LEGISLATIVE COUNCIL

Thursday, October 19, 1967

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Appropriation (No. 2),
Barley Marketing Act Amendment,
Oil Refinery (Hundred of Noarlunga) Indenture Act Amendment,
Sewerage Act Amendment,
Stamp Duties Act Amendment,
Statutes Amendment (Oriental Fruit Moth Control, Red Scale Control and San Jose Scale Control).

QUESTIONS

NORTH-EASTERN COMMUNITY HOSPITAL

The Hon. R. C. DeGARIS: I understand that a campaign is now being launched for funds to build a community hospital to be known as the North-Eastern Community Hospital. Can the Chief Secretary give the Council any information about the proposed site and proposed capacity of this hospital?

The Hon. A. J. SHARD: The proposed site is on the Lower North-East Road at Campbelltown. I would not hazard a guess as to the exact number of beds. It will be run purely on a community basis but the Government will provide a two-to-one subsidy towards the capital charges for the construction of the hospital and the purchase of its equipment.

HOUSING TRUST

The Hon. R. C. DeGARIS: Will the Chief Secretary ascertain from the Minister of Housing whether the Housing Trust is at present building houses in the metropolitan area as defined in the Electoral Act?

The Hon. A. J. SHARD: The last time I made an inquiry the answer was "No". However, I shall see whether the position has altered and let the honourable member have a reply next week.

GAWLER LAND

The Hon. M. B. DAWKINS: Has the Chief Secretary, representing the Minister of Housing, a reply to my question of September 26 about the further construction of houses in the Gawler and adjoining districts?

The Hon. A. J. SHARD: The Housing Trust does not expect to commence this financial year the construction of houses on the land at Gawler mentioned by the honourable member. In September, 1966, the District Council of Mudla Wirra was advised that the trust hoped to commence in this area during 1967-68. However, in view of subsequent events, and especially having regard to the fall-off in demand for houses at Smithfield Plains, it has been decided that commencement of building operations in this area of Gawler be deferred for the time being.

UNPROCLAIMED NORTHERN TOWNS

The Hon. A. M. WHYTE: I ask leave to make a short statement prior to asking a question of the Minister representing the Minister of Lands.

Leave granted.

The Hon. A. M. WHYTE: At present lands in the unproclaimed townships of Andamooka and Coober Pedy are held on annual licence. The impact of tourism and the increased gouging activities have led to the establishment of substantial buildings in both of those unproclaimed towns—shops, motels and (it is hoped) hotels. What consideration has been given to improving the tenure of these leases? An annual licence is not sufficient to enable the necessary improvements to be made to those buildings and establishments.

The Hon. S. C. BEVAN: As far as I am aware, no application of any description has been made in this regard. The answer to the honourable member's question is that so far nothing has been done because nobody has ever raised the matter or asked for anything other than an annual licence.

The Hon. A. M. WHYTE: I know that the Lands Department has considered this matter. For some years it has known of the necessity and has found the problem hard to solve. I am pleased that my question will perhaps set in motion the machinery in this direction. Will the Minister ask his colleague to check with his department to find out how far matters have progressed and what plans it would suggest for a better tenure of the land in these towns?

The Hon. S. C. BEVAN: Planning matters would certainly be referred to the Minister, and I have heard nothing of them. I shall inquire whether the department has considered this matter, but nothing has been referred by the department to me on this matter.

PROROGATION

The Hon. L. R. HART: There is considerable conjecture as to when this Parliamentary session will finish. An unknown number of Bills will be submitted to this Council next week. Can the Chief Secretary say whether the Government intends to terminate this session next week and, if it does not, when the session will finish?

The Hon. A. J. SHARD: It was, and still is, hoped that the Government can complete its business by the end of next week. However, no firm decision has been made because, as the honourable member has said, one or two lengthy Bills have yet to come before this Council. Personally, I will be surprised if we finish next week; we may run into a day or two of the following week.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Read a third time and passed.

IMPOUNDING ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

Its objects are to provide protection for certain classes of goat and to mitigate the rigours of section 46 of the Impounding Act which, according to a recent decision of the Supreme Court, imposes liability irrespective of fault upon an owner whose cattle escape on to a street or public place. Clauses 3, 4 and 5 deal with the first amendment. Section 14 of the principal Act provides by subsection (5) that any goat trespassing upon Crown lands may be seized and impounded, while section 35 provides that any such goat, if not sold after failure of the owner to claim it, may be destroyed. But section 14, in the same subsection (5), provides that no angora goat shall be destroyed. Section 41 provides for the destruction of goats, pigs or poultry trespassing on enclosed land, but by subsection (2) excepts angora goats.

The amendments made by clauses 3, 4, and 5 will extend the exemption to four other types of goat, all of which are valuable milking goats. Goat's milk is a commercial item of great value, especially to people suffering from asthma and certain stomach disabilities. The four breeds mentioned are the only types in the State at present or likely to be introduced in the future. The other amendment is dealt with by clause 6. The general effect of the amendment is to provide that an owner whose conduct has been unimpeachable should have a defence to a charge under section 46 which, as I have said, makes an owner of cattle found in a street or public place guilty of an offence.

The Bill provides for the insertion of two new subsections in section 46. New subsection (2*a*) provides that an owner shall have a defence to a charge under section 46 if he has attempted with all reasonable diligence to prevent the escape of his cattle and he did not know and might not reasonably have been expected to know of their escape or, having discovered the escape of his cattle as soon as might reasonably have been expected of a person exercising proper diligence, he immediately made all proper endeavours to bring them back within confinement. New subsection (2*b*) provides that anything that a servant or agent of the owner knows or might reasonably be expected to know shall be deemed to be something that the owner knows or might reasonably be expected to know. The purpose of this provision is to make the owner responsible for a servant or agent to whom he has entrusted the care of his cattle.

The Hon. A. M. WHYTE secured the adjournment of the debate.

BUILDERS LICENSING BILL

Adjourned debate on second reading.

(Continued from October 18. Page 2754.)

The Hon. F. J. POTTER (Central No. 2): I support this Bill, because some of its clauses cover the very important matter of the licensing of builders, which I think is required in this State. In saying that, I should not be taken as saying that I support the whole of the provisions of the Bill, which I think goes too far, in that it provides for the licensing of people who are virtually tradesmen and who have been engaged in contract work for alterations, additions and repairs to property, as well as work in the erection of buildings. This is not necessary. I do not think we should go beyond registering builders of houses and other structures now being or to be used for habitation or commercial purposes.

The definition of "building" in the Western Australian Act would be adequate for our own purposes. I understand that that Act is working very well. In approaching this Bill I think we should take into account the background of the problem. True, houses have been constructed in South Australia that have not, perhaps, measured up to the required standards.

It is difficult at any time to ascertain the cause of any cracking or falling down of portion of a dwellinghouse, because that can be accounted for in many ways. We know there are notoriously bad building districts in South Australia; some have Bay of Biscay soil, and that kind of thing. It should be realized that two sections of people in the building industry want this Bill. It sometimes appears that the two sections I have in mind are at opposite ends of a line. I think it is not unfair to say that the trade union movement generally has been anxious for some time to control independent contractors: it has been its goal to bring contractors under some kind of control because people wanting building work done have been inclined to say, "We do not worry about what may apply under union awards; we work under contract". I am sure the trade union movement does not like that.

At the other end of what may be termed a pincer movement are the master builders. Many people in the building trade and contracting business are not members of the Master Builders Association, and the effect of work done by small contractors has without doubt had an impact on building costs. One must be careful to see that in between the two pincers of pressure the legitimate contractor or subcontractor who is carrying out a good standard of work and who is not necessarily operating on a big scale is not squeezed out of existence.

It has been alleged by some honourable members in this Chamber and in another place that control of this kind will raise building costs; that is, raise costs to the ultimate consumer. I think that is a fair inference to be drawn from a Bill of this nature, but if, on the other hand, better standards of workmanship result because of licensing of builders (and I believe this will happen) then the increase in costs would be cancelled out considerably. In the light of that background, and considering the interests of the smaller contractors and tradesmen, I cannot see why at this stage it is necessary to go beyond registering all general builders in South Australia. That is all that was done in Western Australia, where the legislation has been successful. When we compare the present Bill with the Western Australian Act we see that the Government in this State has attempted to go very much further. It has spread a much wider net, and apparently the legislation is designed to catch up with many small people who at present would be adversely affected in the work of their trade by having to get a restricted builder's licence.

The Hon. Mr. DeGaris has given notice of his intention to move some amendments to the Bill. I have had a look at those amendments, and I go along with the principle incorporated in them, for I consider that they are designed to limit the application of this legislation to the registration of general builders.

Clause 5 provides for the setting up of a board consisting of four people. Those people are to be a legal practitioner of not less than five years' standing; a member of the South Australian Chapter of the Royal Australian Institute of Architects; a corporate member of the Australian Institute of Building; and a member of the Institute of Chartered Accountants. It is interesting to note that although these members have to come from these designated associations they are in fact still to be appointed by the Governor, and that, of course, will be on the recommendation of the Minister.

I think there is some case to be made out for each body mentioned in this clause to have the right to nominate its particular member. After all, this board will be licensing people who are to be general builders, and in my opinion it is essential that the members of the board have a wide knowledge of the building trade. Also, they should have the confidence of the people in the industry. Under this Bill they will have quite wide powers to investigate the general conduct of a registered builder (both prior to and after registration) and his qualifications. They will also have to investigate whether or not he is a fit and proper person to carry out and discharge the duties, responsibilities and obligations of a holder of a licence. Therefore, it will be an important board.

I am a little regretful that the board is to be such a small one and that there is to be no-one representing the ordinary member of the public, who is the person quite vitally concerned in house construction because, as has been said, very often the purchase of a house by a husband and wife is the major financial commitment of those people during their lives. In effect, there is no-one to represent those people or to give their views on the matter of the registration of builders. However, having regard to the fact that this is really a Bill to control the industry (I do not think it can be described in any better way than that), perhaps this board is the best kind of board that can be devised. Certainly,

it is a great improvement on the provision originally introduced in another place.

Under the Bill, the board is to have the advice of an advisory committee to be appointed under clause 13. I do not like this clause. The membership of this advisory committee is not in any way set out in the Bill, for the number of people to be appointed by the Governor is quite indefinite, and there is no indication of the section of the community from which the committee is to be drawn. I qualify that by saying that the Bill provides that the Governor must be satisfied that the members of the committee are representative of the various sections of the building industry.

The building industry comprises many sections. In fact, one could say that every tradesman of every kind contributes in some way to the industry by the work done in his trade. I can imagine that this might be a committee eventually comprising a large number of people representing every possible trade that takes part in and contributes to the building industry. I do not think there is any need for this advisory committee to advise a very competent board of four people, and I hope that some consideration will be given to dispensing altogether with the need for that committee.

Under the provisions of the Bill, people who are engaged in the building industry and who are designated "general builders" are to be licensed, and they are the only people who will be permitted to tender or contract to do certain building work. They are the only people who are to be permitted to assume or use the description of "registered builder" or "master builder" or any of the various descriptions set out in clause 21. In my view, the most difficult part of this Bill (apart from the sections dealing with a restricted builder's licence) is clause 21, which in fact would make it virtually impossible for any person to employ a builder, either as a general builder or as a restricted builder, except in very restricted circumstances.

I do not think it is necessary in South Australia at this stage to spread our net so wide as to cover the people who are virtually tradesmen and who are doing all kinds of minor jobs in connection with building work, and I hope that when we get into Committee the provisions of clause 21 will be drastically amended.

The Hon. R. C. DeGaris: Do you understand the provision of $100 in one subclause and $500 in another?

The Hon. F. J. POTTER: I am afraid I do not. One would think that, one amount having been fixed in subclause (4) of clause 21, the same amount would have been fixed in subclause (12). I shall be interested to hear from the Minister why there is that difference. I cannot explain it. Nevertheless, the amounts fixed (in the one case $100 and in the other case $500) are completely unrealistic. Looking at the provisions of the Western Australian Act, we see that there is a limit there of $2,400 for work that can be done outside the terms of that Act.

I was going to say something about the arbitration clause and the deletion of the contractual right to go to arbitration (dealt with in clause 24) but I see that the Minister has circulated amendments to this clause which will, in fact, require the abandonment of arbitration clauses only in contracts concerning the building of houses, home units and flats up to a value of $20,000. This is a reasonable amendment and will probably solve the problem of the arbitration clause. One clause that causes me concern is clause 20, which shows that the board appointed under this Act has wide powers. The board may:

(*a*) require, by summons under the hand of the chairman . . . the attendance of any witness;

(*b*) by notice in writing . . . require the production of any books, papers or documents;

(*c*) inspect any books, papers and documents . . . and make copies of or extracts from matters therein that are relevant to the matter before the board.

This would allow the board to make a comprehensive examination of any person's financial position. It is implied under earlier clauses of the Bill that this will be one of the matters that the board must consider in deciding either to license a person, in the first place, or to cancel or suspend his licence, at a later stage. After all, the person must satisfy the board that he has such experience of building work generally "as would render him fit to carry out and discharge the duties, responsibilities and obligations of the holder of a general builder's licence". One would have thought that one of the obligations of the holder of a general builder's licence would be that he should be in a sound financial position. Here, we are touching one of the most important aspects of this registration procedure. One big trouble that has arisen with some contractors who have contracted with builders in this industry has been that

the contractor has not been in a satisfactory financial position, so that, as a result, the subcontractors have lost considerable sums of money, not only in wages but also in payments for materials. That is a serious matter and is one of the most likely reasons activating members of the Master Builders Association to work towards the registration of general builders under a measure of this kind. I hope the board will inquire into this important matter.

To some extent, it touches also the problem of the standard of work done for the actual contract price agreed on between the employer and the contractor. A big problem that has arisen in South Australia is that people have endeavoured to undercut their competitors by agreeing to do a job, like building a house, for an unrealistic contract price, which has caused the contractor to skimp and save wherever possible, thus not doing a first-class job. This Bill will not necessarily allow the board to inquire directly into the circumstances of a contract price, but I hope the board will consider this because, although a person may not be negligent or incompetent in the performance of any building work when it is related to the actual contract price quoted, nevertheless if all the circumstances are taken into account (namely, that the price was too low in the first place, that the work done was unsatisfactory or was done negligently or was in some way lacking because the price was too low) this can be a matter for the board to inquire into. Perhaps it can be done under clause 18, but there is no reference in that clause to the work done in relation to the cost involved or the contract price.

It seems that the board will be given wide powers under this Bill and that the general financial circumstances of builders are to be inquired into. I know that doubts have been expressed whether or not the board should have such wide powers, but there are precedents for this in other Acts—for instance, in the Land Agents Act, where the board is given similar powers to require the production of documents and papers and generally to examine the circumstances of a particular case. Without these powers, much of the effective control that this legislation is, apparently, designed to bring about and some of the desired results will not come about.

I do not want to say much more about this Bill, because I think it has now reached the stage where the foreshadowed amendments will cause us, in the Committee stage, to consider the extent to which the Bill will apply, the persons to whom it will apply, the terms and conditions under which a person may obtain a general builder's licence, and provisions for certain individuals and certain areas in the State to be free from the Bill's provisions.

A very good point made yesterday was that this Bill should apply only within areas where the Building Act applies. I go along with this suggestion because I cannot see the slightest need for the Bill to apply outside those areas, nor can I see the need for it to apply to all manner of structures and their repair, improvement, etc., nor can I see any need to include excavations, earthworks, mechanical engineering projects, and even civil engineering projects.

The Hon. R. C. DeGaris: The Bill as it is drawn now applies to civil engineering projects?

The Hon. F. J. POTTER: Yes; it applies to any kind of building activity, including civil engineering, house repairs and alterations, and anything of this kind. I think it is completely wrong, if a person needs repairs to his house, such as plumbing repairs or the painting of the roof, that he should be compelled to go to the holder of a restricted builder's licence. It is unnecessary, and it will not in any way improve the standards of work in the building industry.

This Bill ought to be confined to those areas of the State where the Building Act applies, and to those persons who are building structures for human habitation. I would not mind if the legislation was extended to include buildings such as public buildings, hospitals, institutions, and places where the public assembles. This kind of building work should be handled by the holder of a general builder's licence. However, I do not think the Bill should go beyond this. When this Bill reaches the Committee stage I hope restrictions along these lines will be agreed to. I support the second reading.

The Hon. M. B. DAWKINS (Midland): I, too, support the second reading. Something along these lines is needed, although this Bill is too all-embracing. I fail to see how it will correct the ills that it is supposed to correct. I am not opposed to registration or licensing of builders, but the Bill goes much further than this. I note that some kinds of repair are included within the scope of the legislation, but I believe this is quite unnecessary. However, there is a need for this type of legislation in some parts of the metropolitan area.

Instances have been drawn to my attention where houses have not been well constructed; in some cases they have been badly cracked as a result of soil movement. Some of the

cases I have investigated have resulted from faulty soil or from land movement, but in other cases the troubles were caused by faulty construction. Again, I have come across cases where it was really the owner's mistake, in that he insisted on doing the job on the cheap, with inadequate foundations or without proper safeguards that the builder had recommended.

The definition of "building work" in clause 4 is far too wide. Some of the definitions in this clause might well have been omitted; we might well have excluded engineering works as may be envisaged in clause 4 (1) (*b*) such as the construction of bridges and dams. The construction of certain rural buildings could be exempted from the provisions of this Bill. Reference has been made to the board's constitution, as laid down in clause 5. There has been criticism because the nominees are to be entirely Government nominees, and I believe this criticism is valid. The usual practice in creating a board is to secure nominations from various interested organizations, and the Minister then selects a suitable person from, say, three nominees of the organization; this practice should be followed in this legislation. The board would be better fitted for its job if it was selected in this way. Also, the membership of the board could possibly be widened by the inclusion of one or two more members, and possibly by greater representation of the industry itself. Clause 15 (1) provides:

Subject to this Act, a general builder's licence authorizes the holder thereof to undertake and carry out building work of any kind.

I do not know whether it is intended to restrict a general builder's licence to people who are competent to undertake building work of any kind; presumably this would mean that the holder of a general builder's licence would be able to do anything from constructing the smallest and most rudimentary tin shed to constructing a building of the size of that being erected opposite Parliament House.

I believe the application of this legislation to the whole State is both unnecessary and unwise. The Western Australian legislation, as other honourable members have said, refers only to the Perth metropolitan area, but this Bill does not refer only to the Adelaide metropolitan area: it refers to the State as a whole. I would support an amendment that would either restrict the Bill's operation to the metropolitan area, and possibly to municipalities, or, in the last resort, to the areas covered by the Building Act. However, I do not agree with what seems to be a generally expressed opinion, that restricting its operation to areas covered by the Building Act would be sufficient; it would create difficulties. The Building Act is applied by various country councils in different ways. In quite a number of councils it is applied to the whole area, including the townships and the rural parts of the area. If we used the Building Act for the application of this legislation we would, in those places where the council has declared the whole of its area to be under the Building Act, be doing practically the same, in that area, as if the Bill continued to apply to the whole State. On the other hand, quite a number of councils have applied the Building Act only to their municipalities or townships, and the rural areas have been left unaffected.

Therefore, if we were to support an amendment that restricted the application of this legislation to the Building Act, we would be doing something which would meet the case in some instances but which would be quite unfair to other parts of the State. Therefore, I consider that instead of restricting the Bill to the areas where the Building Act applies, it should be restricted to the metropolitan area or, at most, to the metropolitan area and to the other main municipal areas in the State. I consider that the provisions with reference to minor repairs, as mentioned by the Hon. Mr. Potter, such as painting a house, are going too far: these are quite unnecessary and should not be in the legislation.

I see no real need to have restricted licences, such as are provided for in clause 16. There should be no need for the registration of subcontractors, who are, as the Hon. Mr. Potter has said, people who are virtually tradesmen or labourers. In so describing them, I do not do so in any derogatory manner. I also refer to the suggested appointment of an advisory committee. I have already mentioned the board and said that its representation could be broadened slightly. I join with other honourable members in questioning the necessity for an advisory committee and, certainly, the necessity for one for which the Bill does not prescribe specific duties or say how many people can be appointed to it or the way in which its members will be recompensed for their services.

If, in fact, an advisory committee is necessary (and I shall be very interested to hear the Minister in his reply point out in what way the Government proposes that this advisory committee shall function and what its duties will

be), I consider that it should be restricted to a limited number of people not exceeding five or six: it should not be 15 or more, as could be the case under the Bill.

Although I support the Bill, I consider that the provisions of the Western Australian Act should be sufficient and that the extension of the provisions of this Bill to areas beyond the metropolitan area is unnecessary, because all the complaints I have received (and I have received quite a few) have been from parts of the district I represent which today are in the metropolitan area. When I refer to the "metropolitan area" I am referring to the metropolitan Adelaide town planning area, which is certainly the metropolitan area as it will be known in the future.

I was going to say something about clause 24, which the Hon. Mr. Potter has also mentioned and which was opposed in the letter from the Master Builders Association that the Hon. Mr. Story read yesterday. However, I believe that the Chief Secretary has an amendment that may be acceptable in this case. I now wish to mention another point which was also referred to by Mr. Potter and which I believe cannot be emphasized too greatly, namely, the powers of the board in dealing with applications under clause 20. These excessive powers are a precedent that we should avoid like the plague, because in the hands of less responsible people they could conceivably become the eventual gateway to a police state.

It should not be possible for the board to have quite so many powers in summoning people, because in my view this means that one's accountant or bank manager could be summoned and forced to provide all the details of one's financial position with regard to one's business. It would be very difficult for any undertaking, organization or business to have any privacy at all. I oppose that clause and ask the Minister to examine it and see whether it could not be improved. I do not wish to go through the remaining clauses, which have been dealt with by other speakers with considerable competence. I support the second reading.

The Hon. L. R. HART (Midland): I, like other honourable members, am not opposed to the principle of registration of builders; in fact, there may be very good reasons why they should be registered. However, in drafting all forms of industrial legislation the Government seems to call in the aid of the Trades Hall. The Trades Hall has a very big net, and it always endeavours to get everybody into it. This is what it has done in this Bill. Therefore, it is not a good Bill as it stands. However, this Council has a responsibility to make the Bill satisfactory, acceptable to all sections of the community and, above all, workable.

It is obviously a Trades Hall Bill, because I have noticed that in letters to the editor in the press in recent days there has been considerable union support for this legislation. Therefore, I cannot help coming to the conclusion that the Trades Hall had a considerable say in the drafting of this legislation. I believe there has been much misguided thinking as to the benefits that will accrue from this legislation. Government supporters and trade union officials say that houses will be constructed more satisfactorily under this legislation. However, the Bill will not, of itself, make better builders: its main effect will be to eliminate unqualified and incompetent builders.

In past years many justifiable complaints have been received about unsatisfactory building construction, but the interesting point is that in practically every instance the buildings concerned have been erected by people who, under this proposed legislation, would qualify for a restricted builder's licence. Furthermore, many of the complaints received would not necessarily have resulted in a builder losing his licence. As other honourable members have said, many factors contribute to unsatisfactory buildings. The fault is not always that of the builder. One of the main factors, as has been mentioned, is often the unsatisfactory nature of the soil in some areas and that many builders build to a price.

If we are to have a situation where a builder may lose his licence if a house he has erected cracks because it is built on unsatisfactory soil or because the builder is requested to build at a particular price, then builders may refuse to construct houses of a certain value or in a particular area. That would undoubtedly lead to the erection of a cheaper type of house; in many cases they would build prefabricated houses, and difficulties could be encountered with councils and regulations under the Planning and Development Act. Those regulations could prevent the erection of a certain type of house in a certain area. I think there is justification for a belief that the Bill may lead to an increase in housing costs, particularly if people stipulate that they require a certain type of house in a certain area.

Clause 18 deals with the cancellation of licences. When a builder's licence is cancelled (and it may be cancelled only because of certain defects on a particular job) that

builder would undoubtedly have other buildings under construction in other areas. Obviously, once that builder loses his licence all of his building operations must cease. What is the position of the person for whom that builder is erecting a house if such circumstances arise? The Bill contains nothing that will help in such a situation. We know that the builder will lose his licence, but that is little solace to the person for whom he is building the house. That person would then have to find another builder. It could be difficult to find another builder prepared to accept the job.

The Hon. A. F. Kneebone: I should think the person for whom he was building the house would be pleased.

The Hon. L. R. HART: I do not agree with the Minister.

The Hon. A. F. Kneebone: He would not want a shoddy house.

The Hon. L. R. HART: He may not be getting one. There may be certain circumstances why a builder loses his licence on one job but in another area he is building another house. He may have a different team of builders at the second place and the person for whom he is erecting the house may be quite satisfied with the job. After all, such a person would have to find another builder prepared to take on a half-finished job, and this would cost him more. In such circumstances it may be good policy to let the builder complete his contract, because it could well be in the owner's interests.

The Hon. A. F. Kneebone: You do not support the Bill at all, then?

The Hon. L. R. HART: I said at the beginning that I thought the principle of the registration of builders was good, but I said that in my opinion it was not a good Bill. I am only suggesting ways of improving it; I believe it is the responsibility of all honourable members to suggest to the Government how a Bill can be improved. Certain anomalies will crop up, in which case the position would be difficult for the house-builder.

It is evident that some alteration to clause 4 is necessary. For instance, in line 17, "Section 14" must be altered to "Section 15"; in line 25, "15" must be altered to "16"; and in line 32 an alteration must be made from "20" to "21".

The Hon. R. C. DeGaris: What would be the legal position of a person having a contract with the builder who had his licence cancelled?

The Hon. L. R. HART: It would be a breach of contract, as I understand it, if the builder could not complete the job. I would like that position made clear by the Minister. If a contract is breached, the person would have a claim in a court. If a builder does not complete a job, the person for whom he is building would be able to claim in court. However, it does not appear that provision is made for such an eventuality in the Bill.

Other honourable members have made suggestions regarding the appointment of the board, and I endorse their comments. I think that the board should be enlarged slightly in order to dispense with the advisory committee. However, I think appointments to the board should not be made by the Governor without recommendations being made by the various organizations associated with the building trade. There is ample precedent for such organizations to submit a panel of names to the Minister from which appointments could be made, and I believe this should be done in this case. Together with other honourable members, I question the necessity for having an accountant on the board. I am not suggesting that this is not necessary, but I should like to be told why it is necessary. If it is said that there is a need for an accountant, then there should be a greater representation from the building industry.

Another interesting thing about the board is that it is all-powerful. Clause 6 (8) reads:

> The board may refer any matter to the advisory committee for its consideration and recommendations and shall have regard to, but is not obliged to give effect to, the recommendations, if any, made by the advisory committee.

That is rather confusing. If an advisory committee is necessary, I think it should have more responsibilty than it seems to have under this Bill.

The Hon. S. C. Bevan: You think it ought to be a mandatory committee?

The Hon. L. R. HART: I do not think there should be an advisory committee. I think that if we have a competent board (and there is no reason why we should not) we should not need such a committee. As honourable members have said during the last few days, the Government now seems to be departing from its earlier ideas and is appointing boards and committees, whereas when it came to power one of the first things it did was to abolish some of the existing boards that had operated successfully over a number of years. Obviously, the Government has learned as it has gone along and has realized that boards are necessary in many instances. This clause appointing the advisory committee was not part of the original Bill but was included

fairly recently, and it is obvious that it has been included only because of pressure from certain sections of the community to get on the band waggon: it is a sop to certain people who are not eligible to be on the board.

We will be creating an advisory committee that will have virtually no power whatever, so it is nothing but a compromise. Anyway, the advisory committee as envisaged could well be too large and too cumbersome. Indeed, it could tend to interfere with the board's thinking. The committee will be not an advisory committee in the true sense but merely a pressure group on the board. It is quite apparent that what is going to happen is that this committee is going to try to impose its views on the board, and that is the situation the Minister will be facing.

The Hon. D. H. L. Banfield: Matters have to be referred to the committee by the board, not the other way around.

The Hon. L. R. HART: The advisory committee will receive remuneration. We are providing for an advisory committee to advise the board, which need take no notice of the committee's advice whatsoever, yet we are going to pay the advisory committee, which need not be there at all, to give that advice.

The Hon. S. C. Bevan: That is nothing new: it has gone on for many years.

The Hon. A. M. Whyte: It is time we had something new.

The Hon. S. C. Bevan: We had nothing new for over 30 years.

The Hon. M. B. Dawkins: We will next April.

The Hon. L. R. HART: I turn now to clause 20, which deals with the powers of the board. I consider that the powers given to the board under this clause are too wide. I realize that the board has the responsibility to investigate applicants for licences, and I accept that, but I do not think it should have power to require, by summons under the hand of the chairman or of the secretary acting under the direction of the board, the attendance of any witness. This would mean that the board could call before it any person it wished to interview. I realize that it is necessary for the board to investigate. However, under the Bill it is given the power to examine witnesses on oath or affirmation (which may be administered by any member or by the secretary), and I consider it should have permission to do this only with the consent of the applicant. If the applicant is agreeable to the board's doing this, I raise no objection to it. If he was not agreeable to this, the board would be quite right in refusing a licence.

The Hon. S. C. Bevan: I wish you would be consistent.

The Hon. L. R. HART: Even if the applicant does not agree to this, the board can still require people to come before it and it can still inspect books, papers and documents produced before it and make copies or extracts from matters therein that are relevant to the matter before it, and I think that is carrying things a little too far. However, that matter has been dealt with by other honourable members and I do not wish to pursue it any further. I am somewhat concerned about clause 21 (8).

The Hon. R. C. DeGaris: You are getting to the teeth of the legislation now.

The Hon. L. R. HART: We always leave the best things till last. I realize that there is a problem with people buying a property or doing up a property and then selling it to evade the provisions of this Act, and this may be a way of getting around it. However, if I build a shearing shed on my property, or if some other person erects a building of some nature and within a period of 18 months it is found necessary to sell the property or it is desirable that that property should be sold, then I must advertise that the building was erected without the supervision of the holder of a general builder's licence.

The Hon. R. C. DeGaris: That is after 18 months.

The Hon. M. B. Dawkins: You cannot sell it at all before then.

The Hon. L. R. HART: Then it is worse than I thought.

The Hon. D. H. L. Banfield: You haven't studied the Bill.

The Hon. L. R. HART: I was giving the Government the benefit of the doubt. I admit that I have not studied the Bill word for word. Originally it was not my intention to speak to it, so I have had only a very short time to study it.

The Hon. D. H. L. Banfield: Who gave you instructions?

The Hon. L. R. HART: I am pleased to have the interjection that this particular building cannot be sold. What is the position when the owner of a property dies and it is necessary for the estate to sell the property?

The Hon. R. C. DeGaris: I wonder whether it is the deceased person or the estate that commits the offence.

The Hon. L. R. HART: It is fairly evident that the people responsible for drafting this Bill gave very little attention to it. Can the Minister give any good reason why a property should not be sold within 18 months after it has been erected by a person who is not the holder of a general builder's licence?

The Hon. S. C. Bevan: It does not have to be sold.

The Hon. L. R. HART: If the owner sells it after 18 months he has to advertise that it was built by a person who was not the holder of a general builder's licence, and immediately the inference is that it is a second-rate job when in fact it may be a first-class job.

The Hon. Sir Norman Jude: And the work could appreciate his property.

The Hon. L. R. HART: I agree with the Hon. Mr. DeGaris that we are starting to get to the teeth of the Bill, and they are very sharp indeed. This Bill will not necessarily eliminate shoddy building, although I accept that it may reduce it.

The Hon. S. C. Bevan: No-one said it would eliminate it.

The Hon. L. R. HART: Honourable members have said that many of the complaints they have received over many years have been from occupiers of Housing Trust houses. Indeed, I received a complaint recently from a police officer (this will interest the Chief Secretary) who occupies a house that was built by the Public Buildings Department only six years ago. Admittedly, that department will make the necessary adjustments to the building. It will make good the deficiencies, but think of the upheaval in that home! In this case it may be necessary to pull the tiles off the bathroom. Think of the inconvenience to those people!

The Hon. S. C. Bevan: We could understand that going on six years ago.

The Hon. L. R. HART: This Bill will not stop that sort of thing; it will not eliminate that. We must do something to try to reduce the number of shoddy buildings and raise the standard of building, but do not let us forget that many of the complaints, as I have said earlier, have come from people who have qualified for registration, and the mere fact that they will lose their licence will not help the people for whom they were building. As always, the clients will have to continue to exercise considerable caution. The only advice I can give them is that they employ only the most reputable builders. I support the second reading.

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

MINING (PETROLEUM) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 18. Page 2757.)

The Hon. R. C. DeGARIS (Leader of the Opposition): I do not wish to speak at length on this Bill, as most of the matters have already been covered by other speakers, but I should like to comment on the opening lines of the second reading explanation, in which the Minister said:

The purpose of this Bill is to modernize and repair deficiencies in the Mining (Petroleum) Act, 1940-1963.

It is the first time I have seen such words used to describe a Bill. It appears to be a new way of describing amendments that may be necessary. Mining (petroleum) legislation was first introduced in 1940 and, as the Minister said, at that time it was pioneering legislation, which has been copied in other States of the Commonwealth. Over a period of 25 years obviously the need would arise to amend the original legislation and some of its original concept. In the last few years we have witnessed some outstanding developments in the petroleum field. No doubt, the Act must be amended to provide for these developments, but credit should be given to the original design of the legislation that has stood the test of time for so long.

There is a need to review the Act because of these developments. This is borne out by new provisions being inserted in the principal Act, particularly new Part IIA, new Part IIB and possibly new Part IIC. New Part IIA deals with the conservation and prevention of waste, and new Part IIB with pipeline licences. We can appreciate the need for legislation to cover pipeline licences, a recent development in this State.

Clause 4 makes some changes in the definitions in the original Act, some of which are now out of date. New section 3 (i) (1a) allows for certain gases to be interpreted as if they were petroleum for the purposes of the Act, and new section 3 (i) (1b) allows the Minister to determine the rate of royalty payable on the gases mentioned in the section, which are hydrogen sulphide, nitrogen, helium, carbon dioxide, and any other substance that the Governor declares by proclamation. The Minister has a discretion in new paragraph (1b) to alter the amount of royalty from the

10 per cent that is payable on all petroleum products. The main point I wish to raise is that I am a little disappointed that further amendments have not been made to the principal Act, as I have for some time been interested in the position in which the landholder (and particularly the small one) finds himself under the present Act. No doubt, the Minister is aware of the matter to which I am referring, because I have raised it previously in this Chamber.

The Hon. S. C. Bevan: That is covered in this Bill.

The Hon. R. C. DeGARIS: I am raising it now because I am not quite sure how it will be covered. I do not want to go over all the ground again but under the present Act a landholder has certain rights, although in many instances he is not aware of them. An instance occurred where a landholder was subjected to a considerable loss because of oil exploration activities on his property, although not all the loss was directly attributable to the company doing the prospecting—I freely admit that. On a very small property close to a large town thousands of people will come to see what is going on with the oil exploration, so that operating a small property can become difficult from that point of view. I should have liked to see, now that the Act is being amended, this matter given greater consideration.

My final point is that in new Part IIc a Petroleum Advisory Committee is to be established. New section 80t. (1) provides:

Any person who believes that he has been improperly or unfairly prejudiced by a decision, valuation, instruction or order of the Minister under this Act, may, by notice in writing served personally or by post upon the Minister within one month of the date on which the decision, valuation, instruction or order becomes effective, and not otherwise object thereto.

This may well be the provision that the Minister was referring to when he interjected a moment ago. Perhaps he would indicate whether or not that is so.

The Hon. S. C. Bevan: This Bill affords much more protection to the landholder than he had previously. I was referring to that new section.

The Hon. R. C. DeGARIS: I am interested to hear that and I thank the Minister for saying that. I have had a quick look at the provisions and find that the sections in which the landholder is referred to in the principal Act are 50 to 53. There are two clauses that directly affect these matters. The amendments do not go as far as I should like to see them go. If the committee set up under Part IIc is not to be responsible for this problem in any way, I cannot see where it will fit in. As has been mentioned by other honourable members, it was not very long ago that we heard a great deal about Ministerial responsibilities, yet now we are seeing a rash of boards and committees being set up for various purposes. New section 80u provides:

The Minister shall consider any recommendation of the committee but shall not be bound thereby.

I should like the Minister to explain exactly what the advisory committee's role will be.

The Hon. S. C. Bevan: The Bill itself defines the committee's role: it is all in the Bill. There is a number of subclauses dealing with the advisory committee.

The Hon. R. C. DeGARIS: I realize that, but I cannot see why a petroleum advisory committee is necessary; it appears to be a wasteful exercise. By and large I do not object to the Bill in any way; it introduces necessary amendments to the Mining (Petroleum) Act. However, I do not quite agree that it will "repair deficiencies": I believe these words could have been better chosen.

The Hon. R. A. GEDDES (Northern): I, too, support the Bill. Previous speakers have referred to the need for bringing the Mining (Petroleum) Act into line with the present needs of the industry. I am interested in the method of granting licences for petroleum exploration; the licences will enable a company to plan and search with the knowledge that it can retain its leases for five years, with the right of renewal. Regarding the Minister's statement that, when renewal is made after five years, up to one-quarter of a company's existing area may have to be relinquished, I point out that the principle behind this idea is to encourage a greater amount of search for minerals, oil and natural gas.

One of the saddest things relates to the original Act: in his second reading explanation the Minister said that the original Act had been viewed as a model by other States when framing their own legislation. It is remarkable that so many years ago forethought was given in this State to the problems of oil search. Unfortunately, the right sort of oil has not yet come to light. There was a statement in today's press regarding natural gas; the hope was expressed that natural gas would make a vast difference to the economy of this State and this is something we all hope will eventuate.

If only we could find oil, in addition to natural gas, South Australia would be a far different State. One reads in the press of the great mineral resources of Western Australia; when one thinks of the money spent here in looking for minerals, one cannot help being slightly envious of our sister State's resources.

I notice in Parliamentary Paper No. 4 that this State's payments in 1966-67 for geological and geophysical surveys were increased by $52,000 to $882,000, which included $152,000 for seismic surveys for oil exploration; this compares with the sum of $195,000 for the previous year. The cost, excluding salaries of technical staff, of surveys associated with oil exploration for the five years to June 30, 1967, amounted to the colossal sum of $1,277,000. In 1966-67 this State spent $143,000 in connection with the Officer Basin, $4,000 in connection with the Lake Frome area, and $4,000 in connection with the Lock area.

Honourable members will remember that after several questions the Minister informed me that the seismic teams and seismic equipment, which the State has owned for some years, are not in the field at present. It is regrettable that this large sum of $152,000 has been paid, I presume to outside sources, whilst our own seismic plant is possibly going to rust in some obscure yard in Adelaide. There may be technological reasons for this, or reasons associated with the difficulty of obtaining qualified staff.

The Hon. S. C. Bevan: The plant has been out with Delhi-Santos and with Continental. The Mines Department has not a seismic team in the field at present.

The Hon. R. A. GEDDES: I realize we have no seismic team in the field at present because of the difficulty of obtaining qualified staff; I merely point out that we are not using this plant full-time, yet this is needed. This State must continue to encourage oil exploration both through its own resources and through private industry. Clause 4 inserts the following definition:

"of economic quantity and quality" in relation to petroleum, means of such quantity and quality that the petroleum can, in ordinary circumstances, be recovered from the earth with profit.

I hope that this day comes in the not too far distant future.

The Hon. L. R. HART (Midland): In his second reading explanation the Minister said:

The purpose of this Bill is to modernize and repair deficiencies in the Mining (Petroleum) Act, 1940-1963.

Undoubtedly this purpose is being achieved in the main, but I wish to comment on one or two small aspects. However, before doing so I point out that the discovery of petroleum in this country has been very important; it has added to the economy not only of this State but of Australia as a whole. Any conditions that are imposed on the Mining (Petroleum) Act should be generous ones, because we must encourage people who are prepared to come to this country and risk capital in the search for petroleum. Indeed, this is a very big risk and big amounts of money are required for this purpose (the kind of money that is not easily found in Australia), so there must be encouragement to these people outside of Australia to carry out exploration work to try to discover any oil deposits that may exist here. It is also necessary that the companies should know the conditions under which they will operate. This is probably one of the reasons why the Act has been modernized.

There are one or two points I wish to raise and on which I should like some clarification. One is clause 15 (1), which states:

The area comprised in a petroleum exploration licence shall not exceed 10,000 square miles.

That is, in one licence. Assuming that a number of people applied and were granted a licence over 10,000 square miles and then decided to form themselves into a consortium, a holding company or a company of some description, what would be the position? Would they have to surrender all of their licences and then be granted only one licence to cover 10,000 square miles, or would they be allowed to retain their particular holdings?

The minimum area of a lease is stated in the old Act and the maximum area is governed by the fee paid, but in the Bill there is no mention of minimum area, although the maximum area is stated. On application for a renewal of a licence the licensee shall (not may) surrender one-quarter of the original area. In an area of 10,000 square miles, what happens to that one-quarter once it has been surrendered? If it were surrendered voluntarily, it would no doubt be an area which was not of very great value and which would probably be of very little value to an adjoining licensee. Does it remain unallotted, or is it allotted to the adjoining licensee, who may have 10,000 square miles anyway? I should like the Minister to explain that.

The Hon. S. C. Bevan: What do you think happens to it? How could it be allotted to

someone who already has his maximum holding?

The Hon. L. R. HART: It remains unallotted, I take it.

The Hon. S. C. Bevan: What do you want me to do with it?

The Hon. L. R. HART: It might not be much good to anyone else, and it might be better to leave it with the original licensee. The other points I wish to raise have been raised by the Hon. Mr. DeGaris. They relate to the rights of the landowner. Seeing that these particular sections in the Act have been opened up, I consider it is appropriate that some amendments should be introduced to overcome the problems raised by Mr. DeGaris. Section 49 (1) (*a*) states:

. . . The lands referred to above are the following:—

(*a*) Land lawfully and *bona fide* used as a garden, orchard, vineyard, or dairy farm:

I consider that this could be improved by deleting the word "or" and inserting after "dairy farm" the words "or stud farm". I realize that we are dealing with small properties where boring operations could be of considerable inconvenience and, indeed, could cause some loss to the property owner. Provision is not made for a stud farm, which would possibly come into the same category as a dairy farm. A stud farm may only be a sheep stud. This would clarify the clause.

The Hon. S. C. Bevan: Did you say a sheep station?

The Hon. L. R. HART: I am not talking about sheep stations; I am talking about a small stud farm, for which the Bill makes no provision. The other matter is dealt with in section 51, which sets out that notice of entry be given to occupiers. When the notice of entry is given, the occupier of the property is probably unaware of his rights: he can become acquainted with his rights only when his attention is drawn to the provisions of the Act. I believe that when notice is given to an occupier he should also be given full indication of his rights. This could easily be provided for in section 51 by inserting a new subsection (3) (*a*), which could read, "Every notice shall set out the full rights of the occupier under this Act." This is a reasonable request and I should like the Minister to give it some consideration, because under the Act the landowner has certain rights and is entitled to certain compensation, but unless he studies the Mining (Petroleum) Act thoroughly he is not aware of these rights and that certain compensation could be obtained.

The Hon. S. C. Bevan: He would soon find out.

The Hon. L. R. HART: It is necessary that he should understand this at the time of entry of the mining or prospecting company. If he ascertains later that he has rights and is entitled to compensation, it may be too late to make any claim. I trust that the Minister will have a look at these aspects of the Bill while there is still time to make suitable alterations. This could be done in the Committee stage. I support the second reading.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

PACKAGES BILL

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

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

That this Bill be now read a second time.

One of the features of this, the age of technology, is the tremendous growth of the packaging industry, and no segment of this industry reaches further into our lives than in the packaging of ordinary domestic products, particularly foodstuffs and other items in general household use. There is not the slightest doubt that the expansion and development of the industry has brought great benefits to the consumer: familiar brand names, standardization of quality and convenience of handling are but a few of them. On the other hand, there have been some disadvantages, too, in packages of misleading size, in deceptive labels, in confusing claims as to price reductions and to quantities and sizes. Who nowadays is really sure just which is the best value—the "giant", "economy" or "family" size?

Not the least of the disadvantages is that the modern housewife is no longer able to examine the product she is buying; she cannot pinch the fruit, finger the flour or otherwise test the products for quality and freshness. At best she can examine the product through a transparent plastic cover, but generally she is compelled to rely on the reputation of the packer or manufacturer and his claims for the article. For some years now the authorities of the various States have been seeking to evolve a uniform code relating to the packing of the article and to the labelling of the packs. A considerable degree of agreement has now been reached and this Bill is an attempt to give effect to the uniform system.

I emphasize this aspect of uniformity because, while it is within the legislative competence of this State to make whatever laws it likes in relation to this subject, packaging today is a national rather than State enterprise, and a miscellany of varying State laws would hamper the free distribution of the products of the industry to the detriment of the consumer as much as anybody. I would here pay a tribute to the industry for the part it has played in the evolution of the uniform code, and while the code does have its regulatory aspects it is expected that it will prove a great benefit to all responsible members of the industry.

I turn now to the Bill itself. In its form and substance it is generally self-explanatory, and before considering it in any detail I propose to set out its general scope. First, it deals with articles that are generally sold by weight, measure or denomination: it does not pretend to cover articles in which weight, measure or denomination is not a feature of the sale. This distinction is important, so provision has been made by clause 5 to exclude from the ambit of the Act articles which, though by some stretch of the imagination could be considered to fall within the scope of the necessarily broad definition of "article" contained in clause 4, do not really require to be covered by the Act. Secondly, it is intended to regulate the activities of "packers" and in this regard I draw honourable members' attention to the somewhat extended definition of "packer" in clause 4 (2).

The substance of the Bill is contained in Parts III and IV. Part III deals with the packing of articles and is really confined to what might be called "pre-packed" articles; that is, articles packed in advance of sale. The first clause of Part III specifically excludes from that Part articles that are weighed or measured in the presence of the purchaser even if, after that weighing or measuring, they are put in a pack. In this Part, as far as possible, each clause has been made complete in itself and exceptions to the provisions in relation to say, export, or specific defences have been directly related to the offences, if any, created by the provision. Although at first sight this has involved, seemingly, a certain amount of repetition in the Bill, it is considered that this approach will ensure that those affected by the provisions of the Bill are able more easily to establish their obligations and duties.

With regard to the statutory defences set out throughout this Bill, I draw honourable members' attention to what is considered to be their practical effect. Firstly, they do not by any means exhaust the ordinary defences open to a person charged but they do give that person a clear indication of a defence which, if made out, must inevitably succeed. However, they serve another purpose also; that is, they stand as a clear warning to those responsible for bringing proceedings under the Bill to, at least, assure themselves that in all probability a person charged cannot succeed on the statutory defence. In short, if it appears likely that the person charged could succeed on the defence, grave doubts as to whether the charge should be brought at all must arise. Thus, in themselves, they act as a highly practical limiting factor in the bringing of proceedings under the Act.

Part IV, to some extent, parallels Part III in that it relates to the selling of articles packed in contravention of that Part. Here again, at the risk of some repetition, the exceptions and defences have been set out in relation to each offence. It may be safely asserted that any honest and reasonably prudent seller is not at all likely to find himself in breach of a provision of this Part. Throughout the whole Bill will be found references to the appointment of days after which certain acts will be offences, and it is provided that no such day can be appointed until at least 12 months after the Act comes into operation. This method of administration has been evolved in co-operation with the industry as it is realized that necessarily a fairly lengthy period must elapse before certain of the provisions can be reasonably expected to be complied with.

To consider the Bill in some detail: Part I deals with matters of machinery, such as definitions and certain presumptions and at clause 5 provides for exemptions from the Act. Part II deals with the appointment and powers of inspectors and at clause 8 (2) sets out certain offences in relation to the exercise of inspectors' powers. Division II of this Part deals with the approval of a brand for use on packs containing articles, and relates to the marking requirements contained in clause 15.

Part III deals with the packing of articles and in substance provides that:

(*a*) at clause 15, the pack must be marked with some means of associating it with the packer or manufacturer either by means of an approved brand or by the marking of a name and address;

(*b*) at clause 16, certain articles must be packed in certain prescribed denominations; this is to facilitate consumer

comparison of the price of similar articles;

(*c*) at clause 18, most packed articles must be marked with a statement of their true weight or measure;

(*d*) at clause 20, a packer shall not pack an article that is short-weight, and this clause also provides a practical method of ascertaining short-weight by recognizing that, whilst some variation in weight, up or down, is inevitable with mechanical methods of packing, an average deficiency will expose the packer to prosecution;

(*e*) at clauses 21, 22 and 23, articles may not be marked "net weight when packed" unless those articles are such that of their nature they lose weight after packing; in short, this form of marking will not be available to cover what were in fact deficiencies in the true weight of articles;

(*f*) at clause 24, certain advertising expressions will be prohibited when they tend to mislead and restricted when they tend to confuse. An example of a prohibited expression is "a big gallon" and an example of a restricted expression is "giant size". In the case of a restricted expression a statement of the true weight or measure of the article will be required;

(*g*) at clause 25, the practice of "marking off" is prohibited; that is, the practice of marking meaningless discounts like "5c off"; and

(*h*) at clause 26, the practice of unnecessarily packing articles in packs of misleading size is prohibited and exemptions are provided for any appropriate cases.

As was previously mentioned, Part IV parallels Part III in that it prohibits the selling of articles packed in contravention of that Part. There is, however, a further factor, in that to avoid a great deal of unnecessary inconvenience regard must be had to the "national" nature of the packaging industry, so the principle that has been adopted in this Part may be summarized in the statement "If an article was lawfully packed within the Commonwealth or if it could be lawfully sold within the Commonwealth it should be lawfully sold in South Australia." To this end will be found references to "corresponding or equivalent laws" of other States or Territories, and I can assure honourable members that the fullest possible use will be made of the powers conferred on the Minister in this regard. Again, a system of appointed days has been provided for, and these appointed days will be so arranged that traders will have ample time lawfully to dispose of stock that in some respect does not comply with the Bill.

Clause 38 makes provision for the disposition of articles, which otherwise could not be disposed of, by means of a permit, and interstate permits have been recognized at clause 39. Part V deals with a number of miscellaneous matters, and I would draw honourable members' attention to the evidentiary provisions of clauses 41 and 45. I again draw honourable members' attention to the fact that since this measure is to be part of a uniform system the principles enshrined in it will necessarily have to be accepted if the system proposed and accepted by the authorities of the States is to remain a uniform one. I commend the Bill for the consideration of the Council.

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

PARKIN TRUST INCORPORATED ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

It is introduced by the Government on behalf of the Parkin Trust Incorporated because of the common interest involved in providing the enabling powers proposed by the Bill. The Parkin Trust Incorporated is a body corporate incorporated under the Associations Incorporation Act; that body is known as the Parkin Trust and its business is the administering of the trust fund for the purposes and objectives laid down in the trust deed. The main objective of the Parkin Trust is the provision of facilities for theological training in the Ministry of the Congregational Church and its associated organizations, and to this end the trust has established and maintains Parkin College at Kent Town. The funds available to the trust are insufficient for this purpose, and are augmented by donations and gifts.

The terms of the trust have been amended from time to time by Statute, the last time being by way of the Parkin Trust Incorporated Act Amendment Act, 1961. Under the present trust deed, the trust has power to sell any or all of its property and to invest in trust funds, in Government-guaranteed securities, in mortgage debentures, and up to

40 per cent of its funds in any other manner provided that such other investment shall be listed on a Stock Exchange and shall have paid a dividend of at least 5 per cent on its ordinary shares for the five consecutive years immediately prior to the investment. The present trust deed thus provides wide investment powers, but it does not categorically provide for the use of funds in a manner which, because of the availability of Commonwealth and State grants, would be to the advantage of the trust and its objectives, namely, participation in the establishment of a university hall of residence.

The present Bill accordingly adds an additional clause to the trust deed to enable the Governors of the trust to make an arrangement with a university in this State by which the objective of the trust in the training of students will be guaranteed for all time. The Governors of the trust are convinced (and in this they have the support of the constituent council of the Congregational denomination) that it is not only a matter of financial benefit to the trust to be able to attract subsidy under the Australian Universities Commission Act but also a matter of considerable educational advantage to its students to be involved in theological training in the atmosphere of other academic disciplines.

If this Bill is passed, the trust would propose, with the approval of the Council of Flinders University, to participate in establishing a residential college at that university to accommodate 200 students The college would be administered by a governing body nominated jointly by the trust and the university. The interests of the trust would be protected by the provision of a maximum of 20 places to its nominated students and by other guarantees in respect of the warden and staff. The college would be open to students generally without religious test and would not only provide for both men and women students but would also have some limited accommodation for married couples.

The Flinders University, the Australian Universities Commission, the Government and the Commonwealth Department of Education and Science are all satisfied as to the desirability of establishing student residential facilities at Flinders University as soon as practicable. The Australian Universities Commission recommended allocation of Commonwealth and State funds for this purpose during the period 1967 to 1969, but the programme was deferred because the funds available for university purposes were allocated to projects deemed to be more urgently required. There is no doubt that this project will be recommended for the next three-year period commencing in 1970, when it will carry high priority. In the light of the necessity to boost local constructional activity and the readiness of the Parkin Trust to participate in the project, the State has asked the Commonwealth that this project should be approved for commencement forthwith rather than at the beginning of 1970.

The Commonwealth recently indicated its reluctance to provide its share of the necessary funds prior to 1970, but the Government is still endeavouring to prevail upon it to facilitate an earlier start. From all points of view, whether or not the moves to commence the residential college project earlier than 1970 are successful, it is desirable that the wider investment powers proposed for the trust in this Bill be given early approval. As the Bill is of a hybrid nature, it was referred in another place to a Select Committee under Joint Standing Orders and the committee recommended its passage in its present form.

The Hon. JESSIE COOPER secured the adjournment of the debate.

ST. MARTIN'S LUTHERAN CHURCH OF MOUNT GAMBIER INCORPORATED BILL

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

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

That this Bill be now read a second time.

Its object is to vest in St. Martins Lutheran Church of Mount Gambier a certain piece of land situated in Boandik Terrace, Mount Gambier. In 1863 this property was purchased by a Lutheran church that had been founded in Mount Gambier, and a deed of trust was executed vesting the property in trustees to hold it on behalf of the church, which appears to have been a branch of the Evangelical Lutheran Church of South Australia. At a later date St. Martins Lutheran Church was founded in Mount Gambier; this church was a branch of the United Lutheran Church of Australia. By the year 1900, the original Lutheran church founded in 1863 had become defunct, its members having died or joined St. Martins. The surviving trustees of the property in Boandik Terrace transferred the land to the trustees of St. Martins

Church, and the trustees of that church have administered it ever since.

In 1933 a dispute arose between the Evangelical Lutheran Church of South Australia and the United Lutheran Church of Australia as to which body was entitled to the land. The South Australian body claimed that the deed of 1863 gave the land to the trustees to hold on behalf of that body, while the Australian body claimed that the Lutheran Church as a whole was meant by the deed. The question which body is entitled to the land has now become academic, as both branches of the Lutheran Church have recently united to form the Lutheran Church of Australia, which could clearly be the only party now entitled to the land, and it has been agreed that it should be vested in St. Martins Church, a duly incorporated body free of all trusts, and be dealt with by that church in accordance with the rules of its incorporation.

However, the trustees cannot transfer the land. The Registrar-General placed a *caveat* on the title forbidding sale on the ground that the original deed vested the power of sale in the congregation of the Evangelical Lutheran Church of Mount Gambier, which congregation no longer existed or exists. In ordinary circumstances the Supreme Court could be asked to determine who was entitled to the land and to make an order accordingly. But this course does not appear to be possible as the original deed has been lost and there is in existence only a copy, the accuracy of which has never been doubted by any of the parties involved. The only way to solve the difficulty is by way of a special Act of Parliament vesting the land in the church free of encumbrances, and this is the object of the present Bill. As the Bill is of a hybrid nature, it was referred in another place to a Select Committee in accordance with Joint Standing Orders. The committee, after consideration, recommended passage of the Bill in its present form.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

INDUSTRIAL CODE BILL

Adjourned debate on second reading.

(Continued from October 18. Page 2744.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading. I agree with the Minister that, after a period of 50 years, revision of the Industrial Code is necessary and desirable. We can appreciate the fruits of the investigation of the old Code because it has been reduced by the Bill from about 400 sections to some 213 clauses, so that much dead wood that has accumulated over half a century in our Industrial Code has been cut away. Of course, our way of life industrially, economically and socially is so different today from what it was 50 years ago. From that point of view, I commend the Government for introducing this Bill. However, there are still some important additions (and omissions, in some cases) in this Bill compared with the existing Code. The Minister has frankly stated in his second reading explanation that these additions and omissions represent Labor Party policy. He did not actually set out to explain why they were Labor Party policy but he said they were there because they were intended to implement the promises that the Labor Party made to the people at the last election.

Because the additions and omissions are there, I say clearly that this is one of the most important Bills, in some respects, that we have had to consider this session. The Minister said it was largely a Committee Bill, and with that I agree. When we get into Committee, I think many of these clauses that merely reproduce provisions in the present Code can be passed without debate. I want to confine myself now to the major matters arising from the implementation of this Labor Party policy. Four or five matters are covered under this heading. First, this Bill includes agricultural workers in its provisions; secondly, it provides for wages to be fixed for labour-only subcontractors; and, thirdly, it provides for preference to unionists. Penalties for strikes and lock-outs have been omitted. Lastly, the Bill includes provision for equal pay for men and women for work of equal value.

The Hon. D. H. L. Banfield: Mr. Krantz did not agree with that.

The Hon. F. J. POTTER: No, he did not, from the letter that I read in this morning's *Advertiser*, but I think Mr. Krantz does not quite understand the implications of this provision for equal pay. I think he has not really looked at what has been done in New South Wales, but I will deal with that when the time comes. I want to take the items to which I have referred one by one and say something about them. At this stage I do not want to say much about agricultural workers now being included in these provisions. I do not oppose this. We are the only State in Australia that does not provide for the covering, under industrial awards, of these workers. There have already been incursions by the Commonwealth tribunal (for instance, in the

Pastoral Award) into the field of agricultural and pastoral production, but there are difficulties (I said this last year) about making awards for agricultural workers. Cows do not work to the clock. Conditions of employment are more flexible in agricultural work, and there is the problem in such work of fringe benefits, which are not normally available in other sections of industry. I think we can leave it to the Industrial Commission to take all these factors into consideration. Consequently, I do not oppose the inclusion of agricultural workers in this Code.

The question of fixing rates for subcontractors is dealt with in clause 28. I want to make it perfectly clear that this provision does not stand isolated, because earlier today we were talking about the Builders Licensing Bill. It seems to me that it may be a little more than a coincidence that subcontractors are dealt with by both Bills. In clause 5 a subcontractor is defined as supplying his own labour only. The clause also defines "building work". Clause 28 (1) provides:

> The commission may, on the application of a registered association, which has members who are engaged in building work, or on the application of a contractor or subcontractor, who is, or is likely to be, a party to a contract involving any building work, make an award fixing the remuneration and working conditions of subcontractors in any such building work. Such an award may, in the same manner as other awards of the commission, be declared a common rule.

These provisions, taken together, are intended to catch the subcontractor in the building industry who contracts for his labour only; they are designed to catch him as an employee and to make him subject, under clause 28, to award-fixing powers in respect of his remuneration and working conditions. This was deliberately linked with the Builders Licensing Bill, and I think this is an infringement of the freedom of the individual to contract. If a subcontractor sees fit not to become an employee, why should he not exercise his right to remain an independent contractor?

We will have to look very carefully at this provision and decide whether we ought to take away this person's freedom to remain a subcontractor, to sell his labour for the price he fixes, and not to be subject to the commission's awards, as though he were an employee.

The provisions relating to preference to unionists are exactly the same as those presented to this Council in an amending Bill last year, which were rejected. I agree with the Minister that the provisions do not say that the commission must give a preference: I agree that it is only a right that is being given to the commission to award a preference. However, I do say that in practice it will inevitably lead to compulsory unionism in this State. We must not overlook how the commission is constituted: it has a President and two commissioners. Also, we must not forget that one of these commissioners has already shown that he is disposed towards unionism, and we should not be surprised at this. After all, he was at one stage the Secretary of the Trades and Labor Council. Quite apart from this, I have no doubt that the provisions in this Bill relating to preference to unionists will inevitably lead to compulsory unionism.

Let us take a typical case of what occurs when questions concerning membership of unions arise. We must not forget that under the existing Code—and it is not repeated in this Bill—the employer commits an offence if he sacks a man for not joining a union. I point out that some militant unions can impose strong pressure on an employer. The preference, as a mere preference, to a unionist would not be so bad, but unfortunately tactics are adopted that make certain actions on the part of the employer almost compulsory. We get the situation where a union representative says to an employer, "Look, you are employing so-and-so; he does not belong to the union. If you don't sack him by the end of the week nobody will be working for you."

Sometimes further threats are made, such as, "All your products will be declared black." This is the kind of situation that an employer sometimes has to face. He can, of course, say to the union representative, "I am simply not going to do that, because if I sacked this man I would be committing an offence." In the case of some unions this is an effective answer, but it is not effective in the case of really militant unions.

Another interesting aspect is that some unions impose restrictions in respect of admission to membership. In the case I cited, one may encounter the ridiculous situation (though it is not ridiculous from the employee's viewpoint) where a demand is made on the employer to sack a man because he is not a member of the particular union. To back this up a threat is made. The man involved might not be permitted to join that union anyway; he would not be accepted into the ranks of the union by the union's hierarchy. So, the employee has to get out of the industry altogether, because the typical employer is often unable to withstand this kind of pressure. We must not think that there are any

kid-stakes about the pressure exerted upon employers, because this is done; it is effective, and it is one of the worst forms of blackmail.

There is another feature about this matter that I do not like, because in the section dealing with preference to unionists power is given to the court to make an award or order to instruct an employer to dismiss a non-unionist. It is bad enough when this pressure is exerted on an employer by the union itself, so that in ninety-nine out of a hundred cases it has to be met in some way, but it is still worse when a duly-constituted authority in the State charged with overseeing the whole of our industrial laws is given power to direct an employer by order to dismiss an employee for not being a member of a union. This is a particularly objectionable facet of the preference to unionists provision. I oppose these particular clauses and, indeed, I shall move some amendments when the Bill reaches the Committee stage.

The next matter I wish to deal with is the omission from the Act of penalties for strikes and lock-outs. I do not know what the Government is thinking, but it has obviously taken what it considers to be a desirable step in the interests of the State and, apparently, in the interests of industrial harmony. The Government apparently stands alone again in Australia in this kind of thinking, because not even New South Wales, which has had a Labor Government in the past for some considerable time, has taken any step to remove from its industrial legislation the penalties for strikes and lock-outs, which hold an employer or the whole community to ransom. Many unions adopt a responsible attitude to employers and to the community as a whole but, unfortunately, as we all know, there are some very militant unions that think nothing of these considerations.

When strikes are legal and without penalty (and I emphasize again that this will be the position if the Bill is passed in its present form), the whole State's economy can be disrupted by a handful of people who have no responsibility to the community. The State can be helpless in these circumstances. I should like to repeat some of the statements I made in my second reading speech last year when we dealt with this matter. I said that 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 have to give up their wages for a time to achieve the ends of union representatives. I said that we saw this result in the strike at General Motors-Holden's. Ancillary industries that were supplying goods were affected and employees were stood down as a result and, in fact, in that particular instance I think a secret ballot had to be held to stop that strike and get the men back to work.

I continued by pointing out that there had been a series of strikes by persons engaged in the airlines industry. There had been a strike by pilots, followed by a strike by hostesses, then by mechanics. This matter is still current and, in fact, there is something in the nature of a strike by the pilots at this moment. I notice with interest that the Commonwealth Government (according to today's *News*) has decided that something must be done about this, so the pilots will be brought under the provisions of an Arbitration Act.

The Hon. G. J. Gilfillan: This provision wouldn't encourage industry to come to this State.

The Hon. F. J. POTTER: This provision would certainly not encourage industry to the State.

The Hon. A. F. Kneebone: Have the penalty clauses been used?

The Hon. F. J. POTTER: I do not think they have been used, certainly not that I can remember, but that is not the important fact: the important fact is that the provisions are there.

The Hon. G. J. Gilfillan: This means that they have been effective.

The Hon. F. J. POTTER: Exactly. The fact is that the provisions are there, and that is the important point.

The Hon. A. F. Kneebone: There are more strikes by employees working under Commonwealth awards.

The Hon. F. J. POTTER: There have been attempts in this State by a particular union to fine its members for refusing to strike. That is the kind of thing that can and did happen. That act was declared by the State Industrial Court to be *ultra vires* the rules of the union. This gives some idea of the extent to which a militant union's executive will go in certain circumstances. It is irresponsible of the Government to remove these provisions from the Act. I propose to reintroduce certain provisions concerning strikes and lock-outs into the Bill. The remaining matter I wish to deal with is the most important

matter, namely, the question of equal pay for women. My remarks on this provision will take some considerable time, and in view of the lateness of the hour I ask leave to continue my remarks.

Leave granted; debated adjourned.

TRAVELLING STOCK RESERVE: KOORINGA, BALDINA AND KING

Consideration of the following resolution received from the House of Assembly:

That the travelling stock reserve between Baldina Creek and Stone Chimney Creek and extending easterly, westerly around and beyond Douglas, and southerly, in the hundreds of Kooringa, Baldina and King, as shown on the plan laid before Parliament on September 12, 1967, be resumed in terms of section 136 of the Pastoral Act, 1936-1966, for the purpose of being dealt with as Crown lands.

The Hon. S. C. BEVAN (Minister of Local Government): This reserve comprises approximately 5,950 acres and the major portion was set aside at time of survey (1875-76), the balance being dedicated in the *Government Gazette* of September 27, 1934, at page 646. With modern methods of transport the need for reserves of these dimensions has largely disappeared, and it is proposed that the stock route from section 165, hundred of King, west to section 206, hundred of Baldina, be reduced to 10 chains width and thence to section 191, hundred of Kooringa, be resumed to enable a road of three chains width to be delineated; further, that the stock route from part section 98, hundred of Baldina, south to section 2, hundred of Baldina, be resumed to enable a road of three chains width to be delineated.

These proposals were made on the initiative of the District Council of Burra Burra, and are recommended by the Pastoral Board. They have the concurrence of the Stockowners Association of South Australia. In view of these circumstances, I ask honourable members to support the resolution.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

ADJOURNMENT

At 5.3 p.m. the Council adjourned until Tuesday, October 24, at 2.15 p.m.