mr. DeGaris has suggested, for the Hon. Mr. Hill to include ''65'' in his motion. The Hon. Mr. Hill may very well indicate that he is prepared to do that. If he does, that will solve the problem. It is merely a matter of adding ''65'' to motion No. 2.

The Hon. C. M. HILL: In view of the motion that has been carried, I am prepared to add amendment No. 65 to my amendment, and I do so accordingly. Amendment No. 65 should follow No. 53 in my amendment.

The CHAIRMAN: I point out to the Committee that it has already decided the first amendment moved by the Hon. Mr. Hill, which was that the Council insist on its amendments Nos. 3, 4, 6 to 9, 11 to 20, 53 and 65. I put to the Minister that his amendment, because Nos. 53 and 65 have been voted on, could be amended by changing No. 53 to 52. His amendment will deal with Nos. 40 to 52 and the omission of No. 65, and he has sought leave to do that. I hope everyone has that clear, because there seems to be some misunderstanding. It has been perfectly clear to the Chair but apparently not to the Committee. Are we clear that it will be Nos. 40 to 52, and that No. 65 does not appear because it has already been voted on?

The Hon. F. J. POTTER: I agree respectfully that this is an alternative and perhaps the best way of doing it.

The CHAIRMAN: Perhaps we shall not get off the rails if we follow the Chair. In that way we might get decisions. At present, the Hon. Mr. Hill is moving to leave out the figures 1, 2, 6 to 9, 11 to 19, 21, 29, 31 to 38, and 40 to 53. If the last figure be altered to ''52'', which I think the honourable member himself has mentioned—

The Hon. F. J. POTTER: On a further point of order, this is on the assumption that the Minister is prepared to amend his motion.

The CHAIRMAN: He has asked leave to do so. We shall get clear about that. Is leave granted?

Leave granted.

The CHAIRMAN: Now we have the amendment by the Hon. Mr. Hill.

The Hon. S. C. BEVAN: I oppose the Hon. Mr. Hill's amendment. I was pleased that he told the Committee that he had agreed to accept two amendments made by the other place. Apparently, the Committee is going to insist on everything else. I think it was gracious of the honourable member to do that! I submit that every honourable member knows the position that has arisen. I have had many telephone calls and letters of protest in regard to the actions of this Council and the annihilation of the Bill that has gone on. Honourable members have copies of some of the letters that I have received: if they have not, the writers of the letters misled me, because I was told that copies had been sent to the other members of the Council.

Everyone is protesting against the amendments to the Bill, because they have made the Bill absolutely useless, and honourable members are well aware of that. I am going to be brutally frank and say that the members of this Council are being used for the purpose of preventing the Government from giving effect to its legislative programme. I make no apologies for saying that. Authoritative bodies have protested to honourable members and public meetings have been held. I know that some honourable members here were in attendance at the meetings and attempted strenuously to defend their actions and to justify themselves. So much was that so that one honourable member said, "Of course, the Bill is not deadlocked yet." If the Bill is not deadlocked I do not know what is, unless there is a quick change of face in this Chamber and the amendments are not insisted upon.

The Australian Planning Institute has strenuously opposed the provisions, and no-one can say that the institute does not know what it is talking about or what it wants to do. The letter from the institute is very caustic about the action that has been taken in the Council. In another letter, the Royal Australian Institute of Architects openly stated that it agreed with all the contentions by the Australian Planning Institute. I also have a letter from the Municipal Association very seriously criticizing this Council for the amendments which it made to the Bill and which hamstring local government in relation to town planning.

I say frankly that responsibility for the action that has been taken rests with members of the Council, not with the Government. If this Bill is defeated because of insistence on amendments, the Government of this State is not going to take the responsibility. I will do everything in my power to notify everybody, under the circumstances, of what has happened and who is to blame in connection with this Bill.

The Hon. C. D. Rowe: Does the Minister mean that he is going to the country? That would be a good idea.

The Hon. S. C. BEVAN: I know this much: if a referendum were held now for the abolition of this Council it would be overwhelmingly carried.

The Hon. C. M. Hill: Why don't you give it a try?

The Hon. A. J. Shard: Look out we don't!

The Hon. C. M. Hill: We would get the same result as in New South Wales.

The CHAIRMAN: Order!

The Hon. S. C. BEVAN: Never mind about New South Wales!

The CHAIRMAN: Order! I ask honourable members to observe order. The Hon. the Minister has the floor. The Minister of Local Government!

The Hon. S. C. BEVAN: Thank you, Mr. Chairman. We feel strongly on this Bill. It has been introduced by the Government after much investigation for the purpose of getting on with orderly planning. What has been done in amending the Bill has effectively stopped anybody from getting on with proper planning. It is not much good my appealing to honourable members, but I am going to appeal to them to be reasonable in considering this Bill and forget about politics because one side has more members in this Council than the other. All honourable members should be prepared to examine the effect of planning in this State generally, and that is the concern of this Government. I hope that out of this mess we shall get orderly town planning in this State.

The Hon. R. C. DeGARIS: I am rather sorry that the Minister at this stage has decided to go into an outburst of rage on this Bill, because so far he has handled it very effectively. Statements have been made that the amendments made by this Council will make the Bill completely unworkable and that planning will be impossible. I refute that statement absolutely, for that is not so in any way whatsoever.

The Minister said that a number of people and organizations had sent him telegrams and written him letters. It is true that other honourable members have received similar letters. I have taken the opportunity of telephoning those people who have written letters and I have spoken to them. I found that most of them had an incorrect idea of how Parliament works and of what the amendments do. Indeed, each person I have spoken to has thanked me for my interest and assured me that on many of the points raised in our amendments they can see much that should be considered by the Government.

The Hon. D. H. L. Banfield: They did not send out any letters notifying the Government that they had changed their minds.

The Hon. R. C. DeGARIS: The honourable member must give them some time, surely! In the last letter I received yesterday the Municipal Association agreed in no way with the attitude of the Government on the question of appeals. I also had an approach from the Local Government Association (which told me I could make it public) that on one amendment about which the Minister is complaining we have the wholehearted support of the association. I have the authority of that association to make that statement, if necessary. I did not intend doing so, but it is one indication that many people are interested in the outcome of this Bill. Do not forget, also, that every honourable member in this Chamber on our side supported town planning and having effective legislation on our Statute Book.

The Minister said that we were playing politics with this Bill. I refute that statement also, and I do so to show that in this Council we have been perfectly honest in our approach to this legislation. I think it can be said that in some of our amendments we are not completely happy, and that is something that has been worrying us. If we had wanted to play politics with this Bill, one matter would have been considered seriously. I refer to the matter of adequate compensation.

The Hon. C. M. Hill: And we were pressed to introduce it!

The Hon. R. C. DeGARIS: If we wanted to play politics, this was the very question where practically every person in this State would have been completely on our side. I say clearly to the Minister and to the Government that there is no intention to defeat this legislation, no intention to make it unworkable, and there has never been any intention to play politics. We agree that the people of South Australia are looking for town planning, and this has been developing for 12 years. We think this is a good Bill, but one or two matters are worrying us. The only way to deal with them is in this Council.

Amendment carried.

The Hon. C. M. HILL moved:

That the Council do not insist upon amendments Nos. 1, 2, 21 and 29.

The CHAIRMAN: The Committee has not dealt with amendments Nos. 43 to 51. It is desirable that the honourable member move to this effect. We have not dealt with the insertion of Nos. 43 to 51.

The Hon. C. M. HILL moved:
To insert ''43 to 51''.

Motion carried.

The Hon. C. M. HILL: I now move motion No. 3. This is another gesture towards the Government in an endeavour to induce effective planning in this State. The procedure so far has had the effect of giving way on two aspects that I had pressed strongly previously. Now I come to this third point, which concerns appeals. The motion retains the principle, (and here I submit I am speaking of a deep-rooted principle), of appeals. I have in mind a person of small means who might be an appellant and who considers that he had not been treated fairly by the board to be appointed under the Bill. Previously it had been suggested that this appeal should be made to a Parliamentary committee. The Minister had disagreed strongly to this procedure and he supported his case ably by quoting from learned judges.

I think he said, too, that the Law Society did not favour the machinery that had been proposed in this Chamber and had been approved previously. So, in this conciliatory mood but still retaining this principle of the small man having the right to have his case heard further, I submit my amendment, which takes out of the measure the machinery of the Parliamentary appeal committee and inserts in lieu thereof the machinery of an appeal to the Supreme Court on all points.

Honourable members will recall that previously the Government had written into the Bill that an appeal could be made to the Supreme Court on matters of law, and on matters of law only. That left this unfortunate position, that someone who did not consider the judgment given by the appeal board was fair to him did not have the right of any appeal at all other than to the Supreme Court on points of law. I am told by my

learned friend alongside me that there is very little law involved: it becomes a matter of fact, of opinion, of judgment.

I will not give way on this need for the little man to have a further right of appeal but, in view of what the Minister has said and of representations made to me in the last few days by people who are well informed on town planning, I am prepared to alter the clause so that we dispense with this Parliamentary committee as a committee of appeal, but in lieu thereof my amendment provides that all matters can be referred to the Supreme Court.

If the Government wishes to co-operate to see whether this Bill can be got off the ground, it will look at my amendment favourably, because the principle involved is deep-rooted: that the individual must have a further right of appeal past the one appeal body provided for by this Bill.

The CHAIRMAN: Before putting motion No. 3 to the Committee, I wish to make a procedural correction. I omitted to put to the Committee motion No. 2. I now put the question that motion No. 2 be agreed to.

Motion No. 2 carried.

The Hon. S. C. BEVAN: I oppose motion No. 3.

The Hon. Sir Arthur Rymill: This motion is that we do not insist on certain amendments. Do you want us to insist on these other amendments?

The Hon. S. C. BEVAN: I am opposing the motion the Hon. Mr. Hill has moved. He speaks of the protection of the little man who does not have much money, but I am wondering how the poor people of whom the honourable member is supposed to be the champion would have sufficient finance to take an appeal to the Supreme Court.

The Hon. R. C. DeGaris: Aren't you going to fiddle that for us?

The Hon. S. C. BEVAN: The Hon. Mr. DeGaris has done enough fiddling without there being any more.

The Hon. C. M. Hill: Is the Minister in favour of the Parliamentary appeal committee?

The Hon. S. C. BEVAN: We have before us a proposal to insert new clause 26a dealing with a planning appeal committee.

Therefore, it is a double issue, because the Bill itself provides for an appeal committee. The Hon. Mr. Hill is suggesting that the Parliamentary appeal committee should go by the board altogether and that we make the Supreme Court a common appeal authority. This is something new to me. I consider that the only people who would have the money to take a case to the Supreme Court would be people in business in a big way, such as estate agents and the like. We have an authority set up as an appeal authority, yet for some reason or other we are to have another one.

The Hon. Sir Arthur Rymill: But you had part of that in your own Bill; you provided for an appeal to the Supreme Court on matters of law.

The Hon. S. C. BEVAN: I thank Sir Arthur Rymill for bringing me to that point, which I intended to deal with. This provision was inserted in another place by the Government in the first instance at the request of the Law Society of South Australia and the Chamber of Manufactures. Representations were also made by the Hon. Mr. Brookman for that particular clause, dealing with appeals on points of law, to be inserted. The present amendment now turns this appeal provision into an ordinary appeal on anything in relation to town planning. Any aggrieved person can appeal to the Supreme Court under this provision.

The point I make is that the honourable member claims to be the champion of the small man, yet the small man has little capital and certainly not enough to launch an appeal to the Supreme Court. Therefore, the honourable member is sacrificing the very people he is supposed to be championing. I strenuously oppose the provision making the Supreme Court the ordinary appeal authority. I submit that the people who will benefit are the only ones the Hon. Mr. Hill is concerned about.

The Hon. R. C. DeGaris: Aren't you defeating your own argument on this question of an appeal to the Supreme Court?

The Hon. S. C. BEVAN: No; originally the Bill provided for an appeal on a point of law. Provision was made for the Minister in charge of the Bill to be the Chairman of the planning appeal committee. This was modified in the House of Assembly, and now we are asked to vote that out altogether. I hope the Committee does not agree to the motion.

The Hon. C. M. HILL: I just want to say that one certainly cannot win in this matter. The Minister speaks as though the matter of expense and resources was the question in regard to an appeal. The previous proposal was for a Parliamentary appeal committee, and we hoped that by that machinery the little man (if I might describe him as that) could well appeal to this committee at very small expense.

We pressed that point, but it seemed that it was not acceptable, so we are trying here an alternative. As the Minister says, this is going to cost the little man money. We are trying to co-operate on this matter and to come to terms with the Government, I repeat, to get this planning measure off the ground, but we do not seem to receive any co-operation at all.

The Hon. G. J. GILFILLAN: The Minister based his argument completely on the matter of cost, and he rather condemned the proposal on the ground that it would not give relief to the small man. Only a short time ago I made inquiries about this matter from a prominent member of the legal profession who has handled much of this type of work in the Eastern States where town planning operates, and he told me that the main cost involved was on appeal to the board. In his opinion, based on his experience of a number of cases, the costs of an appeal to the board were often higher than the costs of an appeal to the Supreme Court.

The Committee divided on the motion:

Ayes (13).—The Hons. Jessie Cooper, M. B. Dawkins, L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, and A. M. Whyte.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan (teller), A. F. Kneebone, and A. J. Shard.

Majority of 9 for the Ayes.

Motion No. 3 thus carried.

The Hon. C. M. HILL: I move:

That the Legislative Council's amendment No. 52 be amended by striking out "twelve" in paragraph (*b*) and inserting "six".

The purpose here again, Mr. Chairman, is to try to meet the Government and to receive the Government's co-operation so that town planning can become effective in South Australia. Members will recall that previously the amendment stated that a council should have 12 months in which to prepare a plan either on its own or in consultation with the central authority.

However, as a result of some very sincere representations made to us it appears that the 12-month period might be too long and it might cause delays in bringing the metropolitan plan up to date, so this amendment reduces the 12-month period to six months. I still stress that it retains the principle (and in town planning I maintain that it is a very important principle) that it is essential for local councils to liaise closely with the central authority: neither can work on its own behalf, nor should it.

Local councils must accept responsibility and must keep in close touch with the central authority. If they do this initially, those people who are going to be hurt by town planning (and everyone admits that someone is going to be hurt) will at least know their problems in the initial stage and will be able to argue and discuss these problems at the very grass roots of the machinery stage.

In case the 12-month period is a little unfair and might delay the Director or the authority in getting metropolitan area planning off the ground, I am now moving that a reduction be made to six months. I know that the Metropolitan Adelaide Transportation Study is not yet finalized and I understand that it will be 12 months before it is made public.

While this general transportation grid is being worked out there will be a long period and, consequently, I do not think that a six-month period will delay modern town planning in the metropolitan area. I have not taken out of the measure the principle that the authority shall prepare supplementary plans.

The Hon. S. C. BEVAN: I oppose this amendment. The only alteration to the original amendment is the reduction of the 12-month period to six months. I previously opposed the amendment because the town planning authority has already declared a planning area for the metropolitan area. It is only necessary for one council to refuse to go on with the plan in order for the whole thing to be held up. Exactly the same thing would happen under this amendment for six months instead of for 12 months. This greatly affects the work of the authority and of municipal councils which have already spent much money and thought in drawing up plans. They are anxious to go forward but they will not be able to do so immediately under this amendment if within the proclaimed area the council is the authority that says "Yes" or "No" instead of the town planning authority. Amendment No. 52 states:

But, if the area of a council or any part thereof lies within the planning area, the Authority shall not prepare a supplementary development plan affecting any part of the area of the council.

If there is only part of the area of a council in the planning area, if that council does not move within six months then the Minister can make the decision. Why the Minister? We

have an authority containing people who are experts in this matter. Why has not the authority the right?

The Hon. C. M. Hill: It is the authority that has the right, not the Minister.

The Hon. S. C. BEVAN: It comes back to the Minister and from the Minister it must be returned to the council. But we have an authority established under the Bill to do this very thing. The only difference now is that the honourable member is compromising by saying, "I won't insist on 12 months because that could hold the whole thing up a little too long; I will break it down to six months." For six months the authority will be unable to do anything if one council does not come to the party. After that somebody else can make a move, but not the authority. I hope the Committee rejects the whole of the amendment and leaves the authority with the right to go ahead with its plan.

Motion carried.

The PRESIDENT: I have to report that the Committee has resolved:

1. To disagree to the amendments made to the Council's amendments Nos. 3, 4, and 20.
2. To insist on its amendments Nos. 3, 4, 6 to 9, 11 to 20, 53 and 65.
3. Not to insist on amendments Nos. 43 to 51, and 56.
4. Not to insist on amendments Nos. 1, 2, 21, 29, 31 to 38, 40 to 42, but it has made certain alternative amendments thereto.
5. To amend No. 52.

Committee's report adopted.

The Hon. S. C. BEVAN (Minister of Local Government) brought up the reasons for disagreeing to the House of Assembly's amendments to the Legislative Council's amendments Nos. 3, 4, and 20. The reasons were:

The amendments of the House of Assembly do not provide for sufficiently wide representation on the authority.

Later:

The House of Assembly requested a conference at which it would be represented by five managers on its amendments to which the Legislative Council had disagreed.

The Legislative Council granted a conference to be held in the Legislative Council conference room at 2.15 a.m. at which the Legislative Council would be represented by the Hons. S. C. Bevan, C. M. Hill, F. J. Potter, C. D. Rowe, and A. J. Shard.

At 2.18 a.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 12.20 p.m. The recommendations were:

As to amendments Nos. 1, 2, 21, 29, 31 to 38 and 40 to 42:

That the Legislative Council do not insist on its alternative amendments to amendments Nos. 1, 2, 21, 29, 31 to 38 and 40 to 42, but make the following amendments in lieu of those amendments and alternative amendments:

Page 19, line 9 (clause 26)—Leave out "which in the opinion of the court involves a question of law,"

Page 19, line 12 (clause 26)—Leave out "issue to the board" and insert "make such order and give to the board and any party to the appeal"

Page 19, lines 14 to 16 (clause 26)—Leave out "shall confirm or vary its determination in accordance with those directions" and insert "and the party to whom such directions are given shall be bound thereby and give effect thereto"

Page 19 (clause 26)—After subclause (3) insert the following subclause:

"(3a) An order or direction made or given by the Supreme Court under subsection (3) of this section is final and without appeal."

Page 19, lines 20 to 21 (clause 26)—Leave out "board has confirmed or varied its determination in accordance with the court's directions" and insert "court has made its order thereon".

Page 19, line 25 (clause 26)—Leave out "as so confirmed or varied" and insert "and the order of the court affecting the determination".

And that the House of Assembly agree thereto.

As to amendments Nos. 3, 4, 6 to 9 and 11 to 20:

That the House of Assembly do not further insist on its amendments to Legislative Council amendments Nos. 3, 4 and 20, that the House of Assembly do not further disagree to amendments Nos. 6 and 20, that the Legislative Council do not further insist on its amendments Nos. 3, 4, 7 to 9 and 11 to 19, but make the following amendments in lieu thereof:

Page 10, line 11 (clause 8)—Leave out "nine" and insert "eleven".

Page 10, line 22 (clause 8)—Leave out "five" and insert "seven".

Page 10, lines 40 to 43 and
Page 11, lines 1 to 3 (clause 8)—Leave out subparagraph (v) and insert:

"(v) one shall be selected by the Governor from a panel of three names chosen by the governing body of the South Australian Chamber of Manufactures Incorporated, and submitted by that association to the Minister;
and
(vi) one shall be selected by the Governor from a panel of three names chosen by the governing body of the Real Estate Institute of South Australia Incorporated and submitted by that association to the Minister".

Page 11, line 23 (clause 8)—Leave out "or" and insert a comma.

Page 11, line 24 (clause 8)—After "Incorporated" insert:

"", the South Australian Chamber of Manufactures Incorporated or the Real Estate Institute of South Australia Incorporated".

Page 11, line 29 (clause 8)—Leave out "or (iv)" and insert ", (iv), (v) or (vi)".

Page 11, lines 34 to 45 (clause 8)—Leave out subclause (9).

And that the House of Assembly agree thereto.

As to amendment No. 52:

That the House of Assembly do not further disagree to the amendment made by the Legislative Council to its amendment No. 52, that the Legislative Council do not further insist on its amendment No. 52 but makes the following amendments in lieu thereof:

Page 26, line 23 (clause 35)—After "thereof" insert—

"; but, if the area of a council or any part thereof lies within a planning area that lies outside the Metropolitan Planning Area, the authority shall not prepare a supplementary development plan affecting any part of the area of the council—

(*a*) unless the council has requested the authority to do so;

or

(*b*) unless the council has failed or refused to prepare and submit to the Minister within six months after being requested to do so by the authority, a supplementary development plan relating to the area or part of the area of the council that lies within the planning area;

or

(*c*) unless a supplementary development plan of the area or part of the area of the council that lies within the planning area prepared by the council has been returned to the council by the Minister under this section."

And that the House of Assembly agree thereto.

As to amendment No. 53:

That the Legislative Council do further insist on its amendment No. 53 and the House of Assembly do not further insist on its disagreement thereto.

As to amendment No. 65:

That the Legislative Council do not further insist on its amendment No. 65, but amend its amendment to read as follows:

Page 56 (clause 63)—After subclause (4) insert new subclause as follows:

"(4a) Notwithstanding anything contained in this section—

(*a*) the authority shall not subdivide or resubdivide any land acquired or taken by it under powers conferred on it by this section except for the purpose of redeveloping it or rebuilding on it, or rendering it suitable for redevelopment or rebuilding on it;

and

(*b*) the authority shall not sell any land so subdivided or resubdivided except for carrying into effect the purposes of an authorized development plan.

And that the House of Assembly agree thereto.

Consideration in Committee.

The Hon. S. C. BEVAN (Minister of Local Government): I move:

That the recommendations of the conference be agreed to.

As all honourable members are aware, the conference was a lengthy one, lasting over four hours. The managers gave full consideration to amendments as proposed by both sides. I am sure that the managers of this Chamber upheld the prestige of the Council and endeavoured as far as possible to insist on the amendments carried here. The spirit of co-operation at the conference was such that the managers were able to reach an agreement which, although it may not have given each side exactly what it desired, was finally achieved by compromise. I feel that in the final analysis the managers were satisfied with the results. I do not want to elaborate on the recommendations: it is hard to follow the details of these alterations at such short notice.

The Hon. C. D. ROWE: I want to endorse the Minister's remarks about the effective way in which the managers went about the business of trying to resolve the difficulties that had arisen between this Chamber and another place with regard to this Bill. When we see the result achieved, we can say that we have dispelled for all time any opinion people may have held that this Chamber was opposed to the principle of town planning and the purposes of this Bill. I say that because, if our view had been different, we might easily not have spent the time and gone to the pains we did, at a somewhat inconvenient hour for most of us, to endeavour to get this Bill into a workable form. The net result is that this Bill (as, indeed, is the case with many other Bills that we have taken the precaution of looking at carefully and scrutinizing severely) not only enhances the credit and prestige of this Chamber and justifies its existence and its approach to these problems but also, in my opinion, has conferred great benefits on the people of this State.

The Hon. C. R. Story: Do you think some of the critics may now withdraw their opposition to the Legislative Council?

The Hon. C. D. ROWE: I do not know what they will do; unfortunately, I am not responsible for their consciences. We approached this problem in the correct way. I congratulate the other managers at this conference on the co-operative and successful part they played. I do not doubt that other managers

who were at the conference will want to say a few words. Consequently, I will not cover the whole ground, but there is one amendment to which I should refer and of which I shall explain the effect to the Chamber. I will leave the other amendments to other honourable members.

One effective object we achieved was the provision for an appeal from the appeal board to a judge of the Supreme Court of South Australia. That appeal will not be limited to questions of law, as was the proposal in the Bill as drafted on a prior occasion. It will enable the judges of the Supreme Court to look into questions of law and of fact. That is a desirable safety valve in matters of this kind where the rights of individuals are liable to be seriously affected.

In saying that, I am in no way derogating from the respect I have for the appeal board and its calibre, and its ability to do this job properly, but I believe that, because there is an avenue of appeal from that board, it will be a little more cautious, at least in the early stages of this legislation, in making its decisions; and it will take the extra precaution needed to ensure that it does not do an injustice to a member of the community affected by this Bill. I express my own view that I do not expect there will be many appeals to the Supreme Court. Nevertheless, the provision is there. The opportunity is there when it is felt that some injustice has been done. As times goes on, the wisdom of this Chamber in insisting on that amendment will become more apparent.

My only other point is that, whereas this Chamber had originally suggested that the number of members of the authority should be 12, we agreed at the conference that it should be reduced to 11. I do not think that will unduly interfere with the effectiveness of the authority. All I can say is that this has been a most difficult Bill. It is cutting much new ground and can have serious repercussions on the rights of individuals. This Chamber has gone to great lengths to get this Bill into a form in which we believe it will work, and work effectively. I sincerely hope that time will justify the four or five hours we spent working heavily and seriously in an effort to make this legislation something in respect of which future generations will say, "You were entitled to be proud."

The Hon. F. J. POTTER: As one of the managers at the conference, I am pleased with the result achieved. I stress that this shows the importance and value of the conference procedure under our Standing Orders between the Houses. Too many opinions were expressed by members of the public and members of various bodies about what this Chamber was going to do about this Bill. Many opinions were expressed purely on hearsay by people who did not really appreciate the workings of Parliament and how this conference procedure between the two Houses is designed for the very purpose of enabling the managers from each House to confer. In this case, of course, we know they conferred for a long time and worked hard on the Bill. It was recognized by the managers on both sides, and particularly those from another place, that the Legislative Council's points on this Bill had real substance and merit. The proof of the pudding is in the eating: there is no question that most of the matters raised by this Chamber and carried to the conference by the managers were satisfactorily resolved, from our point of view. This will justify the tremendous amount of work put in solidly over a long period of time on this Bill before we went to the conference.

The Hon. C. M. HILL: I, too, am satisfied and pleased with the result of the conference. I will explain briefly the further changes other than the two that have already been explained by the Hon. Mr. Rowe.

In addition to the questions of appeal and the size of the authority, a third matter deals with councils which, I had originally hoped, might have been given the right to take the initiative in these matters; but I did not pursue that point strongly in the end as far as the metropolitan area was concerned. Opposition was expressed to it. I felt that the Municipal Association, and especially its President, were not very interested in this aspect of the matter, so the change has been made only in respect of country councils.

The fourth point is that a council will have the opportunity to submit its own plan directly to the Minister and, although the Minister will call for a report about the plan, he may approve of it even though the authority does not approve of it in every respect.

The fifth matter dealt with restricting the authority to redevelopment. Here a change has been introduced but the principle has been retained, because the authority will not be able to buy and sell property or compulsorily acquire property to the extent that I thought and feared might have been the case. The manner in which the authority will be able to redevelop, resubdivide and rebuild and also the extent to which the authority will be able

to sell land are restricted and limited in such a way that the authority must act in accordance with the actual intent of the Act.

The Hon. R. C. DeGARIS (Leader of the Opposition): I compliment the managers of this Chamber on what has been achieved. I support the Hon. Mr. Rowe's view that the result of the conference must dispel all the fears expressed by many organizations that the attitude of this Council was designed to defeat the legislation or make it unworkable. I again emphasize that the attitude of this Chamber is always one of interest in the future of South Australia. I am glad that the many honourable members who were subjected to pressure in regard to amendments that they had on file did not yield to that pressure. Where there has been a yielding, it has been a yielding to reason.

The Hon. G. J. GILFILLAN: I support the remarks made by the Hon. Mr. DeGaris in commending the managers for the excellent work they have done. If they achieved nothing else but the amendment to clause 26, which gives protection to the community, the effort would have been worth while. All honourable members expressed their approval of town planning in principle but they were concerned about the wide range of powers given to the authority and the limited protection afforded to the community in the event of there being anything unfair in the administration. In addition, other clauses give further protection and add to the value of the work that has been done. I also support the remarks that have been made by the Hon. Mr. DeGaris about the pressures to which honourable members were subjected, and about the numerous letters, some of which were in strong terms, that were received. It points to the integrity of the honourable members, particularly the managers, that they insisted on following through the principles that are so important in this type of legislation.

Motion carried.

Later, the House of Assembly intimated that it had agreed to the recommendations of the conference.

SUPREME COURT ACT AMENDMENT BILL (DAMAGES).

In Committee.

(Continued from March 7. Page 3416.)

Clause 6—"Power to direct payment to infant."

The Hon. A. J. SHARD (Chief Secretary): Consideration of clause 6, relating to interim assessments of damages, was postponed to enable full consideration to be given to the implications of the provisions, the amendments moved by the Hon. Mr. Rowe and the Hon. Mr. Potter, and the report from Their Honours the Judges of the Supreme Court. The matters raised have been considered and since progress was reported last week discussions have been held with interested parties. Following these discussions, a composite set of amendments will be moved by me and has been placed on members' files. The amendments provide, first, for matters of technical legal significance in that the term "declaratory judgment" is to be substituted for the term "interlocutory judgment", and thus difficulties in the way of appeal from these judgments are to be overcome. I ask for your guidance, Mr. Chairman. There are many amendments. Shall I be in order and will honourable members like me to read the reasons first and move the amendments afterwards?

The CHAIRMAN: Do anything that will make for brevity.

The Hon. A. J. SHARD: Subclause (2) is amended by providing that damages shall not be awarded for pain or suffering or loss of bodily faculties before final assessment of damages except where serious and continuing disability is involved or where a person is incapacitated for employment and is suffering financial loss for this reason; in such a case the court may make an award for his damages for pain or suffering sufficient to compensate him for wages actually lost. The object of this amendment is to provide an inducement to injured parties to make every effort to effect speedy recovery. Subclause (6) is amended by adding a provision designed to ensure that litigation is brought to an end as soon as reasonably possible. The amendment provides that a party may apply to have his rights finally determined when the condition of the injured person has reached a settled state or in any case after five years from the date of the declaratory judgment.

New subclauses (6a) and (6b) are added, both of which are designed to discourage malingering. Subclause (6a) provides that, if an injured party without reasonable cause fails to undertake reasonable treatment for his injury, he shall not be compensated for any disability, pain or suffering which would have been remedied by such treatment. Subclause (6b) provides that, if an injured party does not display proper diligence in an attempt to rehabilitate himself, his damages for loss of earnings shall not exceed 75 per centum of his actual loss of earnings.

Subclause (7) as amended deals with the case where an injured party dies after declaratory judgment has been entered in his favour but before final assessment of his damages. The subclause provides for two alternative principles of assessment. Either the estate of the deceased may claim for any unpaid damages to which the deceased was entitled up to the date of his death or, if the injury caused or contributed to the death of the deceased, the dependants of the deceased may have an action for injury to themselves resulting from the death or the acceleration of death of the deceased. If the latter proceedings are taken, any payment to the deceased over and above his actual pecuniary loss resulting from the wrongful act of the party held liable shall be deducted from any damages awarded to the dependants by reason of his death.

Paragraph (*d*) provides that the court may, if the justice of a case requires, assess damages under paragraph (*a*) for the benefit of the deceased's estate, notwithstanding proceedings taken on behalf of the dependants. This may be necessary and just if the claim by the dependants fails to establish that the injury of the deceased caused or contributed to his death of if the number of the deceased's dependants or the extent of his liability to support them is greater at the date of his death than at the time of the injury.

New subclause (8) is a provision in general terms, the effect of which is to ensure that awards of damages shall not exceed just compensation for the injured person or his dependants, as the case may be. The provision thus avoids the award of ''windfalls'' to persons with no substantial claim to damages. New clause 7 gives a right of appeal from the Full Court or final assessment made thereon and provides for a right of appeal, subject to leave of a judge, from any assessment of damages not being a final assessment. I understand there is a certain amount of agreement about these proposed amendments. I move:

In new section 30a to strike out ''interlocutory'' and insert ''declaratory''.

The Hon. F. J. POTTER: The Minister says that this gets over the difficult matter of appeals. I can assure him that, in my opinion and in the opinion of leading Queen's Counsel in this State, it does not. However, I think ''declaratory'' is probably better than ''interlocutory''.

Amendment carried.

The Hon. A. J. SHARD moved:

In new section 30a after ''judgment'' first occurring to insert ''finally determining the question of liability between the parties''; in new section 30b (1) to strike out ''interlocutory'' and insert ''declaratory''; after ''judgment'' to insert ''finally determining the question of liability between the parties,''; and before ''assessment'' to insert ''final''; in new section 30b (2) to strike out ''In any such case it'' and insert ''It''; to strike out ''interlocutory'' and insert ''declaratory''; and after ''and'' first occurring to insert ''for any judge of the court''.

Amendments carried.

The Hon. A. J. SHARD moved:

At the end of new section 30b (2) to insert:

> Provided, however, that where the declaratory judgment has been entered in an action for damages for personal injury such payment or payments shall not include an allowance for pain or suffering or for bodily or mental harm (as distinct from pecuniary loss resulting therefrom) except where serious and continuing illness or disability results from the injury or except that where the party entitled to recover damages is incapacitated or partially incapacitated for employment and being in part responsible for his injury is not entitled to recover the full amount of his present or continuing loss of earnings, or of any hospital, medical or other expenses resulting from his injury, the court may order payment or payments not to exceed such loss of earnings and expenses and such payment or payments may be derived either wholly or in part from any damages to which the party entitled to recover damages has, but for the operation of this proviso, established a present and immediate right or except where the judge is of opinion that there are special circumstances by reason of which this proviso should not apply.

The Hon. F. J. POTTER: As this is the first major amendment to the clause, I indicate that I do not intend to proceed with mine. The matter has been hashed and re-hashed many times, and these amendments are still difficult to understand. Leading members of the legal profession do not know whether they will work, as they provide a complete change in the present law. Substantial difficulties remain and, in some respects, attempts have been made to declare the common law. I consider that these amendments should have been made to the Wrongs Act, and I am sure that insurance companies, which have to bear the brunt of the cost of damages, are in an unenviable position. It is almost impossible for them to budget for prospective liabilities. Everyone in the legal profession considers that these amendments are good for people claiming damages for personal injury, and that this legislation could be one of the finest things that we have ever done. Whether the amendments will do what we hope they

will do remains to be seen, and if they prove ineffective I hope speedy alterations will be made later.

Amendment carried.

The Hon. A. J. SHARD moved:

In new section 30b (5) after "given" insert "in the final assessment"; strike out "of the court";

Amendments carried.

The Hon. A. J. SHARD moved:

In new section 30b (6) after "to" insert "any judge of".

Amendment carried.

The Hon. A. J. SHARD moved:

In new section 30b (6) to strike out "court" last appearing and insert "Judge".

Amendment carried.

The Hon. A. J. SHARD moved:

In new section 30b (6) after "just" to leave out full stop, and insert

": Provided that, in an action for damages for personal injury, upon an application for an order that the court proceed to final assessment of damages, the judge to whom such application is made shall not refuse such order if the medical condition of the party entitled to recover damages is such that neither substantial improvement nor substantial deterioration thereof is likely to occur or if a period of five years or more has expired since the date of the declaratory judgment unless the judge is of opinion that there are special circumstances by reason of which such assessment should not then be made.".

The Hon. F. J. POTTER: I move:

To amend the Chief Secretary's amendment by striking out "five" and inserting "three".

I am satisfied that three years is a more sensible period and that five years is too long.

The Hon. A. J. SHARD: This matter has been discussed, and the object of the legislation is to provide that the person who has suffered loss or injury by reason of the negligence or wrongful act of some other person is not deprived of compensation by way of damages, during a period when he actually suffered or is suffering loss by reason of negligence or a wrongful act and when the final extension of loss and injury can accurately be determined.

In many cases where a person suffers injury from misconduct on the part of another person, it is impossible to make an accurate valuation of the final extent of the disability, of pain or suffering, arising from the injury, within three years. I do not think anyone can query that. The Government believes that a period of not less than five years is necessary for an accurate assessment of physical injury and associated pain and disability to be made. If the amendment is carried the usefulness of this legislation will be seriously impaired. The honourable member must admit that over the years there have been cases where it has not been possible to obtain a final result.

The Hon. Sir Arthur Rymill: What have they been doing for centuries?

The Hon. A. J. SHARD: We believe that three years is far too short.

The Hon. F. J. Potter: It is not three years from the date of the accident: it is three years from the declaratory judgment.

The Hon. C. D. ROWE: I thank the Hon. Mr. Potter for the amount of work he has done on this matter. He has interviewed numerous people and tried to obtain a consensus of opinion as to whether the period should be three or five years. I support the proposal that the period should be three years because, as the Hon. Mr. Potter says, it is not three years from the date of the accident but three years from the date of the declaratory judgment. Also, there is a discretion in the hands of the judge; the clause states:

unless the judge is of opinion that there are special circumstances by reason of which such assessment should not then be made.".

If the position is stabilized at the end of three years, the sooner the matter is determined the better for everybody. However, if a judge in his wisdom believes that there are reasons why a final assessment should not then be made he has complete discretion to extend the period. I believe that there is sufficient elasticity in the measure.

The Hon. Sir ARTHUR RYMILL: I have had considerable difficulty concerning this Bill. During the previous session I said that this was a hasty measure and that we ought to have time to consider it: such time was finally obtained. Some members said that it was clear that extensive amendments would have to be made to this Bill; this was denied by those who promoted it but now we find 3½ pages of amendments promoted by the then promoters. So we all know who was right and who was wrong on that occasion. I am not happy about this Bill; we have done without it for the 130 years since the founding of the State and we seem to have got along fairly well.

The Hon. F. J. Potter: Every other State has done without it.

The Hon. Sir ARTHUR RYMILL: And is still doing without it. I do not know any place in the world that has it, and yet on the last night of the session we are asked to pass it. Unless the Government is prepared to be reasonable about a minor amendment I shall

vote against the whole Bill. It can be brought up again next session; there is no haste about it. It could wait for a couple of months without hardly any harm being done to anybody because it only applies to a very minor number of people in this State.

The Minister said it was necessary to have five years in order to see what was going to happen. I have been concerned with plenty of these cases and I have always understood that when a court was asked to assess the damages it had to do so when the case came before it—and the case (in the minor courts) might come before it within two or three months of the accident. As the Hon. Mr. Potter said, the three-year period does not run from the date of the accident but from the date of the declaratory judgment which in a Supreme Court case, might be some years after the accident.

The point I am making is that the defendants are not only insurance companies but sometimes individuals. It is very nice to think that one is slugging the poor old insurance company but there are plenty of cases where people are not insured: many people have no comprehensive policies. The defendant is then left up in the air for years and he does not know his position. An insurance company does not know what to budget on. In the case of an individual, if he has been silly enough not to cover himself with insurance or has been unfortunate enough to invalidate his insurance, he can be left for years like this and not know whether he is bankrupt or not.

This clause seems to be ill-considered. I believe that three years is a very generous period to allow. I think that the Government, which has been pretty rigid today, ought to do a little bending.

The Hon. S. C. Bevan: Oh!

The Hon. Sir ARTHUR RYMILL: I do not think that that noise is the cock crowing; it is not yet midnight. We may hear the cock crow later on. I do think that the Government ought to show some latitude and some common sense in connection with the matter.

The Hon. A. J. SHARD: I want to be a little tolerant; I am sometimes accused of being tough. I understand that this is a legal matter and the legal fraternity know more about it than I do.

The Hon. S. C. Bevan: They want to make you think they do.

The Hon. A. J. SHARD: I am prepared to hold out the olive branch. The Government says, "Five years," and other members say, "Three years." If members are prepared to accept four years, I shall raise no further objection.

The Hon. F. J. POTTER: I ask leave to amend my amendment:

To delete "five" and insert in lieu thereof "four".

Leave granted.

Amendment carried.

The Hon. A. J. SHARD moved to insert the following subclauses in new section 30b:

(6*a*) If it appears to the court that a person in whose favour declaratory judgment has been entered has without reasonable cause failed to undertake such reasonable medical or remedial treatment as his case might have required or require, it shall not award damages for such disability, pain or suffering as would have been remedied but for such failure.

(6*b*) If at any time it appears to a judge that a person in whose favour declaratory judgment has been entered and who is incapacitated or partially incapacitated for employment, is not sincerely or with the diligence which should be expected of him in the circumstances of his case, attempting to rehabilitate himself for employment any payment or payments under subsection (2) of this section shall not include by way of allowance for loss of earnings a sum in excess of seventy-five per centum of such person's loss of earnings.

Amendment carried.

The Hon. A. J. SHARD moved:

After "(7)" to insert "(*a*)".

Amendment carried.

The Hon. A. J. SHARD moved:

In subclause (7) to strike out "interlocutory" and insert "declaratory".

The Hon. Sir ARTHUR RYMILL: This is a short amendment and, in the interests of sweet something or other, I suggest that, as we all have these amendments on our files and have read them, the later amendments be moved without being read.

Amendment carried.

The Hon. A. J. SHARD moved:

After subclause (7) to insert:

(*b*) Where a party dies after declaratory judgment has been entered in his favour but before final assessment of his damages in circumstances which would have entitled any person to recover damages, solatium or expenses by action pursuant to Part II of the Wrongs Act, 1936-1959, it shall be lawful for the executor or administrator of the deceased to proceed in the same action for the recovery of such damages, solatium or expenses for the benefit of such person notwithstanding the declaratory judgment or that the deceased has received moneys thereunder, provided, however, that in any such proceedings all

moneys paid to the deceased pursuant to the declaratory judgment in excess of any actual and subsisting pecuniary loss resulting to him from the wrongful act of the party held liable shall be deemed to have been paid towards satisfaction of the damages, solatium or expenses awarded pursuant to the Wrongs Act, 1936-1959, and no further damages shall be payable in respect of the injury sustained by the deceased. In any proceedings hereunder, the declaratory judgment and any finding of fact made in the course of proceedings consequent thereupon shall enure as between the party held liable and the executor or administrator of the deceased;

(*c*) Where a party dies in the circumstances referred to in the preceding subparagraph of this subsection except that the death of the deceased is not wholly attributable to the personal injury, the subject of the declaratory judgment, but was accelerated thereby, it shall be lawful for proceedings to be taken and for the court to assess damages, solatium or expenses as in the preceding subparagraph but such damages, solatium or expenses shall be proportioned to the injury to the person for whom and for whose benefit the proceedings are taken resulting from such acceleration of death;

(*d*) The court may, if the justice of a case so requires, assess damages under subparagraph (*a*) of this subsection notwithstanding the commencement or prosecution of proceedings under subparagraph (*b*) or (*c*) of this subsection and the damages so assessed shall be for the benefit of the estate of the deceased and no damages shall be awarded under subparagraph (*b*) or (*c*) of this subsection.

(8) In the exercise of the powers conferred by this section the court shall have regard to the facts and circumstances of the particular case, as they exist from time to time, and any allowance, or the final assessment, as the case may be, shall be such as to the court may seem just and reasonable as compensation to the person actually injured or to his or her dependants as the case may be.

Amendment carried; clause as amended passed.

Clause 7—"Appeals to Full Court."

The Hon. A. J. SHARD moved:

To strike out:

Paragraph (*b*) of subsection (3) of section 50 of the principal Act is amended by inserting therein after subparagraph (*v*) thereof the following subparagraph:

(*va*) Any interlocutory judgment under section 30b of this Act.

and insert:

"Section 50 of the principal Act is amended by inserting after the words 'every judgment' first occurring therein the words 'including every declaratory judgment entered pursuant to section 30b of this Act and any final assessment made thereon' and by inserting in paragraph (*b*) of subsection (3) thereof after subparagraph (*v*) the following subparagraph:

(*va*) Any assessment of damages not being a final assessment made pursuant to section 30b of this Act:"

Amendment carried; clause as amended passed.

The CHAIRMAN: The Hon. Mr. Rowe has an amendment to move pursuant to the instruction to the Committee of the Whole of November 18 last.

The Hon. C. D. ROWE: In pursuance of the instruction given to the Committee of the Whole on November 18 last, I move:

To insert the words of enactment, namely, "Be it enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:"

This amendment arises from the splitting of the original Bill and the fact that a certain form has to be complied with.

Amendment carried.

The Hon. C. D. ROWE moved:

That the title of the Bill be, "A Bill for an Act to amend the Supreme Court Act, 1935-1966."

Amendment carried.

Title passed.

Bill reported with amendments; Committee's report adopted.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's amendments.

COMMONWEALTH POWERS (TRADE PRACTICES) BILL.

Adjourned debate on second reading.

(Continued from March 21. Page 3811.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I should like, as a preliminary matter in discussing this Bill, to "qualify" myself, as my legal friends say, as one who has been tremendously interested in this matter over the years. Indeed, I was one of those who promoted a committee called the Constitutional Powers Committee in 1942, when Dr. Evatt tried to have 14 powers referred to the Commonwealth. Consequently, I think I can claim to know a little about it, to have known much about it over the years, and to be keenly interested in the matter.

First, I should like to congratulate the Hon. Mr. DeGaris and the Hon. Jessie Cooper on the really brilliant speeches they made last night. I think they were two of the best

speeches I have heard in the 11 years I have been in this Council, and I associate myself with and agree with everything that was said. I think it was a great pity that during those speeches five members of this Chamber were compulsorily absent, as it were, by virtue or otherwise of the resolution that was passed contrary to the Standing Orders. It was after a suspension, of course, but contrary to the Standing Orders as written that the Council should continue to sit during a conference being held at that time.

We know that we do not always have a full Council, because members are absent unavoidably or otherwise from time to time. However, I think it is important, especially on a matter of this transcendent importance, that all members who can be here should be here and I think it is a very bad principle that we should pass a resolution that we continue to sit during a conference, when 25 per cent of our members cannot be here. I do not propose to support any further resolutions to that effect. I think we have had one such case before in my experience.

The Hon. A. J. Shard: We have had two, I think.

The Hon. Sir ARTHUR RYMILL: There may have been two. I know that there is urgency at this stage of the session and I am not blaming the Government. I know that it has been done quite altruistically, but I do not think it is a good principle. Even if we are pressed for time, we ought to comply with Standing Orders in this regard. The reference of any powers to any State by the Commonwealth is a very serious matter, and I am sure every honourable member is imbued with that idea. Under our federal system we have a division of powers whereby under the written Commonwealth Constitution certain powers are vested in the Commonwealth and the remainder of the sovereign powers are in the hands of the State Governments. Even in my day these have been whittled away fairly considerably, and whenever we refer any further powers to the Commonwealth (a very rare thing in my day) we are giving up some of our own sovereignty and some of the matters on which we ourselves can legislate. When the Commonwealth actually legislates in relation to those powers we have lost the powers at least for the time that the Commonwealth legislation remains in effect. I repeat that this is a very serious matter.

I go further and say that this is a particularly serious matter when we are referring powers or a portion of powers that have time and again been refused by the public of Australia by referenda. I think probably all honourable members who have been interested in referenda in the past will know that again and again over the years the Commonwealth Parliament has asked for complete authority over trusts, combines and monopolies. My recollection is so clear on this that I did not even bother to look it up. I could not tell honourable members how many times the people of Australia have refused this power, but I know they have refused it a number of times over the years ever since federation. Yet we are being asked, without any further reference to the people but as the representatives of those people who have refused the power, to refer to the Commonwealth Parliament at least a portion of those powers.

This Bill seems more restricted than those general words "trusts, combines and monopolies" because, if honourable members refer to the Bill, they will find the gravamen of this in clause 2, which states:

> The following matters are referred to the Parliament of the Commonwealth, namely:
> (*a*) agreements, arrangements, understandings, practices and acts restrictive of, or tending to restrict, competition in trade or commerce; and
> (*b*) the exercise or use by a person, or by a combination or a member of a combination, in or in relation to trade or commerce, of power, influence, or a position of advantage resulting from the extent of the share of that person or combination in some portion of trade or commerce.

That seems a more restricted power than the general powers sought over trusts, combines and monopolies; but is it, when we analyse the words? I ask any honourable member to help me and ask, "Is it more restricted?" There are many words there and probably different words, so we ought to be more careful in scrutinizing these powers than we would otherwise be. If those powers are more restricted than they appear to be, they are very wide anyway. The word "monopolistic" was used in the second reading explanation, and the word "monopolies" is used in the Commonwealth Act, which has been passed, which is in operation as a Commonwealth Act, and which this legislation is supposed to give authority to the Commonwealth to introduce within the State as well as in the Commonwealth arena and between the States. So I think one can imply from that that "monopolies" must be included in these general words.

Since that is the case, what about "combines"? The word "combination" is used in clause 2 (1) (*b*):

the exercise or use by a person, or by a combination or a member of a combination, and so on. So there are combines. The only word that does not seem to be included is "trusts". For the life of me, I do not know what "trusts" means in this context. The three words "trusts, combines and monopolies" together mean something but, when the word "trust" is used on its own, in the English language it can mean all sorts of things—a trust deed or settlement and that sort of thing. So, when we analyse it, it appears that perhaps I went a little far in saying that those powers are restricted compared with the powers that were so often sought by referenda, and so often denied. If we pass this Bill tonight, we shall be entering into a very serious transaction on behalf of the people we represent. I suggest that honourable members think carefully in that direction before they do anything about this at all.

I said I associated myself with everything said by the previous speakers to whom I have referred, so I do not want to repeat the matters with which they dealt. I would prefer to try to supplement one thing they both said they felt should be supplemented—the legal side of this question. That, as I see it, is not a question whether or not this reference of powers is valid in the form in which it is in the Bill or in the form in which it will be if the Hon. Mr. DeGaris's amendments are accepted, because in either case I think the legal authorities are quite undoubted that the reference of powers will be valid. The question that I consider is of some doubt, although some of my legal friends do not, is whether, with the restricted reference proposed by the Bill itself or even with the more restricted reference proposed to be inserted by the Hon. Mr. DeGaris, we can ever get the powers back again or whether we can stop this Bill operating if we wish to do so.

We have seen correspondence in the newspapers on this matter between two lawyers—one also a member of Parliament, the other, I believe, a lecturer in some branch of constitutional law at the university. They disagreed with each other in a series of letters; neither could convince the other. I have discussed this question with a number of legal friends—both practising lawyers and university lecturers on this subject. Some of them claim the law is settled and that the reference, at least that made on the terms proposed by the Hon. Mr. DeGaris, will be recoverable if we need to do that: others consider it will not be. The Hon. Mr. DeGaris referred to Dr. Wynes's book on the Constitution and read certain passages. It seems queer that, when the same Dr. Wynes is our Parliamentary Draftsman, who advises the Government on the law in relation to many matters and who is a completely recognized authority on these constitutional matters (possibly one of the most recognized authorities on it), our Attorney-General should not go to him to find out what he thinks about the validity of this Bill, and not go to his own Crown Solicitor to find out, but that he should go to the Commonwealth Crown Solicitor to ask his advice whether the State reference of powers was or was not recoverable. I quote from the *Advertiser* of a short time ago:

> Mr. Dunstan said that fears expressed during the second reading debate on the Bill now before Parliament by Mr. Millhouse and other Opposition members were quite unfounded. "The reference of power we are making is quite valid and validly revocable. In the opinion of the Commonwealth Crown Solicitor South Australia would lose nothing if it decided at any time to revoke the power which could be done simply by proclamation", Mr. Dunstan said. The public had nothing to fear from the effects of the Bill. South Australia would gain from it and it was quite wrong to suggest the State would be placed at a disadvantage to other States by allowing the Commonwealth Act to apply here.

I shall deal first with whether the legal side is right and the power is recoverable and, secondly, whether or not South Australia will gain from it. I have studied the authorities and I have had considerable experience in constitutional law. I would not hold myself out to be an expert in the matter, although I have been associated with it for many years and have been closely interested in it. I tend to the opinion that the powers will probably be recoverable to the State if the amendments of the Hon. Mr. DeGaris are passed. I am extremely doubtful, if the Bill is passed as at present written, whether this will be so, even though the Bill has been drawn in the same way as the Act on which the Tasmanian Airlines Case was decided, because, on my reading of that case (I admit that lawyers disagree), it was decided that the reference was valid but it was not clearly decided that the restrictions or the qualifications of the reference were valid. There are two recent cases on the matter, and I should like to quote from both of them. They are in volume 113 of the *Commonwealth Law Reports,* the first at page 52 from a judgment of Mr. Justice Windeyer in the case *Airlines of New South Wales Proprietary Limited v New South Wales.* This is the short passage that refers to this matter:

One other matter I shall mention. It concerns the effect of a reference by the Parliament of a State to the Parliament of the Commonwealth pursuant to section 51 (xxxvii) of the Constitution. Such a reference adds a further subject of concurrent Commonwealth legislative power to the existing list in section 51 of the Constitution. It is unnecessary, in the view I take of this case, to decide whether a reference can be for a limited time only.

Nothing His Honour says is binding on anyone. It is not a decision on the facts of the case: it is not part of the *ratio decidendi*. It is *obiter dicta*. His Honour continues:

But I incline to the view, which appears to have been accepted, that it can be; and that therefore the Commonwealth Powers Act passed in 1943—

These are the Acts I was referring to as the Dr. Evatt Bills in 1942—

in New South Wales, South Australia, Western Australia and Queensland, were valid and effective enactments which have now expired.

He found they were valid and effective as references but he does not find whether the time put on them was valid and effective and if he did, it was still open to query as being *obiter*. His Honour continues:

Any law made by the Commonwealth Parliament with respect to a subject referred for a limited period could, I consider, operate only for the duration of the period of the reference. That period could, I think, be limited in time in any way; for example, it could be a period a years or the duration of a war.

Here it is: His Honour said:

But I entertain a serious doubt whether a reference could be for an indefinite period terminable by the State legislature.

That is what this Bill as drawn sets out to do. It is referring powers for an indefinite period terminable by the State legislature. Although His Honour makes some persuasion in relation to the fact that powers granted for a term of years are validly granted and may be recoverable after a period, he entertains a serious doubt whether powers granted in relation to the Bill presented to us are so recoverable. I use the word "recoverable" as a rather loose expression. In the case to which I have referred, these words were not in relation to the actual facts of the case but were *obiter*. It was heard in Sydney in July, 1963, and the judgment was delivered in Melbourne on February 25, 1964.

Coincidentally enough, in Sydney on March 25, 26, and 29 (only a month afterwards) what is known as the Tasmanian Airlines Case was heard, which throws further light on this subject. The words of Mr. Justice Windeyer were uttered only a month before the hearing of this next case in which this question came far more into play. It is a long decision, but is one that affects this matter. The Hon. Mr. DeGaris asked for it so he is going to get it now. I hope he will be patient, and that I do not weary other honourable members. This is an important matter; it is something that has to be thrashed out and something that we have to try to clearly understand. If I am making myself clear the Government may see the light, but this is a forlorn hope. Hope springs eternal—one day it may happen. In this Tasmanian Airlines Case, as it is known, the judgment was a joint judgment of a very formidable bench, comprising the then Chief Justice, Sir Owen Dixon, Mr. Justice Kitto, Mr. Justice Taylor, Mr. Justice Menzies, Mr. Justice Windeyer, and Mr. Justice Owen. Their Honours refer to the same placitum; this is what they have to say:

It is plain enough that the Parliament of the State must express its will and it must express its will by enactment. How long the enactment is to remain in force as a reference may be expressed in the enactment. It nonetheless refers the matter. Indeed the matter itself may involve some limitation of time or be defined in terms which involve a limitation of time. In the argument before us there seemed to be an assumption that to include the Tasmanian Act No. 46 of 1952 within paragraph (xxxvii) there must be implications in the words that the paragraph employs. But this seems to be an error. There is no reason to suppose that the words "matters referred" cannot cover matters referred for a time which is specified or which may depend on a future event even if that event involves the will of the State Governor-in-Council and consists in the fixing of a date by proclamation. The question which was discussed at length before us as to whether when the Parliament of a State has made a reference it may repeal the reference does not directly arise in this case. It forms only a subsidiary matter which if decided might throw light on the whole ambit or operation of the paragraph. We do not therefore discuss it or express any final opinion on it. We think that the Tasmanian Act as framed is fairly within the paragraph and does refer a matter.

This applies to a reference and not to recovery of a power. Their Honours continued:

But is must be remembered that the paragraph is concerned with the reference by the Parliament or Parliaments of a State or States. The will of a Parliament is expressed in a Statute or Act of Parliament and it is the general conception of English law that what Parliament may enact it may repeal. However, for present purposes it is enough to say that neither the words "matters referred" nor any other part of paragraph (xxxvii) provide any ground for saying that the Commonwealth Powers (Air Transport) Act (No. 46 of 1952) of Tasmania failed to effect a reference pursuant to paragraph (xxxvii) of section 51 of the Commonwealth Constitution.

I have dwelt fairly carefully upon those words and tried to express them so that they will be understandable, because I have been puzzling over them for days and various legal friends of mine read different things into them. The one thing that is clear to all of us is that it is a valid reference of powers; there is no doubt about that. However, whether the clauses say that a State can get the powers back later or whether they will cease or whether they will be returned to the State, I cannot say. Some of my legal friends say that this is so, and I agree with them that on the balance of probability the powers will be returned to the State if the Hon. Mr. DeGaris's amendments are passed. If not, I still have my fears, even though this Bill is drafted in the same form as the Tasmanian Airlines Act.

I must also mention that I referred another matter to my legal friends: that is the question that the High Court is not bound by its own decisions so there is always that doubt, although one cannot conceive that any High Court within any measurable number of years would disagree with that strong judgment in the Tasmanian Airlines Case. There is a further point, and that is that the Privy Council (which is the final court of appeal) has not pronounced on the matter. We also know that the Privy Council has a great respect for the High Court of Australia nowadays and it would have very serious regard to the decision of the High Court. There is also a legal question as to whether this is what is called an *inter se* matter, meaning ''between themselves'', that is, between the Commonwealth and the States. If it is such a matter, the Privy Council does not have a say and the High Court is the final authority.

One can imagine a circumstance here where a person or company will sue the Trade Commission or whoever must be appealed against or sued in relation to a decision of the Trade Commissioner or tribunal. The Commonwealth and/or the State may intervene and I think in this circumstance it is not an *inter se* matter and therefore the Privy Council would have a say. But we do not know (although we think we know) precisely what it will say. Having wearied the Council to this extent, I hope I can cheer up honourable members by saying a few things that might be a little more interesting. I hope it is obvious from what I have said that we must put a time limit in this Bill as well as the proclamation limit that is in it at present.

I want to refer to the other amendment of the Hon. Mr. DeGaris. As at present drafted without the amendments, the Bill would immediately refer powers to the Commonwealth and, as far as I can see, the Commonwealth has made no bones about the fact that it will introduce the trade practices laws within the boundaries of any State that refers power to it whether or not the other States refer powers to it. I think I am correct in saying that; I have every reason to believe that once we refer powers to the Commonwealth, the Commonwealth will operate those powers within the State as well as under its own Federal Act even though no other State refers powers. Of course, Tasmania has already referred powers but, as I understand it, no other State has done so. So, if we refer these powers under the Bill as drafted and without the Hon. Mr. DeGaris's amendment, the powers can operate within South Australia intrastate when they do not operate in Victoria, New South Wales, Queensland or Western Australia (our competitors) unless those other States refer similar powers.

I repeat the statement of the Attorney-General that the public has nothing to fear from the effects of the Bill, and that South Australia will gain from it and it is quite wrong to suggest that the State will be placed at a disadvantage to the other States by allowing the Commonwealth Act to apply here. The Commonwealth Act already applies here as a Commonwealth Act between the States but it does not yet apply here as an Act within the State. What does the Attorney-General know concerning the effects on this State and whether or not they will be detrimental? How can he make this categorical statement that the public has nothing to fear from the effects of the Bill and, indeed, that the whole State will gain from it? How can he possibly say that? I am pretty closely associated with business in this State and I have discussed this with my colleagues and they certainly fear the Act if it comes into South Australia and not into the other States with which we compete.

I myself cannot say whether it will affect us detrimentally or not but instinctively I must say that I fear it. It may not affect us detrimentally or it may: I do not know enough about it, but I guarantee I know as much as the Attorney-General about it. I say clearly that he cannot possibly make the statement that we have nothing to fear from it and, indeed, that we may gain. He cannot know any more than I know about it. Let us leave it at that and say that we cannot take this

risk of having a power referred to the Commonwealth and having it operated in South Australia, where business is struggling for existence, as we all know. We have to play safe.

My attitude is that we should pass the Bill with the amendments proposed by the Hon. Mr. DeGaris. I want to make it crystal clear that, if these amendments are not accepted, I shall vote against the Bill's going into operation at all, because we just cannot risk it, in my opinion. I did not intend to speak at this length, but I make no apology for having done so, because I think this is one of the most important matters that has been before us since I have been in Parliament. In conclusion, I say (and I recommend this to the Ministers): let us pass this Bill with the amendments that the Hon. Mr. DeGaris proposes. They are not unworkable. It may be that they will not work immediately, because the reference of the power will be reliant, if the amendments are carried, upon other States referring similar power. We know that other States have different ideas about the matter and that one or two of them are toying with the idea of passing complementary legislation instead of referring power.

Indeed, the Commonwealth at first asked for the passing of complementary legislation but changed its mind because the technical difficulties would be tremendously great in this context. We cannot go it alone and, if we want to help by passing this legislation, we have to do it in the best way that we can, while protecting the interests of the State. I say for myself (and I think this also applies to other honourable members) that, if we pass this Bill in the form proposed by the Hon. Mr. DeGaris and it does not prove workable because other States do not refer the power or because they treat the matter in a different way, then and only then, when we know what the other States are proposing, will it be time for us to reconsider the legislation and decide how to amend it so that the States will be on common ground. I consider that no State should leave itself out on a limb in this matter. If we have to be in that, we all have to be in it on the same terms. I am prepared to assist in passing this Bill with both amendments proposed by the Hon. Mr. DeGaris. However, if those amendments are not accepted, I shall have no hesitation in voting against the third reading.

Bill read a second time.

In Committee.

Clause 1—''Short title and commencement.''

The Hon. R. C. DeGARIS: I move:

After ''proclamation'' to insert ''pursuant to section 4 of this Act''.

This is a minor amendment and I do not think there is any need for me to repeat the purpose of this and my other amendments.

The Hon. A. J. SHARD (Chief Secretary): I, likewise, shall make crystal clear where we stand. The Government opposes this amendment, as it presupposes acceptance by the Legislative Council of new clause 4 to be proposed by the Hon. Mr. DeGaris. The proposed new clause 4, which is on honourable members' files, is quite unacceptable to the Government, as it would prevent this legislation from being brought into operation until legislation to the same effect has been passed by the Parliaments of the other States and the Governor is satisfied that such legislation will be in force on the day fixed as the day on which this Bill will become law. This would mean that this Bill might never become law. For those reasons, I oppose the amendment. The vote on this amendment will be a test vote as far as I am concerned, and we shall know where we stand.

The Hon. R. C. DeGARIS: The Chief Secretary says that this Bill may never become law. The only way that could happen would be if the other States did not pass legislation.

The Committee divided on the amendment:

Ayes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 11 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 2—''Reference of matters to the Parliament of the Commonwealth.''

The Hon. R. C. DeGARIS moved:

In subclause (2) to strike out ''4'' and insert in lieu thereof ''5''.

The Hon. A. J. SHARD: I oppose this amendment. As I have said before, the proposed new clause 4 is quite unacceptable to the Government, and proposed new clause 5 is inconsistent with clause 4 of the Bill as passed in another place.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4—''Operation of this Act.''

The Hon. R. C. DeGARIS moved:

To strike out the whole clause and insert in lieu thereof the following new clause:

No proclamation shall be made fixing a day for the coming into operation of this Act until legislation to the effect of sections 2 and 3 of this Act has been passed by the Parliaments of each of the other States of the Commonwealth and the Governor is satisfied that that legislation will be in force on the day fixed for the coming into operation of this Act.

The Hon. A. J. SHARD: I oppose this amendment for the reasons given by me in connection with the amendment to clause 1 moved by the Hon. Mr. DeGaris.

Amendment carried.

The Hon. R. C. DeGARIS moved:

To insert the following new clause:

5. (1) At any time during the continuance of the reference made by this Act, the Governor may, by proclamation issued with the approval of both Houses of Parliament expressed by resolution—

(*a*) declare that the reference made by this Act shall continue until a date specified in the proclamation, in which case the reference shall continue until that date, and shall, subject to the effect of any later proclamation under this subsection, terminate on that date, or

(*b*) declare that the reference made by this Act shall continue without limitation of time, in which case the reference shall not terminate unless and until this Act is repealed.

(2) If no proclamation under this section is made before the 31st day of December 1972, the reference made by this Act shall terminate on that date.''

The Hon. A. J. SHARD: This new clause is unacceptable to the Government so long as new clause 4 is in operation. It is also inconsistent with clause 4 as passed in another place. I, therefore, oppose this amendment.

New clause inserted.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had disagreed to the amendments made by the Legislative Council.

Consideration in Committee:

The Hon. A. J. SHARD (Chief Secretary): I move:

That the Legislative Council do not insist on its amendments.

The amendments render the proposed legislation ineffective, and I ask the Committee not to insist on them.

The Hon. Sir ARTHUR RYMILL: I find this a most specious reason for rejecting the amendments. As it is not true, I propose that we insist on our amendments.

The Committee divided on the motion:

Ayes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Noes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill (teller), C. R. Story, and A. M. Whyte.

Majority of 11 for the Noes.

Motion thus negatived.

Later, the House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council granted a conference, to be held in the Legislative Council conference room at 11.30 a.m., at which it would be represented by the Hons. D. H. L. Banfield, Jessie Cooper, R. C. DeGaris, Sir Arthur Rymill, and A. J. Shard.

The Hon. A. J. SHARD (Chief Secretary) moved:

That the Hon. Jessie Cooper be discharged from attending the conference and that the Hon. H. K. Kemp be appointed as a manager in her place.

Motion carried.

At 11.33 a.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 12.46 p.m.

The Hon. A. J. SHARD (Chief Secretary): I have to report that the managers have been to the conference, which was managed on behalf of the House of Assembly by Mr. Clark, the Hons. J. D. Corcoran and D. A. Dunstan, Mr. McAnaney and the Hon. Sir Thomas Playford, and they there received the Bill together with the resolution adopted by that House and thereupon the managers of the two Houses conferred together and no agreement was reached. I move:

That the Council do not further insist on its amendments.

Motion negatived.

The PRESIDENT: I declare that, pursuant to Standing Order No. 338, the Bill is now laid aside.

INDUSTRIAL CODE AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from March 21. Page 3818.)

The Hon. F. J. POTTER (Central No. 2): In some respects this Bill is one of the most ill-conceived and mischievous Bills ever introduced into this Parliament. When one becomes a member of Parliament and sits either in this Chamber or in another place, one from time

to time becomes an amateur psychologist. I was intrigued by the manner in which this Bill was explained by the Minister. I do not know whether I am wrong in my impression but I thought he was talking with tongue in cheek in support of it. Some of his statements were very carefully worded, almost as if to lay a false emphasis on less controversial aspects of the measure. I can refer to those. The Minister spoke about strikes. They are made legal under this Bill. The Minister said:

A labourer has nothing but his labour to sell. He should be able to refuse to sell that labour if the conditions prescribed for the job in which he is engaged or which were imposed by the employer are such that he would prefer to withdraw his labour or to seek some other employment. Under the present terms of the Industrial Code, if a group of employees decides that they would find it preferable to work in some other avocation and for some other employer, they could be dealt with by the court and penalized for an act in the nature of a strike.

This is not the basis of a strike. The Minister put it as though it was the mere refusal or disinclination of a workman to work for a particular employer, but the basic thing in a strike is the prevention of anyone else working. The Minister asked why a man should work for a particular employer if he did not want to, but in a strike a whole body of men say that they are not going to work and that no-one else is going to, either.

The Hon. S. C. Bevan: What constitutes a strike?

The Hon. F. J. POTTER: A body of men saying that they are not going to work, for one reason or another (and everyone knows the main reason is usually a dispute over wages), and that no-one else is going to work. A strike holds the community to ransom. Under this Bill, if there were a strike in transport no goods would come into or go out of Adelaide. If there was a strike in the Engineering and Water Supply Department and the sewerage people were out, what sort of situation would we have? Unfortunately, recent strikes have taken place in the airways industry, and we all know the consequences. Usually, as the result of a strike (which in 98 per cent of cases occurs over wages), if an employer can pass on the increased wages to the public he eventually agrees to the terms. There is just so much income in the community, and if one section of employees can get more through industrial strength it will be at the expense of other sections.

The *Advertiser,* when reporting the Minister's second reading explanation, stated that this Bill meant there would be more freedom given to the workers. The Bill does not do that: it does not provide for a secret ballot, and in strikes that is a rarity. To call a strike, a few union representatives say to a body of men that they are going to strike. A meeting is held and the men are asked whether anyone is against the strike. No-one is going to be a scab and no-one speaks against the proposition, so it means that a few men tell many others that they will give up wages for a time to achieve the ends of the union representatives. It is not only the particular employer that is concerned, because ancillary industries are affected, and we saw the result of this in the strike at General Motors-Holden's. Ancillary industries that were supplying goods were affected, and employees were stood down as a result. Usually a secret ballot has to be used to stop a strike and get the men back to work.

All kinds of unions exist; some are militant, and others do not cause much industrial strife. It is true that most employees want to belong to a union that will not pull them out on strike. The average worker does not want to strike. Earlier in this session the Government set up a new industrial commission and we were told what a wonderful new system it would be. Apparently, the industrial commission is no good, because the Government is giving employees the right to strike against the tribunal. When strikes are legal and without penalty, the whole economy of the State will be handed to a handful of people who have no responsibility to the community. They are not politicians and do not have to face electors. Who looks after the public interests if this Bill is passed? Money obtained by strike action is usually obtained under duress.

To take rather a text book case, we could look at the situation that developed during the recent airways strike when there was no registered association of pilots and no award, with the result that the court could not interfere. The pilots eventually stood out and received great salary increases. After they had succeeded, the next people to have a go were the airline hostesses, and then the mechanics. Recently the clerks threatened to take action. All this happened within the one industry. The increased wages will inevitably be passed on to the public and I venture to say that it will not be long before we are paying higher air fares.

We all know what happened during the shipping strike in England: it reached the stage where there was almost industrial anarchy there. The country was in such desperate

straits that people were wondering how they could import enough food to keep the country going. Recently in Australia the Seamen's Union refused to man ships bound for Vietnam, and the Commonwealth Government, because it believed that this was a vital measure, had to use the Navy. South Australia has no navy to use in urgent circumstances, and it has no army, because this is entirely outside the jurisdiction of our State, and we could be helpless without some strike prevention legislation; we could be in the hands of a few militant unionists. I put this to the Government and this Council: we all know that the Labor Government in New South Wales was in office for a long time, yet during the whole of that period it never repealed the State legislation dealing with strikes; it modified the legislation. The Labor Government provided for lawful strikes under certain conditions (if certain notices were given and secret ballots were conducted), but it never did anything about repealing the legislation.

The Hon. A. F. Kneebone: Tell us what the Liberal Government did in Victoria.

The Hon. F. J. POTTER: As far as I am aware, the situation in Victoria is that the legislation was not completely repealed. However, there are certain safeguards there. As the Hon. Mr. Rowe said yesterday, if we remove this from the Act we can expect to see in South Australia before very long the kind of situation that has been mentioned. This is one of the most important matters in the Bill.

Another important point is the preference in employment for unionists. This is not really a provision for preference for unionists: it is compulsory unionism under this Bill. If members do not agree with my statement, they should look at section 122 of the Code, because clause 10 of the Bill amends that section. Section 122 is as follows:

> No employer shall dismiss any employee from his employment or injure him in his employment by reason merely of the fact that the employee is an officer or member of an association or is not a member of an association or is entitled to a benefit or commission under an industrial award or agreement.

Clause 10 amends that section by starting with these words:

> Except pursuant to an award or order of the commission or a committee . . .

So the effect of the amendment is to place in the hands of the Industrial Commission of this State the power to order an employer to sack an employee. Why? Because that man is not a unionist! That is what clause 10 does: it places the power in the hands of the court to order an employer to sack an employee. That is an intolerable situation.

The Hon. S. C. Bevan: What about being consistent? What about quoting other States in this matter, too?

The Hon. F. J. POTTER: I am quoting this State. The position is intolerable.

The Hon. S. C. Bevan: Did the Liberal Governments in Queensland and New South Wales rescind it?

The PRESIDENT: Order! We will get on much more quickly without interjections.

The Hon. F. J. POTTER: There are many reasons why employees do not want to belong to unions. Some unions are militant, and men do not want to be continually pulled out on strike. The other day I was looking at a booklet put out by the Amalgamated Engineering Union (a somewhat militant union in this State) called "From Penal Colony to Penal Powers". This booklet makes it clear that the union would not bring a work value case on behalf of skilled workers because it believed that it would be detrimental to unskilled members. If a man knew about that, he might be reluctant to join a union that has that kind of philosophy.

We must also remember that not long ago the Plasterers Society in South Australia actually fined some of its members because they refused to go on strike. This occurred in a case about five years ago in the State court and, of course, the union eventually could not legally enforce this penalty because it was not legally possible for it to fine its members for not going on strike. However, the union tried to do so. That is intolerable, and it is another reason why a person might be influenced not to join a union. It links up with what I said earlier about the repeal of the strike legislation. Here we have a union fining its members for refusing to go on strike. I pose the question whether a man should be forced to join a union. He may like to keep working in order to pay his accounts and may not want to be on strike. Surely, in a democracy we can allow a person to have an option. Why is it necessary to repeal the legislation in regard to strikes? As far as I know, in this State since the Second World War only one organization has been convicted because of strike action, and that was the Plasterers Society.

The Hon. A. J. Shard: Tell the whole story about that.

The Hon. F. J. POTTER: In view of that, why should we repeal this terrible legislation?

The Hon. A. J. Shard: That was one of the most crooked things ever done in the State.

The Hon. F. J. POTTER: Australia has one of the highest percentages of unionists in the world. Why should we bring in compulsory unionism in those circumstances?

The Hon. A. F. Kneebone: Can you give the percentage?

The Hon. F. J. POTTER: I do not know the percentage, but I have heard that.

The Hon. A. J. Shard: The percentage in South Australia is higher than that in any other State. I do not think the figure that was given the other day was accurate.

The Hon. F. J. POTTER: Provision is made to bring agricultural workers under the Industrial Code. I have an open mind about this matter, but I know that there are difficulties in regard to the fixing of their wages. The first difficulty is that, whereas in most cases the employer liable to pay any increase in wages can pass on the cost, the primary producers cannot do that, because they sell their goods on the oversea market.

The Hon. D. H. L. Banfield: So, the employee has to bear the brunt!

The Hon. F. J. POTTER: I have an open mind on the matter and shall leave it to honourable members who have a knowledge of primary production to deal with that aspect. An employee working in a factory is employed for a certain number of hours, and that is that. However, a person employed on a farm receives many fringe benefits.

The Hon. A. J. Shard: They are fairly fringy, too!

The Hon. F. J. POTTER: All right, but he may have a piece of land, he may run his own poultry, he may be able to take milk from the cows, and perhaps he gets a share of the meat when a sheep is killed on the property. Those fringe benefits are often received.

The Hon. A. F. Kneebone: In some cases they might be.

The Hon. F. J. POTTER: In some cases, yes. How could a court assess those fringe benefits? If an employer operates his factory at the weekend he has to pay overtime to the employees, and there is nothing wrong with that. However, it does not seem to me that the cows know whether they are being milked on a Sunday. Is a tribunal to be asked to fix time-and-a-half rates for Saturday and double time for Sunday? How will these real problems be dealt with? Honourable members who are experienced primary producers will doubtless deal with other matters of this kind that arise.

Another important matter dealt with is the claiming of arrears of wages, and it is proposed to increase from 12 months to six years the period in which a claim may be made. I would not mind so much if it were a matter of wages only. However, anyone with a knowledge of disputes of this kind knows that in 99 cases out of 100 claims for wages have nothing to do with the basic rate of pay but relate to entitlements to overtime, to whether the employee was entitled to *pro rata* holiday pay, and that kind of thing. If a man says, "Three years ago I drove my truck back and arrived at 9 o'clock at night," the employer may well say, "Who told you to come back at 9 o'clock?" An employee cannot put himself on overtime, and the court has to decide whether overtime has been authorized.

The Hon. A. F. Kneebone: What about time books?

The Hon. F. J. POTTER: Real difficulties arise, and the proposal seems to me to be highly impractical having regard to the kind of matters that come before the courts for determination. I do not believe that the Government seriously wants this Bill. I think it must be under pressure to introduce the legislation and, if it is, by yielding to that pressure it has displayed a weakness that it ought not to have displayed. This would be one of the most mischievous Bills ever to be introduced into this State Parliament. I propose to vote against the second reading.

The Hon. M. B. DAWKINS (Midland): I rise to speak to this Bill. In my opinion, it is the most unwise, the most ill-considered and the most economically dangerous piece of legislation to be introduced during my term in Parliament. The Hon. Mr. Potter said that, in effect, in his opening remarks. I entirely agree with him. Other speakers have dealt with the measure in detail. I wish to turn my attention to two matters in particular—(1) the part dealing with agricultural workers and (2) that which in effect enforces compulsory unionism. I shall have something to say about the position of agricultural workers. The Hon. Mr. Potter has already referred to this in some detail and has mentioned some of the things that I intended to say, but I hope I shall be able to underline what he said and back them up by actual experience of the position.

What is the need for this provision as regards agricultural workers? Have the farm workers asked for it or are they downtrodden, brow-beaten and poorly paid? The answer is of course "No"—and "No" in no uncertain terms, because agricultural workers

today are usually very well paid and well looked after and enjoy a really good relationship with their employers. I also pose the question: is it possible to work agricultural properties effectively on a 40-hour week? Once again the answer is "No". If honourable members want to take that further, they can go into countries where this has been tried and has not been very successful. What is the real position? Competent agricultural workers in almost every instance are well paid, well treated and generously provided for; otherwise, they would quickly leave their place of employment for a better position. They do work long hours, but it is necessary and recognized as being necessary. It is by mutual arrangement and mutual consent between the employer and the employee, and the mutual appreciation of the necessity for this. As I have said, they are generally very well paid and the additional amenities provided for them would add in terms of their value at least 50 per cent extra to their net wage.

The Hon. Mr. Potter said something about this just now, and it was not very well received. I can assure honourable members that this is a fact. Agricultural workers generally live on the land and off the land. They are given the opportunity to keep poultry or swine, to run a cow or two (or have free milk from the farm dairy), to keep a few sheep, or to share in meat killed on the farm, so in effect they are supplied with all the necessary commodities from the land. Therefore, they really do live off the land. They also have a free house, no water or district council rates to pay, and no rent. This is general practice. The only thing they really know about the cost of living is the cost of clothes and groceries. Otherwise, they live, to all intents and purposes, off the properties on which they are situated. Furthermore, in the great majority of cases they have very good relations with their employers. They are regarded (and they regard themselves) as being part of the outfit and as having an interest in the running of the show—which they do, of course, in so far as their own sidelines are concerned, and also in respect of the considerable bonuses they receive at the end of a successful year. These conditions vary to some extent, of course. On some properties they receive more money and less opportunities for sidelines, but generally the position I have outlined does obtain. As I have said before, relations between the employers and the employees are usually very good.

The Hon. A. F. Kneebone: All the employers would, of course, be very generous.

The Hon. M. B. DAWKINS: Most of them would have to be because, if they were not, a competent man could quickly get a job somewhere else. That is the position. I know the Minister does not really appreciate it, but what I am telling the Council is the correct position in most cases. If we talked about it all night, no doubt we would not be able to convince members of the Labor Party that this was so. There is no disagreement about the hours worked. Farm workers know that, if the boss has a good year, they will be suitably rewarded and there is no thought of knocking off at ten minutes to five when there is half a crop still to take off and a storm is coming up.

Do the farm workers want to change all this? Do they want to be hustled compulsorily into a union? Do they want to work just so many hours, no more, no less, for just so much money, no more, no less? Do they want all their perquisites (which they are virtually given today more or less tax free, certainly not valued at current value) to be itemized and valued as part of their taxable wages? I say emphatically that the answer of the vast majority of them would be, "No thanks; we are doing very well as we are." It is not without significance that in China and Russia, where they have gone in for community farms, short hours and knocking off at ten minutes to five regardless of conditions, and no responsibility, the agricultural production of those countries has declind alarmingly. Those nations are big importers of grain today, whereas previously they were big producers. That situation in those countries is what this Bill seeks to commence in this country: it is the first stepping stone to reducing primary production, which is still, believe it or not, the backbone of our country.

I turn now to compulsory unionism. First, I want to read a letter that appeared in the *Advertiser* the day before yesterday written by Mr. D. N. M. Hutchins as follows:

> The proposed legislation giving preference in employment to unionists must surely be the most undemocratic piece of legislation ever introduced into the South Australian Parliament.
>
> Unions are the Labor Party's main source of funds. Anyone who becomes a member of a trade union is therefore helping to swell the coffers of the Labor Party.
>
> Any legislation forcing employers to give preference to unionists can only be described as a brazen piece of political blackmail. Join a union and contribute to the funds of the Labor Party, or lose your job.

If the Labor Party is to lay any claim to democratic beliefs, it must either chop this legislation or cease to use the unions as a source of funds.

Anything less is tantamount to compulsory support for a political party.

That is so long as there is no "contracting out" clause, as Mr. Posa mentioned in a subsequent letter on the following day. That is the position. I want to relate this situation back to the people I was talking of earlier, the farm workers. Do they want this? I am certain the great majority of them do not. Many of them are farmers' sons and, when they come home, they work for a few years before their fathers give them an opportunity to go into partnership. They are given a chance to prove themselves. Are they to be compelled to contribute indirectly to the Australian Labor Party? Many, on the other hand, who are not farmers' sons are responsible people, who regard themselves as part of the outfit as share farmers, even if in a small way, with the boss. Are these people to be compelled to become unionists, to support a Party by compulsion? I do not think the honourable member knows anything about farm labourers.

The Hon. D. H. L. Banfield: I have had many complaints from them.

The Hon. M. B. DAWKINS: The honourable member is good at making inane interjections when he knows nothing about the subject. If he listened more intently he might learn something. What about the balance of the 49.9 per cent quoted by the Hon. Mr. Rowe? The Chief Secretary queried this figure: it is a large percentage whether it is 49.9 per cent or not. Is the balance of this large percentage to be compelled to become unionists? Twenty years ago the Labor Party was in power in the Commonwealth Parliament, and Dr. Evatt was anxious and active about the United Nations Organization. As Attorney-General he spoke loudly about the four freedoms. I remember well that the Rt. Hon. Mr. Menzies (as he was then), Leader of the Opposition, went to a conference at which Dr. Evatt was present. After Dr. Evatt had spoken about the four freedoms Mr. Menzies suggested a fifth freedom, the freedom of association. Does this Government believe in freedom of association or does it believe in compulsion? Does it believe in compelling people to do what they do not necessarily want to do? Does it believe in compelling people to sell their assets for about half their value?

Since this Government has been in power we have been pricing ourselves out of Eastern States markets, doing the worker more harm than good. The Labor Government will say that it has put a few shillings in the pockets of some workers, and maybe it has, but what good is a few shillings if prices increase under this Government's sorry management and they are thereby swallowed up in rising costs? A few shillings more in the pocket is no good if we price ourselves out of markets in other States and lose our jobs, resulting in increased unemployment and reduced industry. That is what this Government has been doing. I do not say that it has been doing it deliberately: it does not know any better. I cannot understand why this Government cannot see that its record is not good and this Bill is not good. I oppose the Bill.

The Hon. R. A. GEDDES (Northern): In his second reading explanation the Minister said:

In consequence the Government proposes to delete from the Industrial Code all penal clauses relating to lockouts and strikes.

In the 1965 basic wage hearing, when the question of industrial action was being discussed, Mr. Justice Gallagher of the Arbitration Commission said:

I think there is no such right to strike and the sooner that belief is abandoned the better for this country and the better for every worker in it. If anything is calculated to destroy the proper wellbeing of the working man it is resorting to direct action and every time he strikes he loses money.

In 1930 the penal clauses of the Arbitration Court (as it then was) were removed by the Scullin Government, and no penal clauses existed under the Commonwealth Act from 1930 to 1947. Ironically, it was the Chifley Government, which in 1947 legislated to bring back the penal provisions. At that time a fine of $400 was imposed on those who contravened section 109 of the Arbitration Act, and that was later increased by the Menzies Government to $1,000. If the right to strike is allowed in the arbitration system or encouraged, or if the penal clauses were deleted from the arbitration system, that system today would be shorn of its authority. It would be impossible for it to enforce decisions, and the system would be ineffective. Employers and unions could defy the courts at will, and arbitration as a means of settling industrial disputes (for which it was designed and which all Governments agreed was necessary) would become completely redundant. If sanctions against employers or unions were repealed it would

destroy the system of conciliation and arbitration, and we would have an era of complete industrial lawlessness. Mr. C. Oliver, State President of the New South Wales Labor Party and Secretary of the New South Wales Australian Workers Union said in 1962:

Take away the penal clauses from the arbitration system and you defeat the system. The Chifley Government re-introduced these clauses mainly because of the problems in relation to the New South Wales coal strike. If we remove the penal clauses we remove a major cause of friction between unions and employers, but this will not eradicate the deep-rooted cause of most industrial unrest, which is usually the symptoms of the struggle for power within the industry or union. Some unionists have said it is useless and quite unrealistic to expect a legal system to overcome these things. The position may be illustrated best by the serious strike standing to the credit of the Waterside Workers Federation in 1962-63, when the union was fined over $1,000,000 for its continuous disruptive actions on the waterfront. These strikes were not to make conditions better for the working man: they were instigated by an internal power—the power of the Communist Party trying to get control of this union.

It was not until the threat of deregistration of the whole Waterside Workers Federation was made that some type of understanding was obtained between employer and employees on the waterfronts of Australia. Not only was this unfortunate union suffering from internal rebellion and a loss of over $1,000,000, but what Australia lost in exports and the cost of waterfront charges was astronomical. Therefore I argue, as the Minister said in his second reading explanation, that the labourer has only himself to sell. But this is only one side of the argument: he may also be selling his heritage, his hire-purchase payments, and all other things that are so essential to make the lot of the working man better.

The clause dealing with agricultural workers interests me very much. I support to some extent the argument that there is a need for the agricultural worker to be brought under the Industrial Code but I question what advantage there will be to the worker in the pastoral industry at present where employees come under the control of the Australian Workers' Union and the conditions of employment are ruled by the Federal Pastoral Industry Award of 1965. The definition of a pastoral worker is, "a worker who is employed in the shearing and crutching of sheep". It does not apply to those people who have fewer than 5,000 sheep.

The Hon. D. H. L. Banfield: Two thousand will do.

The Hon. R. A. GEDDES: I correct myself. I was under the impression that this matter was before Mr. Commissioner Donovan at present. There has been a log of claims before him for the past two years and a decision is expected within the next few weeks. Regarding one of the submissions, the employees and employer met around a table.

The Hon. A. F. Kneebone: The fact that they have been able to get around the table indicates a change of attitude on the part of the employers.

The Hon. R. A. GEDDES: The following clause has been submitted to Mr. Commissioner Donovan and the Australian Workers' Union has agreed to it:

This award shall apply to all employees employed by respondent employers in connection with the management, rearing or grazing of sheep, cattle, horses or other livestock, the sowing or harvesting of crops, the preparation of land in any of these places, and the shearing and crutching of sheep.

The Hon. A. F. Kneebone: That brings everybody in.

The Hon. R. A. GEDDES: That is just the point I am putting to the Minister: in my opinion this does put in all workers in the pastoral industry. I have not the necessary knowledge to refer to all workers on the land.

The Hon. A. F. Kneebone: If you can do that under the Commonwealth jurisdiction, why can't we do it under the State jurisdiction?

The Hon. R. A. GEDDES: There is no preference clause, to my knowledge. The Australian Workers' Union is still pressing strongly to have all these employees covered by the award—non-unionist employees will still not be covered by this wider meaning of "pastoral employees". The pastoral worker is catered for much better under the Commonwealth award than he was before. I am also led to believe that the Commonwealth award has a higher priority than this Industrial Code amendment, if it is passed. I have not the knowledge to speak with authority on the whole industry. This is a Bill that could do as much harm to some sections of the community as it could do good to others. I shall be interested to hear the remainder of the debate and to learn more about this matter.

The Hon. A. M. WHYTE (Northern): I have always been under the impression that legislation is designed either to raise money for the Treasury or to protect one portion of the community from another. Can the Minister who introduced this Bill say whom it is intended to protect? Has there been a request for the legislation by the people most concerned? If the Minister can prove to me that farm hands have been asking for legislation of this type, I shall be happy to support the Bill; but there is no evidence that people are asking for it. The co-operation and liaison between farm hands and farmers has always been excellent: it operates on a pleasant give and take basis. In most instances the farm hand enjoys the privileges of the home and is treated as one of the family. After shifting once or twice, he will find a suitable environment and settle down, probably for several years until an opportunity arises for him to take a step on his own.

Many of our farmers today began as farm labourers and, because they had the qualities necessary for this type of life and because of the assistance given them by their employers, they eventually were able to start on their own. What is the purpose of this Bill? It has been suggested that one of the chief aims of this Bill is discordance. The agricultural farm workers' industry has had little need for arbitration and has had few disturbances. If such things existed I could understand the Minister being involved, but as I thought he was a fair man I am astounded that such a Bill has been introduced. If it were designed to help those in need or to help the economy of the State (which should be the Government's prime object) I would support it. However, I find nothing to recommend it and, as it is most unwarranted, I condemn it and hope that it will be rejected.

The Hon. D. H. L. BANFIELD (Central No. 1): The Hon. Mr. Potter said that the Government showed weakness in introducing this Bill, but the Government has shown strength by introducing it into this House. This Bill attempts to improve outmoded conditions in an industry that have existed for many years. Much has been said about why agricultural workers should not be covered by an award. Some are already covered by the Commonwealth Pastoral Industry Award and, as that is satisfactory, all agricultural workers should be covered by a similar award. There should be some protection for employees working for the man on the land. This is the only State in the Commonwealth, with the possible exception of Western Australia, where courts are not permitted to prescribe an award for agricultural workers.

The Bill does not set out conditions for these workers: it allows the court to consider the industry and, if necessary, to bring in an award to cover it. Much has been said tonight about freedom, so why not give freedom to the court to consider the position? It may decide that it is not necessary to introduce an award. Most agricultural property owners employing labour receive many concessions that are denied to people in other industries. Therefore, these owners could give an employee a reasonable return for his labour.

The Hon. C. R. Story: And don't they?

The Hon. D. H. L. BANFIELD: I do not think they do, and many farm employees do not think so. The Australian Workers Union and the Trades and Labor Council receive up to three or four letters a day asking for assistance to recover wages due to the employee.

The Hon. C. R. Story: There is a great shortage of farm labourers.

The Hon. D. H. L. BANFIELD: An award covering farm workers would eliminate much of this discontent.

The Hon. C. R. Story: They could come under the Commonwealth award.

The Hon. D. H. L. BANFIELD: No, because that is restricted to pastoralists with 2,000 or more sheep. Obviously the farmer asks for special concessions. Legislation is amended to assist the employer, but when an attempt is made to assist the employee we are told that the Bill should not be proceeded with. The farm worker is entitled to a reasonable standard of living. It has been suggested that frequently a house is provided for him, but we do not hear what type of house it is. We know from complaints that often a man, having been enticed on to the land because of promises of a house, finds that he is expected to work long hours every day, and that if he is working on a dairy farm he has to work seven days a week without extra pay. Farm workers should have someone to whom they can appeal to improve their conditions. We find that the worker on the land is not legally entitled to any set number of hours in which he must work. He is not legally entitled to any annual leave or sick leave and, unless he has an agreement in writing regarding his rate of pay, he finds that it is very hard to prove his entitlement. Surely no member of this Council honestly believes that these conditions should be allowed to continue

and that employees should be without the right to apply to the Industrial Commission to lay down minimum standards: that is all that the Bill does. This will not stop the good-hearted farmer from paying above the award rates. The Commonwealth Pastoral Award does not even cover station hands working on properties where there are fewer than 2,000 sheep, so there is quite a number of station hands not covered by any award.

The Hon. C. R. Story: That was before decimal currency. Wouldn't it be 4,000 now?

The Hon. D. H. L. BANFIELD: You would count the legs and divide by the number of tails that had been cut off. If we believe in conciliation and arbitration for some employees, we should believe in it for all employees. Much has been said about belief in arbitration, and I believe that the agricultural worker should be no exception.

Clause 4 seems to be controversial because it allows the court to look at the working conditions of the agricultural worker, and it also enables the Industrial Commission to provide for preferential treatment for members of registered associations. Surely the commission should have that power. This is nothing new; Queensland has had it for a long time. There are preference provisions in some Commonwealth awards, and the court here should at least be able to have a look at the position. If it decides that it is desirable, it can insert such a provision. All the clause says is that if two people apply for a job and their qualifications are equal, the man who gets the job will be the man who is a union member.

The Hon. L. R. Hart: What about the Aborigines?

The Hon. D. H. L. BANFIELD: It makes no difference. There are not many Aborigines who are not got at by farmers simply because of the colour of their skin. Farmers deny to Aborigines even the conditions that they give to other employees who are not covered by the court. This Bill does not give preference to unionists; it gives the commission the right to have a look at the position and, if it thinks fit, to insert such a clause in the award. There is nothing wrong with our courts: let them come to a decision on these things! We have been satisfied with the Arbitration Court for years and we have accepted the decisions of the courts, and we would be prepared to accept the court's decision in this case if it was not prepared to put a preference clause in an award when asked to do so. Surely the man who pays to get conditions is entitled to some preference.

I should like to know what members opposite would do in their industries if they had a load of wool or grapes: surely they would give preference to the man who could pay for the load. They would not just get rid of their grapes for the sake of getting rid of them. I suggest that the man who has paid to obtain the benefits of an award should be given preference for the job. There is no difference between such a man and any member opposite who is entitled to sell his goods to someone who will pay for them. If two people went to the Hon. Mr. Potter for professional services and one said, "I could pay you if I wanted to, but I am not going to do so," and the other said, "I shall pay you immediately", I warrant that Mr. Potter would give his services to the second man, and I do not blame him. Preference to the man who pays for goods and for conditions is widely accepted, and in this case the preference is for union members.

The Hon. G. J. Gilfillan: But this man is paying his union dues; he is not paying the employer.

The Hon. D. H. L. BANFIELD: This man is paying for the advantages obtained from the court; considerable costs are incurred when members of the legal fraternity are engaged. If it were not for these costs union fees would be much lower than they are today. We believe that preference should be given to persons who pay to obtain the conditions operating in the industry, and the court should at least have the right to include a preference clause in an award after it has looked at the position and after it has heard advocacy by representatives of the trade union movement and the employers.

The Hon. Sir Arthur Rymill: What if someone fights his own case at his own expense? Would you give him preference?

The Hon. D. H. L. BANFIELD: He is precluded from making an application to the court, so he cannot go to the court and obtain his own conditions: he must go through the trade union movement.

The Hon. Sir Arthur Rymill: That is what I mean: you have it all sewn up.

The Hon. D. H. L. BANFIELD: He must go through the trade union movement and the movement must pay for it. The Hon. Mr. Rowe stated that, by including this provision, discontent will be caused in industry. Surely he is not suggesting that there has not been discontent in industry because this clause has not already been operative. How much discontent has been caused by scab labour being kept on whilst unionists have been put off?

The Hon. Sir Arthur Rymill: Would you define that term "scab labour"?

The Hon. D. H. L. BANFIELD: It is rather late and I would like to keep away from that; it is not mentioned in the Bill.

The Hon. Sir Arthur Rymill: Why don't you put it in the definitions?

The Hon. D. H. L. BANFIELD: Because I want to go out on Saturday afternoon, and I do not want to still be here then. This clause will not enable unions to use tactical force with impunity, as the Hon. Mr. Rowe has suggested, because the Industrial Commission will be able to exercise discretion in drafting safeguards in regard to any preference clause inserted in an award.

I am replying to the Hon. Mr. Rowe because he was furthest from the mark. His statement that only 51 per cent of the work force in South Australia belongs to trade unions is misleading. Doubtless he has taken into account the professional, semi-professional, governmental and semi-governmental employees who do not belong to trade unions as such but nevertheless are organized in their own associations. Examples are public servants and members of the Police Force. Is the honourable member suggesting that members of the Police Force, public servants, and the Parliamentary Draftsman who is working here at 1 a.m., are not members of the work force? The public servants do a good job. They are organized in their associations and are part of the work force. The Hon. Mr. Rowe said that union membership would be doubled. If it is, the cost of membership will be halved and that will be an opportunity to reduce the cost to the whole work force.

The Hon. Sir Norman Jude: You would need something to help the political funds.

The Hon. D. H. L. BANFIELD: We do nothing to help political funds without the consent of the members of the union, and every member has a say about what will happen to the funds. Any member of a union who wants to make a donation to the Liberal and Country League has only to give notice of the calling of a special meeting to consider the matter. The union member controls his union and has the first say and the last say. The Hon. Mr. Rowe said that employer organizations had to bear the cost of applications made by them for new awards that would apply to all employers, including those employers who were not members of the organization. Employers rarely make applications to the court for the improvement of the conditions of workers. In 95 cases out of 100 an award obtained by employers would be against the best interests of employees. All employers would benefit from that.

In the marginal rates test case in South Australia this year the margin was passed on to all employees, but the expense was not fairly divided. All employees received the benefit but the Hon. Mr. Rowe says that 51 per cent meet the expense. The rules of unions are registered with the Commonwealth and State courts and any member who is dissatisfied with the conduct of a union has the right to apply to the court. In view of the good record of the unions in this State, which has been commented on by the former Premier and the former Minister of Labour and Industry, we should not deny to the Industrial Commission the right to insert a preference clause in an award if the commission so desires.

Regarding the extension of the time in which an employee can take legal proceedings to obtain any moneys not paid to him by an employer, surely an employee claiming wages should not be in a different category from a person claiming a civil debt, and civil debts can be recovered up to six years from the time the debt is incurred. It seems that the Industrial Code has been loaded against the employee and it is time that we recognized that the employee is entitled to a fair deal in the same way as any other section of the community is so entitled. It is significant that the Hon. Mr. Rowe referred to the inconvenience to which employers in the building industry would be put. They are the worst offenders in regard to the payment of workers. The majority of applications to the Adelaide court in regard to failure to pay wages are made in respect of the building industry.

It was also wrong for Mr. Rowe to say that it was impracticable for employers to keep records of employees for six years. It is good business practice to keep these records and only inefficient companies will be unable to comply. Because of their inefficiency, they may not be in business after six years. The Hon. Mr. Hill strenuously fought for the rights, as he says, of the little man when he was dealing with another Bill. This is his opportunity to give the little man the right to claim wages after six years in the same way as the big man is entitled to claim after that period. The honourable member has been pushing the case, as he says, of the little man since last November.

Regarding the repeal of the section dealing with penalties, lock-outs and strikes, it has been

argued for many years that the penalty prescribed is a means of preventing strikes and lock-outs, but this is not true. The provisions were in the Industrial Arbitration Act of 1912, which has been repealed, and it cannot be said that there have not been strikes or lock-outs since 1912, nor can it be said that there will not be strikes or lock-outs in future. We have come a long way since 1912, when arbitration was the rule and conciliation was the exception. Today conciliation plays a big part in the settlement of disputes and to invoke penalty provisions is no way to solve disputes.

If we repeal that section of the Act, we shall go a long way towards achieving cordial relations in industry. The provision causes most of the complaints, because an employer is able to say, "You can do as you like. I am not prepared to negotiate with you. Go on strike and we shall invoke the penalty provisions." There is no doubt that the whole of the Hon. Mr. Rowe's speech created a false and misleading impression.

The Hon. C. R. Story: It must have made a great impression on you.

The Hon. D. H. L. BANFIELD: Yes, it did, but it was a misleading impression. That is why it has to be answered. Several honourable members did not know what they were talking about. The Hon. Mr. Dawkins proved that he did not know what he was talking about when he said that this legislation would apply to the sons of farmers. If he knew what he was talking about, he would realize that it would not apply to the sons of farmers. The Hon. Mr. Rowe by his speech created the impression that he knew what he was talking about, but what he was talking about created a misleading impression. He said it would mean that the basis for arbitration could be attacked. That, of course, is not so as the State Industrial Commission would still retain the right to deal with any union abusing the right to strike. No doubt, employers will use this means of discipline if any union abuses the right to strike.

South Australia is recognized as having a very good record as far as the responsibility of the trade union movement is concerned. The Hon. Mr. Rowe and Sir Thomas Playford have told us that repeatedly. They have often said that the trade union movement in South Australia is sound in its leadership and constructive in its attitude. There have been no prosecutions for lock-outs since 1920 and no convictions under this section since 1953, which clearly shows that the trade union movement has accepted its responsibility to the community generally. Clause 15 provides that an employer whose employee is a member of a conciliation committee and who has to attend a meeting of that committee during working hours shall pay to his employee the amount the employee would have received had he not had to attend a meeting of the committee. It is not reasonable that an employee should be called upon to lose his wages for any time that it is necessary for him to attend a meeting of a conciliation committee.

The Hon. L. R. Hart: Who pays the employer for the loss of time?

The Hon. D. H. L. BANFIELD: The man who pays the employee for the loss of his time is the same man who pays the employer for the loss of his time when he goes out to golf, cricket and tennis on Wednesday and other afternoons of the week. If industry can afford to pay the employer who goes out on those afternoons to play golf, then industry can afford to pay a member of a conciliation committee whilst attending a meeting of that committee and dealing with matters affecting that industry.

The Hon. L. R. Hart: But the employer probably works up until 11 o'clock at night.

The PRESIDENT: I suggest that the honourable member addresses the Chair and does not indulge in dialogues.

The Hon. D. H. L. BANFIELD: The sitting of the committee affects the industry generally, and one employer would not have to bear the cost of paying the employee, because a levy can be imposed upon all employers to pay something towards the cost of that employee who would have to attend a meeting of the committee. Employers can impose a levy on their members for political purposes. I suggest that that levy is paid in accordance with the number of employees employed by a particular firm. I suggest that that principle could apply to a levy imposed on all employers through an employers' organization—that the levy could be in accordance with the number of employees employed by a particular firm. A similar method is used by employers when they find it necessary to make a contribution to the Liberal and Country League funds at election time.

This Bill will go a long way towards ensuring that the trade union movement will co-operate fully with the employers, that it will continue to accept its responsibility to the people generally. There is no reason why this Bill should not be passed. Now is the time for the Hon. Mr. Rowe and his colleagues to show at least some

practical appreciation of what the trade union movement has done over the years. I support the Bill.

The Hon. H. K. KEMP (Southern): Very rarely do we have to listen to such a long tirade of twaddle. South Australia has been indebted to the trade union movement as it was. But, as it is today, it represents barely 50 per cent of the work force of the State. That should be kept clearly in mind. The whole purpose of this Bill is an attempt by the trade unions to bolster up their rapidly deteriorating strength and force people into membership who do not want to be associated with the sentiments that have been poured out for the last half-hour.

This is an important Bill for many sections of the community. The thought has taken shape and is becoming more prevalent, I am afraid, that many people to whom we have to pay wages do not think it is their business to give any service in return: it is up to the employer to force them to do their job. We are really up against this in the agricultural industries. The whole point of agriculture being excluded from these industrial awards in the past is that the agricultural worker usually has to be a conscientious worker who does not need a foreman behind him and an industrial staff to ensure that he does his job.

This is one of the big differences between a worker in the agricultural industry and a worker in a factory or in a line of labourers working, as they have to, in most of the trade union jobs. We are up against this where we have to employ casual labour in agriculture; unless we are there all the time to drive them, we just do not get money's worth.

These people have no compunction about taking their wages, sitting down under a tree and not picking an apple all day. The people upon whom we do rely are decent people who will return fair value for what they are paid. Every self-respecting worker in this State should realize that, if this Bill is passed, before a person can obtain employment he must be a member of a trade union. If irresponsible strikes were legalized, how could stock be cared for or sheared? Agriculture would become unworkable.

The good agricultural workers today are receiving a reward that is envied by industrial workers and, in most cases, they quickly become employers themselves with their own farms. The attitude in the community today on the part of the worker is that what he takes is right and he does not have to give a fair return. What the self-respecting man must remember is that, as members of trade unions, employees are forced, not as a group of free thinking people, to make contributions to Party funds.

We must have conscientious workers not only in the agricultural industry but in all industry. Many people today do not want to be associated with trade unions. In fact, those people comprise as high a proportion of the work force as those who are unionists and who make compulsory contributions to Party funds. We cannot afford strikes in the agricultural or any other industry. They hold the community to ransom. South Australia cannot support this Bill and continue in the economic prosperity that it is in today.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): There is not a great deal for me to reply to, as the Hon. Mr. Banfield effectively answered most of the arguments raised against this measure; I believe that he must have converted many people by his enthusiasm. I should like to read a letter from a very prominent trade unionist in South Australia who represents many unionists. This letter may answer some of the questions raised during the earlier debate as to why this legislation was being introduced and who wanted it. There seemed to be an insinuation that nobody except the Government wanted the Bill. The letter states:

> The whole of the speech of Mr. Rowe, M.L.C., in the Legislative Council on Tuesday creates a false and misleading impression, and attempts to confuse the Industrial Code Bill introduced by the Minister of Labour and Industry (Mr. Kneebone).
>
> Mr. Rowe obviously does not have the interests of the average employee at heart, as he would have the public believe. His only intention appears to be aimed at hindering a very sound and fair measure.
>
> In fact, the move to repeal the existing prohibition on strikes and lockouts will not mean that the basis of the arbitration system can be attacked. The State Industrial Commission will retain the right to deal with any party who abuses the right to strike.
>
> South Australia is, in fact, recognized as having a very good and responsible trade union movement.
>
> Many unions have been recently complimented by the judge of the South Australian Industrial Commission for their excellent record of conciliation with employers. The clause dealing with preference to union labour does not mean unions can use tactics of force with impunity. The Industrial Commission will exercise great discretion in determining what safeguards should be inserted in any particular award.
>
> The fact is that the burden and expense of obtaining awards falls completely upon the trade unions. Usually the benefit of test cases passes to all employees, but the expense is at

the moment not being fairly divided. The extension of the time limit for recovery of wages from 12 months to six years is only giving to employees what all other persons are entitled to in their contracts. It is good company practice to keep records for six years and there is no reason why this should not apply to wage records.

I think that is a good letter. I shall now deal with some of the remarks made by honourable members. I do not agree with the Hon. Mr. Kemp's statement that trade unions are rapidly decreasing in strength. In fact, they are building up in membership in Australia. The Hon. Mr. Kemp opposed the placing of agricultural workers in the position where they could go to a tribunal because, as he said, they were conscientious workers and did not need a foreman to keep them on the job. If that is so, why not give them justice? The honourable member also said that the rewards were so high that those workers would be envied by factory workers. I was surprised to hear the statement that agricultural workers were receiving so much money that they were able to buy farms after a short time.

I regard as crazy the statement made by the Hon. Mr. Dawkins about sons working on their fathers' farms being compelled to join unions. The sons and families of farmers are not regarded as employees and would not be compelled to join a union. I played sport with farmers' sons when I lived in the country and they were always complaining about the measly amount of money they received from their fathers. Certain people working on pastoral properties cannot be covered by a State award, except in special circumstances. The coverage of the Commonwealth award is restricted and the award cannot be made a common rule. The only people covered by it are those joined in the original dispute by the service of a log of claims, and people who now come into the industry cannot be bound by that award until a dispute brings them in. Such persons can be taken care of only by a State award or determination, and that it why provision should be made for those employees in the pastoral industry who are not covered because they were not in the industry at the time of the service of the log of claims.

The Hon. R. A. Geddes: Does the Australian Workers' Union apply to workers in South Australia?

The Hon. A. F. KNEEBONE: The Australian Workers' Union has a branch in South Australia and has many members.

The Hon. R. A. Geddes: Does it apply to pastoral workers?

The Hon. A. F. KNEEBONE: Yes. Although it has been suggested in the debate that people on farms receive houses and that sort of thing, every day I am being told that accommodation for shearers is not up to standard and proposals are being placed before me for extension of the time for bringing accommodation up to standard. It has been said that this type of accommodation is a fringe benefit, but it is not up to standard.

The Hon. M. B. Dawkins: The Minister has no justification for saying that it is not up to standard.

The Hon. A. F. KNEEBONE: I can cite many cases.

The Hon. M. B. Dawkins: You implied that it was so in all cases.

The Hon. A. F. KNEEBONE: I am not saying that. I say that in many cases it is not up to standard. There has been much objection to the removal of the penal clauses. However, these clauses are the cause of the suspicion that exists between the majority of employers and employees, and while they remain in the Act there will be difficulty in getting people around the table to conciliate. I believe in conciliation, but there will be no conciliation between the parties while these obnoxious clauses remain.

It has been said that the clauses have not been used in South Australia, but honourable members should not say that that is because of the fear of the people concerned. The one case that has occurred here since the Second World War was a case in which people were charged with doing something in the nature of a strike. A group of people had given notice of termination of their employment with one employer and had applied for a job at another place because they could get better wages. Because these men left their employer, they were convicted. Mr. Justice Higgins, the father of the arbitration system, said that the worker had the right to work for a certain person and to withhold his labour from another employer.

The four honourable members here who are supporting the Government have all been trade unionists. I doubt that many other honourable members have been trade unionists, and that is clear from what they have said. One honourable member has been a member of a union which, although it has not been a closed shop, has been fairly close to being so. He was a member of the Public Service Association. That member is on the Opposition side. The Public Service Association watches closely to ensure that a person who enters the Public Service joins the association, and he has some

pressure on him if he does not join. In fact, that association poached members from a union to which I belonged because it maintained that those people had been daily-paid people but had become salaried officers. These people were loyal enough to stay with my union and they joined the other union; so they were public servants who were members of two unions. I have said enough to indicate my feelings about this Bill.

The Council divided on the second reading:

Ayes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone (teller), and A. J. Shard.

Noes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), L. H. Densley, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Majority of 11 for the Noes.

Second reading thus negatived.

ROAD TRAFFIC ACT AMENDMENT BILL (GENERAL).

Returned from the House of Assembly with the following amendment:

After clause 26 to insert the following new clause:

26a. Section 160 of the principal Act is amended—

(*a*) by inserting after subsection (2) thereof the following subsection:—

(2a) A member of the police force may, at any time when any premises where vehicles are exhibited or kept for sale are open for business, enter into or upon those premises and, if he is of opinion that any vehicle exhibited or kept for sale therein does not comply with any one or more of the requirements of this Act or for any reason cannot be safely driven on roads, he may give to the owner or person in charge of the vehicle a direction referred to in subsection (2) of this section;

(*b*) by inserting after the passage "subsection (2)" in subsection (3) thereof the passage "or subsection (2a)";

(*c*) by inserting after the word "section" in subsection (3) thereof the passage "and no person shall hinder or prevent a member of the police force from acting in exercise of the powers conferred on him by this section";

(*d*) by inserting after the word "road" in paragraph (*b*) of subsection (5) thereof the passage "or sold or otherwise disposed of";

(*e*) by striking out from subsection (6) thereof the passage "a vehicle" secondly occurring and inserting in lieu thereof the passage "or permit a vehicle to be driven or";

(*f*) by inserting after the word "road" in subsection (6) thereof the passage "or sell or otherwise dispose of a vehicle";
and

(*g*) by inserting after subsection (6) thereof the following subsection:—

(6a) It shall be a defence to a charge under subsection (6) of this section of having sold or otherwise disposed of a vehicle contrary to the terms of a defect notice if the defendant satisfies the court that at the time of the sale or disposal he he had reason to believe that the vehicle was not intended to be used on a road after such sale or disposal.

Consideration in Committee.

The Hon. S. C. BEVAN (Minister of Roads): I make an apology for these late amendments to the Bill. It was intended that these amendments would be dealt with earlier but unfortunately they were not included and I lost sight of the fact when the Bill was being reprinted. This is an important new clause and the Government desires to have it inserted in the Bill. The new clause is designed to extend the provisions of section 160 of the principal Act dealing with the use of unsafe vehicles on roads to new and used vehicles that are for sale. Section 160 of the Act as it stands empowers a member of the Police Force, who is of opinion that a vehicle does not comply with the requirements of the Act or cannot be safely driven, to direct the owner or person in charge of the vehicle to produce it for examination. Paragraph (*a*) of the new clause inserts in that section a new subsection (2a), which empowers a member of the Police Force to enter premises where vehicles are for sale and, if of the opinion that any vehicle in those premises is unsafe, to direct the owner or person in charge of the vehicle to produce it for examination.

Paragraphs (*b*) and (*c*) of the clause are consequential amendments to subsection (3) of the section. Subsection (5) of section 160 enables members of the Police Force to issue to the owner or person in charge of a vehicle a defect notice if, upon examination, the vehicle is found to be unsafe and paragraph (*d*) of the clause extends the application of that subsection to vehicles offered for sale or disposal. Paragraphs (*e*) and (*f*) extend the provisions of subsection (6) of the section to cover vehicles offered for sale and paragraph

(*g*) inserts into section 160 a new subsection making it a defence to a charge under subsection (6) of having sold or otherwise disposed of a vehicle contrary to the terms of a defect notice if the defendant satisfies the court that at the time of the sale or disposal he had reason to believe that the vehicle was not intended to be used on a road after such sale or disposal.

Many complaints have been made, especially to me, regarding the sale of second-hand vehicles, especially in used car yards. Many young men who are buying their first cars do not know anything about vehicles and buy what are known as ''bombs''. When these young men have signed contracts and paid over their money they find that the vehicles are unroadworthy and they then have to spend much money in order to have them repaired.

In the other States, legislation provides that vehicles have to be roadworthy before they can be sold and, because of that, it is difficult to dispose of unroadworthy vehicles. People have been engaging in a racket by bringing defective cars from the other States to South Australia and disposing of them in used car lots to unsuspecting people who are not aware of the defects. This provision enables a police officer to enter a car yard while it is open for business and gives him power to order that a car be inspected. If the inspection reveals that it is unroadworthy, an order can be issued that it be made roadworthy before it is sold.

Section 160 of the Act gives the police power to stop a vehicle on the road, to examine it, to order that repairs be made if it is defective, and to order it off the road until it has been made roadworthy. We are attempting to prevent unroadworthy cars from being sold before they get on the road. I commend this further amendment and hope that the Committee will support it so that we can prevent some of the present practices.

The Hon. Sir NORMAN JUDE: The principles underlying the amendment are very sound. I was disappointed to hear the Minister explain that section 160, which is comparatively new, did not give enough power to enable entry to premises. I am right behind the amendment, but I am wondering about the words ''where vehicles are exhibited''. If a few ''bombs'' are exhibited, will people get into trouble over that?

The Hon. A. J. Shard: They have to be exhibited for sale.

The Hon. Sir NORMAN JUDE: The provision does not say that. It says ''exhibited or kept for sale''. One aspect is the exhibiting and another is the keeping for sale. Let us have the provision correct. I should also like to know whether a warrant would be necessary to enable a constable to go on to premises.

The Hon. S. C. BEVAN: This new subsection, assuming the Committee agrees to its insertion in the Bill, will give a police officer power to enter without a warrant.

The Hon. Sir Norman Jude: I think the amendment is in order, and I am prepared to support it.

The Hon. L. R. HART: The amendment says:

> . . . that any vehicle exhibited or kept for sale therein does not comply with any one or more of the requirements of this Act or for any reason cannot be safely driven on roads, he may give to the owner or person in charge of the vehicle a direction referred to in subsection (2) of this section.

So it does not really matter whether or not the vehicle is exhibited for sale. Provided it does not comply with the requirements of the Act, it will receive a defect notice and, having received that, I understand it could not be sold. So the amendment in its present form is probably satisfactory.

The Hon. H. K. KEMP: This is an important amendment that will affect a large section of the motor trade. It is now two minutes to one o'clock on the last day of the session, and I think it is utterly wrong that such an important measure should be introduced at this late hour. I do not think we have nearly enough time to consider the repercussions and implications of an amendment of this nature at this stage of the session. It would be wrong for us to push it through and accept it without the motor trade having a chance to express its opinion on it.

This is not a small business that is being interfered with here; it is a large trade which will be deeply affected by this amendment. On the face of it, it is logical and reasonable, but we would not be working conscientiously if we did not give the people whom it will gravely affect a chance to show how their businesses will be affected by it. I register a strong protest against an amendment of this weight being put forward at this very late hour. Trying to rush it through like this does not reflect any sense of responsibility on the part of the Government.

The Hon. S. C. BEVAN: First of all, the only people that this will affect are those selling unroadworthy vehicles.

The Hon. H. K. Kemp: They have been doing it for years past.

The Hon. S. C. BEVAN: Secondly, if the honourable member was a television fan he would have seen some time ago on television these yards being canvassed by people in the hope that they would adversely comment on this legislation, because it was advertised that this would be done. Every genuine used car lot in the metropolitan area welcomes this legislation. The only person not welcoming it is the one attempting to sell defective cars.

Amendment agreed to.

PUBLIC WORKS COMMITTEE REPORTS.

The PRESIDENT laid on the table the following interim reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Kingston Bridge,
Kangaroo Creek Reservoir,
Happy Valley Water Supply and Sewerage System.

PROROGATION.

The Hon. A. J. SHARD (Chief Secretary): I move:

That the Council at its rising do adjourn until Tuesday, April 18, 1967.

Many people have assisted me during the session in the work of this Chamber. I refer particularly to the Clerks at the table (including Mr. Clive Mertin), who do an excellent job, and to the members of the *Hansard* staff, who are always with us and always do a good job. During the last few months I have been in close touch with the staff of the Government Printing Office and, knowing the difficulties under which they are working, I pay a particular tribute to them for the excellent work they have done. That department is short staffed and has been in trouble as a result. In addition, last week we took another man away for duties in connection with the planning of the new Government printing works, and another man was taken sick. On behalf of all members, I publicly thank them.

Members of the Opposition in this Chamber have worked closely with me and have assisted materially in getting the work done. Members on the Government side have worked well with me, and one could not wish for better colleagues. I thank all members for the assistance they have given me.

I pay a tribute to the Hon. Mr. Densley, who has told me that he will not be with us when we re-assemble next session. We knew when he retired from his high office of President that he would take a seat on the back benches. We have all enjoyed his company over the years, and he has been a good host and friend to us on many occasions. I think all members in this Chamber regret the necessity for the honourable member's having to retire at a time so close to the end of his term.

I am sure all honourable members will join with me in wishing the Hon. Mr. Densley well. We hope that his health will improve and that he will have a long and happy life. I express these good wishes to him because of the unfortunate way in which his retirement has become necessary. We all regret the necessity for his having to retire. However, I am sure he will have the best wishes of all members.

The Hon. R. C. DeGARIS (Leader of the Opposition): It is very easy for me to support the remarks of the Chief Secretary. I think every honourable member realizes that there is a bond between members of this Chamber, irrespective of political beliefs. Although we may have disagreements from time to time, I am sure we are all conscious of this bond that exists between us.

Concerning you, Mr. President, I shall not repeat the comments that I made earlier. Though you have occupied your present high position for a very short time I am certain that we all believe you will carry out your duties with the same distinction as has marked previous Presidents of this Council.

I also support the Chief Secretary's remarks regarding the Hon. Mr. Densley who was your predecessor, Sir. He has been my colleague in the Southern District and he was, of course, President of this Chamber when I entered it. I knew him for a long time before I entered politics and a deep friendship has existed between us; I appreciate this friendship, his guidance and his term of Presidency very much. I am pleased to say that not only have I served in this Chamber with the Hon. Mr. Densley as its President but I have also served with him as a colleague on the floor of this Council. I heartily endorse the Chief Secretary's remarks in relation to this gentleman.

During this session we lost the Hon. Mr. Octoman; I think every member of this Chamber appreciated his honesty of purpose and his dedication to his work. We have had the opportunity of welcoming a new member, the Hon. Mr. Whyte; I am sure I echo the thoughts of every member of this Chamber when I say he has already acquitted himself well and we are looking forward to another session with him as our colleague.

As a very new Leader of the Opposition I extend my thanks to the Ministers in this Chamber and to all other members for their

kindness, co-operation and help. I also endorse the remarks of the Chief Secretary in thanking all people who have assisted me and other members during this session. I thank those at the table, the *Hansard* staff, and all other staff members. It is easy for me to support the Chief Secretary's remarks and I hope that in future sessions we shall be able to carry out our responsibilities and duties in the co-operative manner that has been a feature of this Chamber for so long to the general benefit of this State.

The PRESIDENT: On behalf of myself and the staff of Parliament House, who are not in a position do so, I acknowledge the tributes that have been paid by the Chief Secretary and the Hon. Mr. DeGaris. As a result of the additional knowledge I have gained in the last fortnight, I can say how fortunate we are in the staff we have in this Chamber and in the precincts of Parliament House. Mention has been made of the Clerks at the table and of the assistance of Mr. Mertin; nothing is too much trouble for them as they assist in ensuring that the work of this Chamber is carried out with precision. The other members of the staff—messengers, librarians, *Hansard*, the staff of the Government Printing Office (I understand their problems during heavy periods), the Parliamentary Draftsmen, and the catering staff (who have to face up to long sittings and still give cheerful service)—all deserve a tribute, and on their behalf I thank honourable members for the recognition given to them in the remarks of the Chief Secretary and the Hon. Mr. DeGaris.

Motion carried.

At 1.6 p.m. on Thursday, March 23, the Council adjourned until Tuesday, April 18, at 2.15 p.m.

Honourable members rose in their places and sang the first verse of the National Anthem.