LEGISLATIVE COUNCIL

Wednesday, November 12, 1969.

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

QUESTIONS

APPRENTICES

The Hon. A. F. KNEEBONE: On October 29 I asked the Minister of Agriculture, representing the Minister of Labour and Industry, a question regarding the training of apprentices in the building industry. Has he a reply?

The Hon. C. R. STORY: The Government shares the concern recently expressed by the President of the Master Builders Association of South Australia at the decline in the number of apprentices being trained in the various building trades. This matter has been considered by the Apprenticeship Commission on many occasions since the commission was first constituted in May, 1966. Within a month after the appointment of the commission, the then Minister of Labour and Industry suggested that the commission should invite representatives of the Master Builders Association to discuss a proposal they had made for the cost of training apprentices to be spread throughout employers in the building industry.

Not only has the commission considered this matter, but each of the advisory trade committees in the building industry has met and particularly considered whether it would be advisable to prohibit juniors being employed in the building industry other than as apprentices. This would have the effect of eliminating improvers from the building industry. After examination of this proposal, it appeared that it could have the opposite effect to that intended because it could still further reduce the number of boys employed in the building industry. Before coming to any final decision, the Apprenticeship Commission was of the opinion that it should be aware of the effect the Builders Licensing Act may have on employers in the building industry.

Now that the Government has introduced amendments to the Builders Licensing Act, the Chairman of the Apprenticeship Commission will again have the matter of employment of apprentices in the building industry discussed by the commission, reconsidering not only the previous proposal of prohibiting the employment of improvers in the building industry, with the objective of requiring all juniors to be apprenticed, but also the proposal of introducing a system of group apprenticeships into the industry and reducing the length of the period of apprenticeship in the building trades.

MEDICAL PRACTITIONERS

The Hon. V. G. SPRINGETT: Has the Minister of Health a reply to my recent question about medical practitioners with foreign training?

The Hon. R. C. DeGARIS: Prior to the passing of the Medical Practitioners Amendment Act, 1966, migrant doctors whose qualifications were not recognized in South Australia and who desired to practise in this State were required to obtain a registrable qualification such as the degrees of Bachelor of Medicine and Bachelor of Surgery at the Adelaide University.

Since the appointment of the Foreign Practitioners Assessment Committee in March, 1967, under the Act I have referred to, five migrant doctors whose qualifications were not specifically recognized in South Australia have been registered in this State without having to obtain a further recognized qualification.

WHEAT QUOTAS

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

Leave granted.

The Hon. L. R. HART: Over the last two days the Minister has received several deputations from wheatgrowers who have registered their extreme dissatisfaction with their wheat quotas. It would appear that, to give satisfaction to these people, it would be necessary to make a complete review of the basis on which quotas were fixed. Can the Minister say whether any developments have occurred in relation to the basis on which wheat quotas are fixed?

The Hon. C. R. STORY: As I said yesterday, from the time the Government undertook to act as the agent for the wheat industry—and agent it is, because it is merely passing legislation that the industry has requested—

The Hon. S. C. Bevan: Therefore, you must take responsibility for it.

The Hon. C. R. STORY: Not necessarily, because we have not yet got our commission. I have received some deputations, some of which were introduced by the Speaker in another place; some of my Legislative Council friends came along, too. The Secretary of the

United Farmers and Graziers of South Australia and the Chairman of the grain committee of that organization (Mr. Saint) have agreed to hold a meeting in Waikerie, in the heart of the Mallee, next Monday night. The grower members of the committee will be present to explain the whole basis of the wheat quotas to the farmers in that area.

I have said that I am happy not to push the legislation unduly through this Council until after this meeting. If the industry requires amendments to the legislation I will put those amendments to this Council, and they will be put to another place, too. I repeat that this whole scheme was agreed to by the Wheatgrowers Federation of Australia, the United Farmers and Graziers of South Australia, and the farmers of this State. The committee was set up with eight grower members and three other people, one nominated by another farmers' organization, one by South Australian Co-operative Bulk Handling Limited, and one by the Wheat Board. An officer of the Agriculture Department acts as liaison officer. This whole matter is in the hands of the industry and, if any amendments are required, they will have to come from the industry.

UNFAIR ADVERTISING BILL

Second reading.

The Hon. A. J. SHARD (Leader of the Opposition): I move:

That this Bill be now read a second time.

Its provisions have previously been before Parliament with one minor exception. In 1967, a Bill to control unfair trade practices was put before Parliament. At that time, for a number of reasons relating to other sections of the Bill, the measure was not proceeded with. However, it was explained, in relation to unfair and misleading advertising, that the provisions of the Bill, based on legislation in Florida, seemed to the then Government to be the most simple prohibition of misleading advertising that could be devised; it was simple and clear, yet comprehensive. At that time there had been set up in South Australia, at the request of the Standing Committee of Attorneys-General, an investigation by an Adelaide law school committee of credit sales legislation and practice in Australia, and the Adelaide law school assembled, with the assistance of the South Australian Attorney-General's Department, material from all over the world about credit sales and unfair practices in relation to them.

The report of the law school of the University of Adelaide to the Standing Committee of State and Commonwealth Attorneys-General has now been made available to honourable members. However, it does not seem to have been received with great enthusiasm by the reigning Governments in Australia, although I believe it was vital. I hope its proposals will be implemented, but so far we have seen little sign of that. Although the Attorneys-General have had them for some considerable time, we find from our own Attorney-General so little movement in this matter that, after some desultory conversation at the last committee meeting, the matter is not to be discussed again until the next meeting, after the session has been adjourned. However, for most of this session the Government has had this report, which deals with matters of daily importance to citizens in this community. Every day in this community citizens are being harmed because, as this report points out, there are unsatisfactory provisions in relation to many sales practices, and particularly credit sales. Not all of the proposals can be implemented simply; some will require careful drafting. However, some proposals can be implemented immediately.

In replies to questions in another place about the report, the Attorney-General has pointed out that some of them could be dealt with immediately but that others would need consultation between the States, with the aim of having uniform legislation. One of the simplest to deal with immediately is misleading advertising. I draw honourable members' attention to the Report on the Law Relating to Consumer Credit and Moneylending, at page 19 of which, under the heading, "Chapter V —Misleading Advertising", the following appears:

> In several sections of this report we mention problems which do or may arise from misleading advertising practices. We are aware that legislation exists in several States which proscribes particular practices, but there are nevertheless a good many undesirable advertising practices which fall outside these proscriptions and which seem to us to require regulation.

That is so, although the other States, far more than South Australia, have proceeded to enact legislation relating to the misleading advertising. Most of them have some provisions in this regard, whereas we do not. Nevertheless, although they have legislated, they have legislated for certain situations, for the most part: there is no satisfactory general coverage of false, misleading or deceptive statements in advertisements in other States' legislation.

The committee's report continues:

We consider that a general proscription of false, misleading or deceptive statements in advertisements is needed, and workable. We note, for example, that in the Nova Scotia Consumer Protection Act, 1966 (s. 14), in relation to the advertising of credit, it is provided: "Where any person registered under this Act is making false, misleading or deceptive statements relating to the extension of credit in any advertisement, circular, pamphlet or similar material the Registrar may order the immediate cessation of the use of such material." We note further that in the Unfair Trading Practices Bill which was introduced into the South Australian Parliament in 1967 (but which was not proceeded with) the following provision (s. 8) which, we understand, was modelled on a Florida statute, appears:

"8. (1) Subject to subsection (2) of this section, a person shall not, with intent to sell or in any way dispose of any goods or services or to increase the consumption of or demand for any goods or services, or to induce the public or any member of the public in any manner to enter into any obligation relating to any goods or services or to acquire title to or any interest in any goods or services, publish, disseminate, circulate or place before the public or any member of the public or cause directly or indirectly to be published, disseminated, circulated or placed before the public or any member of the public, an advertisement of any sort relating to such goods or services, which advertisement contains any assertion, representation or statement that is inaccurate, untrue, deceptive or misleading and which such person knew or might, on reasonable investigation, have ascertained to be inaccurate, untrue, deceptive or misleading.
Penalty: Two hundred dollars.

(2) Subsection (1) of this section does not apply to—

(*a*) an owner, publisher or printer of any newspaper, publication, periodical or circular;

(*b*) an owner of any radio or television station;

(*c*) an agent or employee of any person referred to in paragraph (*a*) or (*b*) of this subsection;

(*d*) an agent of the advertiser; or

(*e*) a newsagent or bookseller,

who, in good faith and without knowledge of the fact that the advertisement contains an assertion, representation or statement that is inaccurate, untrue, deceptive or misleading, publishes the advertisement, disseminates it, circulates it or places it before the public or any member of the public or causes it to be published, disseminated, circulated or placed before the public or any member of the public or is concerned in its publication, dissemination or circulation or the placing of the advertisement before the public or any member of the public."

Subject to amendments to such a provision as this so as to make it clear that it also applies to advertisements relating to the availability of credit, and in the absence of any detailed statutory code regulating advertising (see *e.g*, U.S. Federal Trade Commission Act, 1914 and regs., and U.K. Trade Descriptions Act, 1968), we consider that this is a feasible method of dealing with misleading advertising.

I am pleased that the Adelaide Law School committee, after investigation of this matter, has seen fit to recommend a provision similar to that which the Labor Government introduced in 1967. It did not make a recommendation of this kind while we were in office and I am pleased, in view of the statements the Attorney-General makes from time to time, that it has referred in approving terms to the drafting of this particular section, for which the Labor Government was responsible. The report further states:

We would not wish to see such a provision confined to advertisements relating to credit because some of the advertising practices we have referred to in our report; for example, the advertising of bogus trade-in allowances, go beyond this. The generality of the provision in the South Australian Unfair Trading Practices Bill seems to us to be necessary. It may be objected that a provision such as this is too sweeping and imprecise to be an effective way of dealing with misleading advertising practices. We do not see why this should be so. In other fields the law has proved itself capable of solving comparable problems and able to identify misstatements of fact and misleading half-truths, and capable of distinguishing these from mere puffs or padding which cannot be expected to attract liability. There seems no reason to us why this task should, in the case of misleading advertising, be harder than it is in other fields. The surveillance of misleading advertising would be an important function of the Commissioners of Consumer Affairs whose appointment we have advocated later in this report.

The Bill's provisions are simple. They contain those necessary definitions originally contained in the Unfair Trade Practices Bill, which was before Parliament in 1967, that relate to this particular section. The Bill repeats the provisions of the 1967 Bill mentioned in the committee's report, with one minor addition: after the words "an advertisement of any sort relating to such goods or services" the words "or to the extension of credit for any transaction relating to such goods and services".

In these circumstances, we cope with the committee's requirement that the misleading advertising prohibitions cover not only advertisements relating to the nature of credit to be granted in respect of goods and services. With that minor amendment, and with the provision that proceedings in respect of offences against the Act shall be disposed of summarily, we come to the end of the Bill. It is a simple Bill although comprehensive and far-reaching

in its effects but, as the committee has said, it is workable and gives the necessary coverage. There should be no difficulties in its operation, and it is vitally necessary in present circumstances where people are being misled by improper advertisement. Elsewhere in the report the committee refers to numbers of instances of improper and misleading advertising. I invite honourable members to go through the report in relation to this.

The Hon. C. M. HILL secured the adjournment of the debate.

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

Second reading.

The Hon. A. J. SHARD (Leader of the Opposition): I move:

That this Bill be now read a second time.

It arises from incidents at Port Augusta earlier this year where a well-dressed and well-behaved Aboriginal man and woman were refused a drink in the lounge of a hotel. Being Aborigines, their drinks are served in the front bar. This was a clear case of discrimination because of the colour of their skin. However, the Attorney-General, on the advice he received, refused to prosecute on the ground that the provision of the Act as it stood did not mean that an equivocal refusal of service by the imposition of conditions upon supply constituted a breach of the Act.

The aim of this amendment is to ensure that the Act is not evaded by the imposition of special conditions attaching to persons by reason of their colour of skin, race or country of origin. Sections 2 and 3 replace the present definition of "service" in the Act in order to make it wide enough to cover all services. Section 4 provides a new section which makes the crime specifically bound by the Act. Section 5 replaces old section 4 and tightens up the section relating to the supply of goods or services for reward generally. Subsection (2) makes it clear that, where usually goods or services are supplied under certain conditions or on certain terms, those same terms shall be given to any person and that no discrimination may be made on the ground of race, country of origin or colour of skin. Clause 6 provides similar protections in relation to the supply of food, drink or accommodation in either licensed or unlicensed premises.

The Hon. C. M. HILL secured the adjournment of the debate.

WEST LAKES DEVELOPMENT BILL

Read a third time and passed.

CHILDREN'S PROTECTION ACT AMENDMENT BILL

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

From time to time, medical observers have drawn the attention of their colleagues and the public generally to a somewhat distressing situation known as the "battered baby syndrome". In this situation a child, often a baby or very young child, is found bearing signs which can only be attributed to physical violence offered to the child and, in some cases, violence of an extreme kind. In many instances the explanation offered for the injuries apparent on the child is transparently false, and it is not uncommon for the injuries to have been inflicted by persons having charge of the child. The Government has received a recommendation on this matter from the Law Reform Committee, and this Bill gives effect to that recommendation.

The persons most likely to be aware of this situation are, of course, medical practitioners, dentists and other persons whose duties bring them into fairly frequent contact with young children. However, such persons are often by nature disinclined to report such suspected offences and, indeed, are often enjoined by their professional associations not to disclose information gained as a result of the professional relationship with their child patients and their guardians. While the Government is not unsympathetic to this view, it must balance this against its clear responsibilities to the innocent child victims.

Accordingly, at clause 3, which inserts proposed new section 5a in the principal Act, a duty to report suspected offences of this nature is cast upon doctors, dentists and other persons. As a corollary, subsection (2) gives the greatest possible protection to persons who do report their suspicions. They are protected from actions in their domestic tribunals, from actions for defamation, and from actions for malicious prosecution, and their reports are privileged.

New subsection (3), together with new section 5b, sets up machinery to bring in other classes of persons who will be enjoined to report their suspicions that offences against

children have been committed. Clauses 4 to 9 merely make certain decimal currency amendments.

Clause 10 provides, in effect, that the wife or husband of an accused person shall be competent and compellable to give evidence against the accused. Usually, the only direct evidence of the offence will be the evidence of the spouse of the accused person and, as the law at present stands, the spouse cannot be compelled to give evidence in such a matter, although curiously a wife can be compelled to give evidence against her husband of an assault against herself.

The law relating to the inadmissibility of the evidence of one spouse against another is, amongst other things, intended to preserve the sanctity of the marriage relationship, but its application in this case would in many instances have the effect of withdrawing the protection of the law from the child of the marriage or a child in the custody of either or both spouses.

I would emphasize that the main purpose of this measure is not to punish people who inflict harm on children since their very acts may well give rise to questions of their criminal responsibility; it is rather to protect the children from further violence by isolating circumstances in which the violence occurred.

The Hon. A. J. SHARD secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2854.)

The Hon. H. K. KEMP (Southern): When I spoke on this Bill yesterday I referred to the instability that inherently arises with any increased representation of the metropolitan area. In fact, it is more than that. We have not long ago seen the effect of an urban orientated Government on country interests in this State, and I think it will be a long time before the people of Millicent and Mount Gambier forget the run-down in the timber mills and the timber industries that occurred in those districts. I think it will be a long time, too, before the quarrying industries forget the huge stockpiles of unused road materials they had on their hands, contracted for but unused. Those are but two examples.

Curiously enough, there is another effect from overwhelming city representation in a Legislature, and we saw this in New South Wales. Only a very short time ago there were moves, particularly in the Armidale district and in Wagga, for those areas to secede from the State of New South Wales simply because they could not make their voices heard in the Parliamentary circles in Sydney. This type of representation has gone a long way towards creating the disadvantages under which we are operating today, namely, the tendency towards the strengthening of centralized Government in Canberra.

Lest honourable members think that I am just pulling these remarks out of the air, I point out that this matter was the subject of a thesis delivered to the Sydney University by a certain Miss Joy White, who was studying political science. Miss White made her investigations over a very wide field.

I wonder what the reactions of people in Millicent and Mount Gambier and those in the Upper South-East are going to be when they see the very small voice they have here on North Terrace and realize that over the border they will get their full recognition as countrymen. There is great danger for the State in this legislation; this cannot be underlined too much.

The Hon. R. C. DeGaris: The Leader in another place said that it is still unfair.

The Hon. H. K. KEMP: Yes; he believes that it is still unfair that there is not more representation of the metropolitan area and less of the South-East. The Australian Labor Party has paid lip service to the need for decentralization and the interests of country people. Decentralization has been a catch cry for a long time. Is decentralization likely when 34 members of Parliament want development in the metropolitan area and only 13 are trying to get development for country areas?

In much of my electoral district people deeply resent the name given to the new electoral district, part of which is now represented by Mr. Nankivell and part of which is at present the Ridley District. The people resent the fact that the name "Mallee" has been given to this new district. Most people in this State want to forget the word "mallee". The dropping of the name "Ridley" is a tragedy. If this State owes a debt to anyone it must be very great if it is greater than the debt it owes to the man who introduced the first effective means of mechanical harvesting of cereal crops.

I am sure the commission has, if anything, exceeded its terms of reference in fixing Legislative Council boundaries. The commission

said that it was very difficult to arrange these boundaries in accordance with its terms of reference.

The Hon. M. B. Dawkins: It simply was not able to do it.

The Hon. H. K. KEMP: Actually, it should have said that it was impossible to redistribute the Legislative Council boundaries with any justice. We have heard the word "gerrymander" used here very often in relation to the present distribution of electoral boundaries. Over a long period the A.L.P. fought tooth and nail to retain this gerrymander because it saw that gradually and inevitably, because of the progress of the State under stable and good Government, the weight would be thrown its way. Actually, the weight has now been thrown its way completely. So, there is not equal representation—the whole weight has been thrown on to the metropolitan area, so that country interests are completely overwhelmed.

When this question was before the Council earlier, a very fair method of redistribution was suggested; it was that there be two metropolitan and two country electoral districts. This would have gone a long way towards solving the inequities of the present distribution. What happened? The Labor Party, yelling "gerrymander" yet wanting to adopt the plan it supported for redistribution of the Assembly boundaries, refused to have anything to do with this essentially just redistribution of Legislative Council boundaries. I have never seen a more vigorous fight than that put up by the Labor Party when this matter went to another place for discussion.

It is important that country people realize just what is in front of them if this Bill is passed in its present form. The redistribution of Assembly electoral districts is bad enough, but the proposed redistribution of Council districts will mean that eventually four out of five of the Council districts will become representative of the metropolitan area. This is already nearly the case; certainly it is the case in Midland. Increasingly in the Southern District there will be portions of the metropolitan area that have no business in a rural district.

If anyone can show me any community of interest between Springfield, Lower Mitcham and Brighton on the one hand, and Naracoorte and other South-East districts on the other hand, I shall be very surprised. Each electoral district is supposed to be bound by community of interests, but the Southern District now contains some big manufacturing complexes, and the metropolitan area will soon extend to Willunga, so this district will then have a large urban component.

The Hon. R. C. DeGaris: I do not think that country people understand this.

The Hon. H. K. KEMP: I do not think country people have a clue about the effect of these boundaries. Southern District now includes Brighton, Mitcham and Springfield. How on earth can anyone say there is community of interest between these suburbs on the one hand and Pinnaroo and Lameroo on the other hand?

The Hon. M. B. Dawkins: The Bill is completely inconsistent: it sets up a new metropolitan area for the Assembly but keeps the old one for the Council.

The Hon. H. K. KEMP: The gerrymander in respect of the Legislative Council must be preserved—but not for the Assembly! I am sure that country people and, indeed, most South Australians have no idea of what is involved in this Bill. The secrecy with which it was whizzed through another place is significant. We should shout from the housetops that this tremendously important Bill was passed by the Assembly in a very short time after only two speeches had been made. I foreshadow an amendment demanded by some people in my district: it is to change the name "Mallee" to "Ridley". I have other amendments in mind, but I do not wish to commit myself at present. A measure of this importance cannot be passed without deep consideration.

The Hon. L. R. HART (Midland) moved:

That this debate be now adjourned.

The Council divided on the motion:

Ayes (12)—The Hons. M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, C. D. Rowe, V. G. Springett, C. R. Story and A. M. Whyte.

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

Majority of 8 for the Ayes.

Motion thus carried; debate adjourned.

PRISONS ACT AMENDMENT BILL (PAROLE)

Adjourned debate on second reading.

(Continued from November 5. Page 2730.)

The Hon. R. C. DeGARIS (Chief Secretary): The general principle contained in the Bill has been accepted in this Chamber and

I am grateful to honourable members for their attention to the measure. The Leader said he did not agree to the appointment of a Supreme Court judge as chairman of the adult parole board, claiming that judges had not had adequate training in penology and criminology to fill such an important position.

The Hon. Mr. Springett pointed out that, by the very nature of a judge's profession and of the great experience he possessed, he was well fitted to fill such a position. Indeed, because of the very nature of the information and evidence which will be available to the board and which it will have to assess, who better would there be to chair such a board than a Supreme Court judge? I agree that, in the light of experience, the situation may change and in time one may consider that a judge should not be chairman of the board. However, this will be the first board appointed, and who is there better to chair it than a Supreme Court judge?

The Leader referred briefly to the situation obtaining in certain Scandinavian countries, certain procedures of which, I think he said, we should be following more closely. Although I was not there for very long, I recently had an opportunity to visit some Scandinavian countries, and while there inquired into this matter. We hear much in Australia about how advanced some of these countries are in penal and censorship matters, and in their attitude towards drug taking and other things, but I do not think it would be in the best interests of this community to adopt such an attitude blithely. I believe the Leader would agree with my views.

We must tread carefully in making any changes in our own society, because many practices being followed not only in Scandinavian countries but also in other countries have failed miserably. A gentleman to whom I spoke in Sweden said, concerning their penal system, that their social problems were, because of the permissive society that theirs had grown into, so great that they would try anything to help the situation. I believe that is an opinion on which this Council should place much weight. In all matters of change we must tread cautiously.

I am pleased that the Hon. Mr. Springett commented on the size of the board. It would be easy for the Government to allow the board to be considerably larger than it will be, and many groups in the community could make an excellent case for representation. However, I am sure members will agree that a board of six members is large enough and that a larger board might tend to become unwieldy. I know the Hon. Mr. Springett has had much experience with parole boards and boards of control in the United Kingdom, and I value his accumulated experience and the fact that he has made it available to me.

This is only a first step; I believe that other developments will stem from the appointment of this board. The possibility of our having a case preparation service to assist the board must also be examined, as such a service may prove to be absolutely necessary if the board is to function properly. However, these developments can stem from our initial experience after the board is established. The Government is still examining further changes and improvements in this area. I stress the need to take these changes step by step to ensure that we do not get carried away by too much reforming zeal and make what I believe would be important and fundamental mistakes, which have been made in other countries, in making changes that were not, in my opinion, wholly warranted. I thank honourable members for their attention to this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Repeal of sections 42 and 42a of principal Act and enactment of Part IVA in lieu thereof."

The Hon. S. C. BEVAN: New section 42a (2) provides for a parole board consisting of 10 members, of whom:

> one, who shall be the chairman of the board, shall be a person, nominated by the Attorney-General, who is, at the date of his appointment, a judge of the Supreme Court.

He will be nominated by the Attorney-General and appointed by the Governor. Why should he be nominated by the Attorney-General? At the date of his appointment he would be a judge of the Supreme Court but it could be that shortly after his appointment he would reach the retiring age and would no longer preside as a judge of the Supreme Court. He might have had considerable experience as a judge before retirement but, as the intention of the Bill is to give parole to prisoners with a view to their rehabilitation, perhaps it would be better for some person other than a judge of the Supreme Court to be chairman of the board.

I fully appreciate the knowledge and experience of a judge of the Supreme Court but he might, after a lifetime of dealing with criminal

cases, be a little prejudiced about the amenities to be provided for the rehabilitation of prisoners on parole. After all, this parole board will be trying to rehabilitate such prisoners and make them useful citizens once more. This provision should be further examined.

The Hon. A. J. SHARD: I move:

In paragraph (*a*) of new section 42a (2) to strike out ", who" and all words after "board".

The object of this amendment is to permit the Government to nominate a person to be chairman of the board without stipulating that he shall be a judge of the Supreme Court. Paragraph (*a*) would then read "one shall be the chairman of the board". I listened attentively to the Chief Secretary when he said that the Leader in this Chamber would personally agree with his contention about what obtained in Sweden. These are my personal views, and nobody else's, on Supreme Court judges. The Chief Secretary said he could think of no-one better than a Supreme Court judge to be chairman of the board. With the greatest respect, I am violently opposed to him on that. I have known nearly all our Supreme Court judges for some time and, while I have every respect for their legal ability, I honestly and sincerely believe that a Supreme Court judge would not be the right person to be chairman of the board.

The Chief Secretary further stated that the Supreme Court judges would know all the cases from their training. Under our present system, the Supreme Court judges are approached and their views about a prisoner are available to the prison officials. Exactly the same approach could be made with the parole board. If the chairman of the board was a Supreme Court judge, it could develop into a kind of body retrying and issuing a new judgment on the person concerned, and that would not be good from the board's point of view because I believe that sometimes (in fact, I have knowledge of this) a Supreme Court judge has great difficulty in shutting out from his mind the trial, hearing and history of the person involved. I could cite cases, but I do not want to.

Another point that worries me is this. When we read newspapers from other States, we sometimes see that, when a Supreme Court judge there sentences a prisoner to a term of imprisonment, the point is often made that there shall be no parole for at least five, six or seven years. I suspect, though I have no proof, that that is done because the Supreme Court judges are not happy with the way in which the parole boards are operating in other States. If my suspicion is right (as I believe it is) that could happen with our board, and I would not like that. I do not want honourable members to think that somebody has told me this. This is my own personal view, and I have sound reasons of my own for thinking that a Supreme Court judge should not be the chairman of the board. I do not want to go any further on that because it is rather a delicate matter.

I agree with the Chief Secretary that a parole board is a step forward in the interests of the unfortunate people with whom it has to deal. He said it was important that it got off on the right leg (he can correct me if I am wrong in saying that). I think so, too. I want to see the board functioning correctly and in the interests of the community at large and, in particular, of the person concerned. I sincerely believe that with a Supreme Court judge as Chairman it will not do that. I leave it to the Committee to decide whether I am right or wrong, but I ask that members give this matter serious consideration because it is an important subject.

The Hon. L. R. HART: I think the inference one could draw from the remarks made by the Leader would be that a Supreme Court judge would have undue influence on the board members. I have the greatest respect for the Leader's views on matters of this nature because of his long experience, but it should be remembered that the board shall consist of 10 members.

The Hon. A. J. Shard: It shall consist of six members when in session; five members and a Supreme Court judge.

The Hon. L. R. HART: The Bill reads, "The board shall consist of 10 members".

The Hon. A. J. Shard: But six shall sit at any one time.

The Hon. L. R. HART: I see. I beg your pardon. Some members of the board are to be nominated by the Chamber of Manufacturers, some by the United Trades and Labour Council of South Australia and some shall be legally qualified medical practitioners. Other members will have extensive knowledge and experience in the science of sociology. All those members will have a special knowledge of matters associated with parole, and they will not be unduly influenced by a Supreme Court judge.

I sincerely believe that all members of the board will have views of their own, but that there will be occasions when they will seek

guidance from somebody with knowledge that only a Supreme Court judge would possess. I believe that it would be an advantage to have a Supreme Court judge on the board and, indeed, as Chairman. I also believe that members appointed to the board will be extremely capable and that they will not be unduly influenced by the Chairman. As the Leader has said, at some stage the Chairman may be a retired Supreme Court judge and, as such, he would not be bound by the rules of the Supreme Court. However, he would be a man who could use his experience to great advantage in this position, and I do not think that the fears of the Leader are soundly based.

The Hon. R. C. DeGARIS (Chief Secretary): In reply to the query of the Hon. Mr. Bevan regarding the member who shall be nominated by the Attorney-General, I point out that the Attorney-General is the principal legal officer of the Crown and it is usual to have an appointment of a Supreme Court judge made in this way. Briefly, in reply to the Leader, let me make it clear that, when I said he would probably agree with me, I was speaking of the situation as it existed in Scandinavia. I know the Leader very well, and I know that he would not approve of the standard of censorship in those countries, nor would he appreciate the penal system in Scandinavia and some of the latest developments there. That was my reason for making that comment, because I am certain that the Leader has made a close study of these matters and that he will agree with me that a permissive society such as exists in some of the Scandinavian countries leaves much to be desired.

I do not intend to go over the ground again, but the reasons for the appointment of a Supreme Court judge as Chairman should be given careful consideration by the Committee and it should realize why the Government has decided on this course. It should be remembered that the board will assess evidence presented by people promoting a prisoner's parole. The evidence will be given by probation officers, psychiatrists, and psychologists, and it will be assessed by the board. The point that a Supreme Court judge may be swayed by other factors is one that I do not think will apply in practice. The board must assess the evidence before it; that is its purpose. In establishing the board it is important to appoint members with a wide knowledge of the function expected of them. Therefore, I ask members to accept the clause as drafted.

The Committee divided on the amendment:

Ayes (5)—The Hons. D. H. L. Banfield, S. C. Bevan, R. A. Geddes, A. F. Kneebone, and A. J. Shard (teller).

Noes (12)—The Hons. M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, V. G. Springett, C. R. Story, and A. M. Whyte.

Majority of 7 for the Noes.

Amendment thus negatived.

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

In paragraph (*f*) of new section 42a (2) to strike out "Australian Council of Trade Unions" and insert "United Trades and Labour Council of South Australia".

I think this amendment will be clear to all members.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (PRISONS)

Read a third time and passed.

OFFENDERS PROBATION ACT AMENDMENT BILL (SUSPENSIONS)

Read a third time and passed.

SUPREME COURT ACT AMENDMENT BILL (VALUATION)

Adjourned debate on second reading.

(Continued from November 11. Page 2853.)

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for the attention they have given to this measure. I think the most controversial point raised by members generally concerns the appeal question, and honourable members will see that I have an amendment on the file to deal with this question.

I think the first speaker to raise some points and to ask for some explanation was the Hon. Mr. Rowe, who dealt with the question of the appointment of the judge and the possibility of the appointment of a panel of judges in lieu of the one person. A point that must be borne in mind is that this jurisdiction is a highly specialized one. One does not appoint a Land and Valuation Court judge and then assume that he is not going to be able to do his job. In the determination of values as a question of fact, a wide discretion must, in the nature of things, be reposed in the judge in charge of the case. It is this wide discretion

that has led over the years to such enormous disparities in compensation awards emanating from several judges in the Supreme Court.

Greater certainty and greater predictability can be achieved only by appointing a specialist and leaving him to do the job. It would defeat the whole object of the Act to substitute for an informed and specialist judgment of one judge the non-specialist judgment of three judges.

The experience in New South Wales has confirmed beyond any doubt at all that the only safe thing to do, for the benefit of the community generally and for valuers and the legal profession in particular, is to appoint a good specialist and then trust him. That trust can be safely supplemented, of course, by the appeal.

There is provision for an additional judge if the circumstances of the case require one to be appointed, but the idea of having a panel of judges, with rotating work rosters, would create exactly the same problems as the jurisdiction now creates in the hands of the present Supreme Court judges. So far as the case is concerned of a judge who is about to retire, clearly the power under the Bill could be exercised to appoint an additional judge to be, as it were, trained in the particular field, because it would be in the interests of the administration of justice to appoint him. Therefore, provision has already been made for retiring judges.

Therefore, in summarizing this general approach I say that the thing to do is to choose a good judge and then trust him. It is perfectly true that there is at present no judge of whom it can be said that he is an expert in land valuation. The object of this Bill is to provide such a judge. If the assumption that there is no-one suitable to be appointed is adopted, we will never be able to have such a person.

The important point that I stress in this matter is that this Bill cannot be considered properly without bearing in mind that the rules of court (and these were discussed in considerable detail by the Hon. Mr. Gilfillan and possibly other speakers) similar to the Supreme Court rules of court will play a large part in providing appropriate and flexible procedures for having a full range of cases heard.

It is also necessary to bear in mind that the legislation provides that the court will be constituted anywhere in the State and not confined to Adelaide. With those two facts in mind, it will therefore be realized that it would be possible for the judge to devise, probably on the basis of rules of court that have been tried and proved in New South Wales, appropriate rules of court to ensure that both the very big cases, involving big sums, and the very small cases, involving small sums, will be heard rapidly and with the minimum of delay.

For example, I would expect that the rules of court would provide a greatly accelerated and simplified procedure for hearing of rating appeals. It may even be that most of them, which I understand usually involve a single point, could be dealt with by affidavit without even the attendance of the parties. Be that as it may, it would be seriously to misjudge this Bill if it were to be supposed that the Land and Valuation Court would be exactly like the Supreme Court, that it would be tied to a home base except for specified circuits, and that the full-scale procedures of the Supreme Court would also be required for all matters before it. To make that supposition would be wrong.

The Hon. Mr. Gilfillan has some misgivings about subsections (4) and (5) of new section 62h, under which the rules of court would be made. This provision is based 100 per cent on the corresponding provision in the Supreme Court Act which has been substantially in this form for as long as the Supreme Court has been in existence.

The power in this form has never been queried for one moment, and has been in force through the rules of many Parliaments for many years. Therefore, it would appear that there should not be any objection to it in this present form.

The Acts Interpretation Act provision is appropriate for regulations, but regulations are entirely different from rules of court. Regulations may be made one year and revoked the following year. Rules of court, however, usually become embodied in the standing practice of the court and are therefore of much greater importance than ordinary regulations.

It is essential, therefore, that, once made and once the Houses of Parliament have had the opportunity during the space of one month to disallow them, they should become unchallengeable.

The Hon. Mr. Gilfillan further canvasses the possibility that the court may become overloaded. This seems to me highly improbable. With the simplified procedures that I

have already referred to and with the possibility that the rules may, as in the Supreme Court, confer upon a person such as the Registrar the power to handle the smaller cases pursuant to rules of court, I should think that the list, far from being overloaded, will be cleared much more quickly than it is at present

One of the principal objects of this Act is to take all compensation and land cases out of the seriously overloaded general Supreme Court list and give them to a single judge, who can concentrate his full attention on them without being worried about other duties in other jurisdictions.

The Hon. Sir Arthur Rymill raised the question of the panel of three judges that was discussed by the Hon. Mr. Rowe. He is, I think, correct in pointing out that the new section 62c gives ample scope for overcoming the difficulties posed by the Hon. Mr. Rowe.

It will be observed that the Land and Valuation Court judge may be assisted by an acting judge where he deems it improper or undesirable that he should hear or determine any proceeding if he is ill or is given other duties to perform that temporarily or permanently preclude him from carrying out his specialist function. It seems to me that the proposed panel would simply dilute the specialized learning and experience that ought to be concentrated in a single judge.

As a result of comments made by the Hon. Mr. Geddes, I point out to the honourable member that the whole purpose of this legislation is to import stability and uniformity into the valuations of land throughout the State, and this can be done only by the centralized type of control to which the honourable member has referred. The strength of the New South Wales legislation has proved this in practice, in that decisions of the Land and Valuation Court judge are immediately predictable and the scales of valuations are such that valuers in general feel that they have firm foundations upon which to give their valuations for the future.

This point links up with a further point made by the honourable member; he has stated that he disagrees with the Hon. Sir Arthur Rymill's comments about the necessity for a specialist judge. Sir Arthur is, with all respect to him, completely wrong in stating that he "never understood the law on compulsory acquisition to be of any great complexity or difficulty".

The fact of the matter is that, although the principles are not as many as are to be found in other branches of the law, their application to the various permutations and combinations of facts involves extremely difficult points of mixed fact and law in which only a specialist will find himself at home.

The Hon. Mr. Geddes has referred to clause 6 (4), in which the Governor may appoint an acting judge in certain situations, and he asks why it is necessary for the Governor to do this. The reason is that the Governor is always the one who appoints judges and, as he is to appoint the Land and Valuation Court judge, it seems reasonable that he should appoint an acting Land and Valuation Court judge.

The honourable member has also referred to the Hon. Sir Arthur Rymill's reference to appeals to the High Court. An amendment in this connection has been foreshadowed. The Hon. Mr. Geddes has also queried the wisdom of conferring jurisdiction on the Land and Valuation Court in the various matters of the complementary Bills.

It should never be forgotten that it is the object of this legislation that the Land and Valuation Court judge should be rapidly available throughout the State to sit locally, Furthermore, there is full power (which has been exercised in New South Wales to great advantage) to make rules of court providing easy and flexible and rapid means of disposing of matters that are, to use the honourable member's phrase, "of a minor nature".

Regarding the point made about the Assessment Revision Committee, I point out that section 201 of the Local Government Act is not affected by the new Bill. The Assessment Revision Committee is still appointed by a council to hear appeals by ratepayers.

There are some exceptions, the main ones being where the appellant is a member of a council or where ratable property is held by two or more joint tenants or tenants in common, one of whom is a member of the council. These particular appeals were previously to the Local Court but will now be to the Land and Valuation Court. Under present provisions all appeals commence with 21 days. In future this will still apply to appeals to the Assessment Revision Committee.

Appeals against the decisions of the Assessment Revision Committee at present are made to a local court. Under the new Bill they will be to the Land and Valuation Court. The appeals to this court are not subject to any

specific time limit but will be determined in accordance with the rules made by the Supreme Court. I hope my explanations have satisfied honourable members. If I have omitted to deal with any point, it can be dealt with further in the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Judges of the Supreme Court."

The CHAIRMAN: I point out to the Committee that clause 4 will increase the number of puisne judges from six to seven. The principal Act, at section 12, fixes the salaries of all judges of the Supreme Court and in subsection (3) directs the Treasurer to pay such salaries out of the general revenue on the warrant of the Governor, who is authorized by the subsection to issue such warrants as required from time to time. Thus, the clause appropriates the revenue required for the payment of the salary of the additional puisne judge and, under Council Standing Order No. 278, such a clause is required to be printed in erased type and shall not be deemed to form any part of the Bill.

The Hon. Sir NORMAN JUDE: I am quite sure that honourable members are grateful to the Minister for the replies he has given to the many questions raised during the second reading debate. You, Mr. Chairman, have just drawn honourable members' attention to a very important matter. Honourable members may not realize that this very important Bill is aimed at the very basis of our State. Because honourable members may need time to consider the Minister's replies and because one honourable member who is particularly interested in this Bill is not at present available, I ask that progress be reported.

The CHAIRMAN: Before progress is reported I wish to add that clause 4 will not be put to the Committee. Standing Order No. 298 states:

No question shall be put upon any clause printed in erased type.

Therefore, discussion on the suggested clause must be postponed until the Assembly has considered it. So, if progress is reported, it will be reported in respect of clause 5, not clause 4.

The Hon. C. M. HILL (Minister of Local Government): I appreciate the importance of the matters raised by the Hon. Sir Norman Jude. On the other hand, we have to make progress because the Bill has been under consideration for some time. One other honourable member has told me privately that he wishes to question very seriously one of the later clauses.

Clause 5—"Cases or points of law reserved."

The Hon. C. M. HILL: The Government wants this clause struck out. It would be best if we tried to make a little progress. I shall leave the door open for further consideration to be given to the matters raised by the Hon. Sir Norman Jude before we complete the Committee stage.

The Hon. R. A. GEDDES: I have not been able to follow the Minister's explanation why clause 5 should be deleted. Will he therefore explain this to the Council as the little homework I have done in relation to right of appeal does not clear up the matter?

The Hon. S. C. Bevan: Clause 5 deals with section 49 of the principal Act.

The Hon. R. A. GEDDES: I agree.

The Hon. S. C. Bevan: And that leaves the door open for the next amendment.

The Hon. R. A. GEDDES: Unfortunately, though, I have not been able to follow the reasons why the clause should be deleted.

The Hon. F. J. POTTER: I have not checked up, but the reason seems apparent to me: that if clause 5 is left in, section 49 of the Act has to be construed subject to the provisions of Part IIIA. In other words, that Part as it at present stands will not provide for the right of appeal. If clause 5 is removed, as I understand the amendments before us, new section 62f will be inserted by clause 6. It provides that the provisions of sections 49 and 50 of the Act shall apply to the Land and Valuation Court. In other words, clause 5 is being deleted so that these rights shall extend to this court.

The Hon. S. C. BEVAN: What the honourable member has said is the correct position. An amendment to clause 6 is on file and, as the Hon. Mr. Potter has said, if clause 5 is deleted the door is left open for new section 62f to be amended. There is at present a conflict in the Act in that section 42 says one thing and the amendment will leave it saying something to the contrary, which would lead to expensive litigation. The first amendment will have to be carried to enable us to carry the second.

The Hon. C. M. HILL: That is the correct position.

Clause negatived.

Clause 6—"Enactment of new Part 111A of principal Act."

The Hon. F. J. POTTER: A thought that did not occur to me before concerns the possibility of simplifying the procedures in the court; this matter did not arise until I listened to the Minister's explanation this afternoon. I think the Minister said it was hoped that it would be possible to refer certain simpler matters to a registrar. Proposed new section 62c provides that there shall be a court entitled the Land and Valuation Court, which shall be a division of the South Australian Supreme Court, and it shall be constituted by a judge upon whom the jurisdiction of the court will be conferred. There is no reference to a registrar. In fact, no such person exists; there is a Master and a Deputy Master of the Supreme Court, both of whom exercise jurisdiction conferred upon them by the Full Supreme Court. How this one-judge court can confer jurisdiction on a registrar for whom no provision has been made, and how he can do it on his own without the authority given in the Act to the Full Supreme Court, I cannot see.

I appreciate that it would be useful if a registrar or special Deputy Master could exercise the jurisdiction of this court in some of the routine matters, but we must have legislation to provide for it. I would like to hear from the Minister where this provision is included.

The Hon. C. M. HILL: This might be an appropriate opportunity to allow honourable members who wish to look closely at the remarks I made in closing the debate time to do so. Accordingly, I ask that progress be reported.

Progress reported; Committee to sit again.

BULK HANDLING OF GRAIN ACT AMENDMENT BILL (QUOTAS)

Adjourned debate on second reading.

(Continued from November 11. Page 2844.)

The Hon. G. J. GILFILLAN (Northern): We have three Bills before us dealing with wheat—the Wheat Industry Stabilization Act Amendment Bill, the Wheat Delivery Quotas Bill and this Bill, the Bulk Handling of Grain Act Amendment Bill. The first two Bills, I believe, depend on the third one. As this

Bill deals with wheat quotas, it governs the other two Bills. I am somewhat handicapped in what I may say about the whole matter, because the Wheat Delivery Quotas Bill will be debated later, so I will confine my remarks to the Bills in the order in which they appear on the Notice Paper.

However, before I refer to them, I think something should be said about the work that the Minister of Agriculture has done with regard not only to wheat but also to the problems facing many aspects of agriculture. His is an office that has inherited many problems of the rural industry which extend throughout the Commonwealth, which, indeed, prevail throughout the world, and he has acted in the best interests both of this State and of those people affected by the portfolio he holds. I make these remarks as I think I have the concurrence of both sides of the Council in them. So often we hear members of the Government criticized for their handling of various problems, but rarely do we acknowledge the good work they do.

In preparing this legislation, the Minister has made every effort to meet the problems facing the wheat industry and the wishes of those engaged in it. The principle behind this wheat quota scheme has been submitted by the spokesmen for the wheat industry. The Minister, in preparing the legislation and considering it in Parliament, is merely giving statutory authority to a principle that has been devised by the spokesmen for the industry. I am not quite sure whether the scheme originated from the wheatgrowers through the Australian Wheatgrowers Federation, or whether it worked in reverse. I do know that the scheme has been put to meetings of growers after being considered at a high level. I also know there has been no canvassing of opinion by way of referendum and that the wheatgrowers are by no means uniform in their acceptance. However, it is also fair to say that many wheatgrowers support the principle of a wheat quota system to overcome the present crisis in the industry.

The Hon. Mr. Kneebone spoke on this Bill and on the Wheat Industry Stabilization Act Amendment Bill yesterday. He made a valuable contribution to the debate and I commend him for his homework. I only wish that I was as well informed about some of the industrial matters that he brings forward from time to time. For someone who is not engaged in the wheat industry, it was a valuable contribution.

I have one or two questions I should like the Minister to answer. If he cannot give a firm answer to one of them, perhaps he could give an assurance later. As I read the Act, it was amended last year to give the bulk handling company power to rationalize the delivery of wheat. Section 19a of the principal Act provides:

The company may, in the discretion of the directors and subject to any other Act—
(*a*) from time to time as occasion requires, establish a scheme for the rationalization of the delivery of grain of any kind offered to it whether as a licensed receiver or otherwise;
(*b*) amend or vary any such scheme;
and
(*c*) except in such special circumstances as the directors may approve accept delivery only of such grain as is offered to it in accordance with any scheme applicable to grain of that kind and for the time being in operation.

I would have thought that this provision would cover almost any situation that could arise under the wheat quota scheme. I realize that the Wheat Industry Stabilization Act must be passed through this Parliament in a form similar to legislation in other States, but the actual receival of wheat and administration of the quota system within the State, within the 45,000,000 bushels allocated to South Australia, is purely a domestic matter for the State. The receival of wheat by the receiving authority, South Australian Co-operative Bulk Handling Limited, has no bearing, as I see it, on the legislation of any other State: it is purely a domestic matter for South Australia. I would have thought that the present Act as amended last year to rationalize the receival of wheat would cover the points at issue.

This brings me to the wording of the Bill, which is short: it has only one main clause, clause 2, which provides:

The following section is enacted and inserted in the principal Act immediately after section 19a thereof:
19b. Notwithstanding anything in this Act or in any other enactment, the company may, in relation to—
(*a*) the season which commenced on the first day of October, 1969; or
(*b*) any season which is a quota season as defined in the Wheat Delivery Quotas Act, 1969,
refuse to accept delivery of any wheat.

I would have thought that the provisions already in the Act, inserted last year, would cover the circumstances. This goes a little further, with the words "refuse to accept delivery of any wheat". It is those words that I question, because we know the difficulties facing the bulk handling company in this last year in trying to make space available for the heavy deliveries. There was a quota system in existence then for deliveries. We also know that in the current year we are facing the problem of large areas of the State being affected by rust. In other parts of the State, dryness could affect the quality of the wheat. For the benefit of those honourable members not involved in the wheat industry, I point out that a minimum standard is set each year for the bushel weight. In Australia a fair average quality wheat standard is established under which a grower has to accept a dockage of so much a bushel, operating on a sliding scale, depending on how far below the established standard his wheat quality is. In areas of the State affected by rust or other seasonal conditions, growers dependent on wheat for a livelihood could well face having to market wheat just under the required standard. For instance, the minimum standard weight may be fixed at 59 lb. a bushel, whereas most of a grower's crop may average 58 lb. a bushel, even though it could still be of good quality. However, when that grower attempted to sell the wheat in order to ensure a reasonable return, because of the limitation on storage capacity the receiving authority might be tempted to refuse to accept the wheat because it was just below the required standard and because some silos would need to have certain cells reserved if they were to take wheat of below f.a.q. standard.

I believe that this situation is being considered, but I question the wisdom of writing this provision into the Act. Perhaps it would be possible instead of using the words "refuse to accept delivery of any wheat" to use the words "refuse to accept delivery of wheat above the quota allocated under the Wheat Delivery Quotas Act", or words to that effect. I understand some drafting problems have arisen.

The Hon. A. F. Kneebone: There could be other reasons for refusal to accept delivery of wheat.

The Hon. C. R. Story: The three Bills are interlocked.

The Hon. G. J. GILFILLAN: That is the problem in speaking to one Bill that is really not the main Bill. I ask the Minister whether it is necessary to introduce this Bill, and, if the provisions already in the Act are not sufficient to cover the situation, whether he

will, when the time arises, give an undertaking that the powers in this Bill will not be used to exclude grain for any reason other than that of excluding above-quota and non-quota wheat.

Before concluding, if I could speak on the three Bills together regarding a matter of principle, I hope that provision will be made for each Act to be renewed as necessary, as has been done with the Prices Act from year to year, rather than providing a long-term blanket cover. I would prefer renewal to be effected each year as necessary. I believe that if long-term statutory limitations were imposed on production and wheat receivals, this would tend to create a situation where authorities responsible for selling and storing grain would have protection automatically written into the Statutes rather than one that provides an incentive for maximum effort by those authorities to go out and sell the commodity.

The Hon. L. R. HART secured the adjournment of the debate.

WHEAT INDUSTRY STABLIZATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2845.)

The Hon. G. J. GILFILLAN (Northern): This is the second of three Bills establishing a wheat quota system in South Australia. I do not intend to speak at length, because I would merely be repeating many of the comments I made on the Bulk Handling of Grain Act Amendment Bill. I hope that consideration will be given to my earlier remarks and that permanent provisions are not included in the Statutes. However, I believe that in this instance the position is somewhat different in that the Bill amends an Act that applies throughout the Commonwealth, and that there must be some uniformity on the main provisions.

I have read the Bill carefully, and in the circumstances existing this year I believe the legislation is necessary. This Bill, too, refers to the Wheat Delivery Quotas Bill establishing quotas for the 1969-70 season. As the latter Bill is still to be debated, I will defer further remarks until that debate takes place.

The Hon. L. R. HART secured the adjournment of the debate.

WHEAT DELIVERY QUOTAS BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2838.)

The Hon. A. F. KNEEBONE (Central No. 1): I have already spoken at some length on the quota scheme as applying to the wheat industry when speaking on the two previous Bills designed to implement the scheme. This is the last of three Bills, but, from the individual farmer's point of view, and contrary to the Minister's comment, it may be the most important of the three Bills. The Minister has said that the Bulk Handling of Grain Act Amendment Bill is the most important. It gives power to the bulk handling authority to refuse to accept the type of grain mentioned by the Hon. Mr. Gilfillan. In certain circumstances (perhaps when a farmer has not abided by his quota) it is probably proper that the bulk handling authority should refuse to take grain.

I thank the honourable member for his kind remarks about me. Once a system has been decided upon, it is of major importance to the individual farmer to know who will tell him how much his quota will be, how that quota is decided upon, and whether he will be allowed to appeal against his allocation. That is why this Bill would be of major importance to the individual farmer.

In the last day or two we have witnessed the reaction of many wheatgrowers who have been notified of the amount of wheat from the present season that they will be permitted to deliver to the co-operative. Those farmers were severely critical of the quotas allotted. They said that they thought they had been unfairly treated, and they questioned whether all their circumstances had been considered. Much of the criticism probably would not have been made had this Bill been introduced earlier and the wheatgrowers informed of the proposed composition and the personnel of the Wheat Delivery Quota Advisory Committee and of the matters that would be taken into consideration or excluded from consideration by the committee in arriving at the individual quotas. Also, information would have been in their hands that there was to be a Wheat Delivery Quota Review Committee to which any person aggrieved by any act or decision of the advisory committee may appeal. Clause 38 sets out that the review committee shall hear and determine such appeal and shall in every such determination state the reasons for its decision. Subclause (2) of that clause provides:

The review committee may, by its determination, confirm the act or decision of the advisory committee appealed against; annul the act or decision of the advisory committee appealed against and direct the advisory committee to substitute for that act or decision such an Act or decision which is within the powers of the advisory committee and is specified in the direction; or, subject to subsection (3) of this section, give to the advisory committee such directions to alter the amount of a wheat delivery quota allocated by it as the review committee thinks fit.

Subclause (3) sets out that the review committee must be satisfied that there is in the contingency reserve enough wheat to enable the amount of a wheat delivery quota to be altered. As I have said, if this information had been broadcast to all growers and debated in Parliament before the quotas were sent out, probably much of the criticism would not have been made. One thing that is no doubt causing great concern to growers is that they have had to commence seeding and, indeed, proceed almost to the point of harvesting before being made aware of how much grain they would be allowed to deliver.

The Hon. A. M. Whyte: Some have already begun harvesting and still do not know their quota.

The Hon. A. F. KNEEBONE: That is true. The Minister told us yesterday that even at this point 500 quota cards had still not been sent out. I understand that the South Australian quota of 45,000,000 bushels was arrived at by taking the average of the harvests in this State over the past five or six years and then deducting 5 per cent. Then we are told that the interim committee in South Australia, in order to provide a reserve for contingencies, averaged the crops of individual wheatgrowers over a five-year period and deducted 10 per cent. This was to arrive at the basic quota.

According to my rough idea of mathematics, this would mean that the wheatgrower in South Australia would, as his basic quota, be allowed to deliver 15 per cent below his average delivery over the past five years. No wonder some of them are concerned. This is happening in a season second only in production to the record 1968 harvest. Any wheat produced by the grower and accepted by the co-operative over and above the quota allotted will be used to reduce his quota next season if that is a quota year. It probably will be a quota year, because with such a large harvest this year there would need to be some catastrophe next season to have any effect on the situation. With a possible 22,000,000 bushels over-quota wheat this year and a State quota next year similar to that fixed for this year, half the quota would comprise over-quota wheat from this year; that is, of course, unless moves taken to use more wheat in Australia for other purposes than heretofore pay off. If this does not happen, wheatgrowers will be looking down the gun barrel with quotas of half the quantity of this year. This is a dismal prospect.

Part II of the Bill makes provision for a Wheat Delivery Quota Advisory Committee. Clause 7 (1) provides that there shall be 11 members, one of whom shall be a person in the full-time employ of the Wheat Board, one a person in the full-time employ of the co-operative, and one an officer of the Agriculture Department. The other eight are to be nominated by the Grain, Wheat, Barley, Oats, Seeds State Commodity Section of the United Farmers & Graziers of S.A. Incorporated.

The only reference I have been able to find to the term of office of members of the committee is that contained in clause 7 (3), which provides that every member of the committee shall hold office as such until the day expressed in the instrument of his appointment as being the day on which he shall cease to hold office. I do not know why this is so, and I would prefer to see the term of office expressed specifically instead of there being such a hazy reference. However, there may be some answer to this, and the Minister may be able to tell us about it later on.

Another point in regard to the advisory committee that worries me considerably is that contained in clause 11, under which the committee may delegate to not less than two members any of the powers and functions conferred on the committee. If the delegates (and these could be only two in number) are unanimous in the exercise or performance of any power or function delegated, this shall be deemed to be an exercise or performance of that power or function by the advisory committee. I do not think this is a wise provision, and I am sure that wheatgrowers generally would not be pleased about it.

Despite this provision, clause 10 (4) provides that the quorum for a meeting of the advisory committee shall be six, yet the committee can delegate its powers to as few as two of its members. Also, those two members need not include any of those from the United Farmers & Graziers Seeds Commodity Section. I will wait and hear what the Minister has to say on this provision before indicating whether I support it.

The Hon. L. R. Hart: But those members would have to agree, wouldn't they?

The Hon. A. F. KNEEBONE: Yes, but only six are needed to form a quorum, and those six can then delegate their powers to two members, who could then proceed to do all sorts of things, even arriving at quotas. Because those two members agreed that what they did was right, that would be taken to be the decision of the whole committee, without its having to be endorsed by the committee. I think there should be some provision that the actions of such a subcommittee to whom powers are delegated should be at least subsequently endorsed, instead of those members being given a blank cheque on what they can do. I think their decision should come back for endorsement.

Clause 32 provides that there shall be a Wheat Delivery Quota Review Committee. There are to be three members, two of whom are to be nominated by the Minister and one by the United Farmers and Graziers of South Australia Incorporated. If the latter body is lax (and it is given limited time in which to do this), the Minister may also nominate this third member to the committee. If the United Farmers and Graziers does not do anything about it, the Minister can nominate all three members. Here again this quaint clause does not specify the term of office of the committee members. They are to hold office in accordance with what is termed the instrument of appointment in each case.

The Hon. C. R. Story: How would you suggest that this be done?

The Hon. A. F. KNEEBONE: In other legislation of this type we provide for a term of office of two or three years.

The Hon. C. R. Story: I do not want to keep these people one minute longer than I have to.

The Hon. A. F. KNEEBONE: The Bill provides that the advisory committee shall be a body corporate with perpetual succession and a common seal, but the people on it do not have a specific term of office. I realize that the Minister does not want it to cost any more than is necessary, but surely this committee could be appointed for 12 months or a season. Why all the secrecy?

The Hon. C. R. Story: There is no secrecy: it is a matter of practical application. I cannot tell you how long it will take for them to complete their duties.

The Hon. A. F. KNEEBONE: That statement may satisfy me, but I should like the Minister to enlarge on it. A quorum for a meeting of the review committee is to be constituted by any two members, of whom the chairman shall be one. Again, in regard to this review committee, we see that the nominee of the United Farmers and Graziers of South Australia is not necessarily a part of that quorum. I suppose this is unavoidable because, if this provision was not included and if that member stayed away, the committee would be completely hamstrung. I can see that this is a wise move. As I have already said, the wheat farmers who have been notified of their quotas have expressed extreme concern. In fact, it has been reported that at least one has said that the scheme will completely ruin him. The Government has, in effect, almost washed its hands of all responsibility in this matter by saying that the scheme is the industry's own responsibility.

During the debate on one of the other Bills associated with the quota system, I pointed out that the Commonwealth Government, after giving the industry no alternative to the quota system, disclaimed any responsibility by calling the scheme a proposal of the Wheat Growers Federation. Yesterday, while I was speaking, the Minister interjected that the Government had nothing to do with the quotas. The Premier is reported as saying yesterday that the Government could not undertake to alter the system introduced by the growers. The situation of one farmer reported in this morning's newspaper clearly illustrates the difficulties that can be created by the late announcement of quotas. It must have been obvious to the Commonwealth Government and the industry during last season that practically the only solution to the industry's problems was the introduction of a quota system for this season, yet individual wheatgrowers were left in doubt whether such a system would operate this season until after seeding had commenced. The farmer referred to in this morning's newspaper was apparently one of those who was in some doubt whether the quota system would operate this year. He seeded in the expectation of reaping 24,000 bushels. His quota was 4,220 bushels.

The Hon. C. R. Story: Did he say how often he had sown before?

The Hon. A. F. KNEEBONE: I do not know. The newspaper report is my only source of information.

The Hon. M. B. Dawkins: Six months ago I could work out my quota within a few bushels.

The Hon. A. F. KNEEBONE: As a result of a share-farming arrangement this farmer will recover another 2,250 bushels. This will bring his potential crop to 26,250 bushels. His quota is 4,220 bushels, so his over-quota wheat will be about 22,030 bushels.

The Hon. L. R. Hart: He will not have to go to the trouble of growing any wheat for five years.

The Hon. A. F. KNEEBONE: If the next five years are quota years this farmer, on the basis of his present allocation, will not be able to deliver a grain of quota wheat to South Australian Co-operative Bulk Handling Limited for the next five years.

The Hon. C. R. Story: Where does he come from?

The Hon. A. F. KNEEBONE: The Minister can find out by reading the newspaper report. The difficulties I have described must be ironed out. They appear to be beyond the capacity of the review committee. Apparently many appeals will be made, and I do not know how the review committee can handle all of them during the present season. If there are many cases as extreme as the one I have referred to, I do not know whether there will be enough wheat left in the contingency pool to cover adjustments. I say this because it must be realized that the advisory committee has apparently dipped into this pool for the adjustments already made in line with clause 24. Who knows, the contingency pool may already be practically denuded! It is not good enough for the Government to say that the scheme is the industry's own scheme and cannot be amended. The Government should ensure that the scheme is equitable and fair and that all wheatgrowers receive justice, whether they are large or small operators. I support the second reading.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

CRIMINAL INJURIES COMPENSATION BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2834.)

The Hon. D. H. L. BANFIELD (Central No. 1): I support this Bill, which is designed to allow some compensation to be paid to a person who has suffered an injury as a result of a criminal offence. It is unfortunate but nevertheless true that crimes of violence seem to be on the increase and that, as a result, innocent people are made to suffer. This State, along with other States, has taken a long time to take action that will assist people injured in this way. However, the Government is to be complimented that this Bill has now been introduced. New Zealand took action in 1963 to provide such compensation: its legislation appears to make much better provision for the unfortunate victims than does the Bill now before this Council.

In 1968 Victoria introduced legislation of a limited nature that provided compensation to persons injured while assisting police officers in the execution of their duties. It does not go as far as this Bill, or as far as the New South Wales Act (which allows for the payment of compensation) goes. I am disappointed that the maximum amount that can be paid out of general revenue for compensation to any one person is only $1,000. It does not take long for $1,000 to be used when one considers the loss of wages, doctors' bills and hospital fees that can be incurred as a result of an injury.

The Hon. C. R. Story: That is $1,000 better than it is at present.

The Hon. D. H. L. BANFIELD: But we should never be satisfied with these things.

The Hon. A. J. Shard: It is just a humble beginning.

The Hon. D. H. L. BANFIELD: That is correct. We have taken a long time to introduce this Bill, and we are probably 1,000 years behind in doing so. Therefore, one aspect counteracts the other somewhat. I realize that this is new legislation and, although it is being cautious with its finances, the Government is to be commended for introducing it. It is perhaps understandable that the Government has set a maximum figure.

The Hon. L. R. Hart: Of course, we have to be careful not to encourage people to become involved in this sort of thing.

The Hon. D. H. L. BANFIELD: I do not think any innocent bystander would deliberately become involved, and I do not think the $1,000 maximum would in any way induce such a person to become involved. I cannot understand the necessity for fixing a $1,000 limit that a court may order as compensation payable by a convicted person to an injured person. The Government probably wants to set a limit on the amount that can be paid out of its own general revenue, but why must

it limit the amount that can be awarded against a convicted person? If such a person has property and inflicts injury on another person, a court should be able to award more than $1,000 damages against him.

The Hon. S. C. Bevan: How would the injured person get on if his assailant had no property?

The Hon. D. H. L. BANFIELD: That is a good question. If the offender has no property at all, the Government is prepared to pay a maximum of $1,000 to the injured person. However, why should the Government fix a maximum of $1,000 that a court can award against a convicted person?

The Hon. F. J. Potter: Of course, a civil action can always be taken.

The Hon. D. H. L. BANFIELD: True, but that means that there must be another court case. Why cannot the court, if it is entitled to award $1,000 against a convicted person, award a greater amount immediately instead of the matter having to go before a civil court as well?

The Hon. S. C. Bevan: Not much of the $1,000 would be left if that happened.

The Hon. D. H. L. BANFIELD: That is right, because costs are not awarded.

The Hon. F. J. Potter: One of the reasons for this is that at the time of prosecution the full damages may not have been ascertained.

The Hon. D. H. L. BANFIELD: I agree with that, but the fact remains that the court is limited at this stage. Why should the court be limited, when the defendant is being prosecuted, to awarding only $1,000? A civil case could take from three to five years to be finalized, and in the meantime the court could award only $1,000 against a convicted person, who might have the necessary funds available that would enable him to pay more than that. I do not therefore see the necessity for the amounts to be the same in each case.

The Hon. L. R. Hart: You are not suggesting discrimination, are you?

The Hon. D. H. L. BANFIELD: No, I am not. I suggest that the court should have the right to decide what amount should be awarded. It is not a matter of discrimination. The Government is doing something as a gesture, but the convicted person has committed an offence of his own free will, for which he should have to pay. The Government did not help cause the injury. Therefore, there is some justification for its not having to pay more than $1,000, but there is no reason why the convicted person should not pay more than that sum. A court should be able, if it deems fit, to make a heavier order against an offender.

The Hon. L. R. Hart: Provided he can pay it?

The Hon. D. H. L. BANFIELD: That is what I am getting at.

The Hon. L. R. Hart: Then you are discriminating.

The Hon. D. H. L. BANFIELD: It is not discrimination, because under the present set-up it is no use a court awarding a sum against a convicted person if he cannot pay it. However, when such a person can afford to pay it, the court should not be limited to a measly $1,000 when the offence warrants the payment of a larger sum. True, a number of convicted persons probably would not have property worth $1,000, but if such a person has $1,000 the court should be able to order him to pay a greater amount.

The Hon. L. R. Hart: How would the court know that he has $1,000?

The Hon. D. H. L. BANFIELD: The court hears many things when determining cases, and there is no reason why it should not get this information. Clause 5 allows the Treasurer to pay compensation for injuries sustained as a result of the commission of an offence only when an order has been made by the court for payment of a sum in excess of $100. This seems to place an unnecessary hardship on the innocent party. The Hon. Mr. Hart suggested that there should be no discrimination in this regard, but I suggest that this clause discriminates against certain persons. A person whose injuries cost less than $100 cannot receive anything from the Crown. However, a person who receives an injury which costs him over $100 can receive money from the Treasury. The Hon. Mr. Hart suggested that we should not discriminate, but clause 5 certainly does.

A person with a limited amount of funds who suddenly finds himself confronted with added expense as a result of an injury received cannot receive compensation from the Treasurer unless an order is made for compensation in excess of $100. A man may suffer a loss of $95, but because the amount awarded does not exceed $100 he will miss out, whereas another person who suffers an injury to the extent of $105 can collect the full amount. That is discrimination if ever there was any.

Another feature of the Bill is the variation in relation to receiving costs for any claim. Clause 4 provides that where a person is convicted of an offence or adjudged guilty of an offence and released without conviction it is necessary for the injured person to apply for compensation, but no provision is made for the recovery of costs. This means that if the court makes an order for $200 and if his solicitor's fees and costs total $100, the injured person finishes up with only about half of the amount to which the court considered he was entitled.

Clause 6 provides that a person who applies to a court in which a person who caused the injury has been acquitted is not entitled to costs. In his own interests he would have to be represented by a solicitor to obtain the best amount possible, but more than half of what he was awarded could be lost in solicitor's fees.

Clause 7 discriminates against certain persons. Subclause (4) provides that, if the court is satisfied that the applicant has sustained injury by reason of the commission of an offence (being the alleged offence, or an offence arising from the circumstances alleged to constitute that offence), it may in its discretion grant a certificate to the applicant stating the sum to which he would have been entitled pursuant to an order under clause 4 if the person who committed the offence had been tried and convicted of the offence.

That is where the Crown has been unable to find a person and an order has been made under that section stating that, if the court thinks fit, a further sum in respect of costs should be awarded. What priority should this applicant have in the court where he can obtain costs from the Crown in these circumstances but is unable to get costs if his claim comes up under either this clause or clause 6? These things are not satisfactory. The principle of the Bill is satisfactory, and that is about as much as I can say for it. The conditions laid down in it are miserly and unsatisfactory because they are insufficient.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (WHYALLA)

Adjourned debate on second reading.

(Continued from November 11. Page 2839.)

The Hon. S. C. BEVAN (Central No. 1): I support the second reading of this Bill. Prior to 1944, the Broken Hill Proprietary Company Ltd. acted as the local government authority, to a great extent, in Whyalla. In 1944 the Whyalla Town Commission Act was passed, the provisions of which closely resembled the provisions of the Local Government Act. The Whyalla Town Commission Act provided that a majority of ratepayers might at any time after five years from July 1, 1945, petition for a local government body in accordance with the Local Government Act.

It also provided that the Minister should introduce the necessary legislation. That was mandatory, the word "shall" being used, on a petition from the majority of the ratepayers being presented. That petition was presented and was tabled on August 20, 1968. The circumstances leading up to the present commenced in 1967, prior to the last State election. I attended conferences of the Whyalla City Commission, the object of which was to give effect to the views of the ratepayers at that time. That was the start of it. Flowing from that is the present Bill. In the limited time available to me, I have given great attention to it and have observed its ramifications.

As a result of the negotiations and the demand for local government in Whyalla, a committee was appointed by the present Minister of Local Government charged with the task of investigating all matters connected with local government for Whyalla. That committee has worked hard in its inquiries. Its terms of reference were wide: it could inquire into all aspects of local government. I compliment it on its work and on its report, which the Minister tabled a fortnight ago. I have read it and there is no doubt that that committee has done an excellent job with its report. I agree with most of the Bill because practically everything that one can visualize happening is covered in it.

The Hon. C. M. Hill: It follows the report almost entirely.

The Hon. S. C. BEVAN: I know it is in conformity with the report, but there are two things with which I do not agree, and I want to mention them. I have read the whole Bill and notice that the appointed day is July 4, 1970. That will enable the City of Whyalla to put its house in order before elections take place to give it full local government status. The various points involved are covered by the Bill: for instance, moneys borrowed previously by the City Commission for Whyalla Hospital. That point is covered, and the conditions of borrowing and the interest rate on that money will continue under this Bill, but there are one or two clauses with which I do not agree. I

do not wish to deal with the clauses with which I agree but I do not agree with new section 871vc, subsection (1) of which provides:

> Notwithstanding anything in Part XXI of this Act the council may enter into an agreement with the South Australian Housing Trust for the carrying out of any work relating to the construction or drainage of any streets, roads or footways in the neighbourhood of land owned by the trust.

Then there are four further subsections that deal with the assumption of an agreement being entered into with the Housing Trust. New subsection (2) provides:

> Any agreement referred to in subsection (1) of this section may provide that any cost incurred by the South Australian Housing Trust in carrying out the work of the subject thereof or any part of such cost shall be by way of prepayment by the trust to the council of rates on ratable property of the trust in respect of such financial years as agreeed upon between the trust and the council.

Reference to these two subsections is sufficient for my present purpose.

As I read them, these are matters dealing with the future, not the past. By looking at this and comparing it with the principal Act (the Act to be replaced by this new legislation) I understand that an agreement was entered into (and perhaps it is still in existence) between the Whyalla City Commission and the Housing Trust in respect of work done by the trust. Therefore, that work is the commission's responsibility. An agreement may be entered into between the council and the trust for carrying out all these works of drainage or constructing footways in areas being developed by the trust. Under the Planning and Development Act all this work is the responsibility of the developer, at his own cost and at no cost to the council, irrespective of the area in which it is being carried out. A person buying land on which to build a house in that area will have to pay extra for the land in order to pay for the work that it is his responsibility to have carried out. If he does not do it at that time, he may pay the council a sum necessary to cover the cost of the work, and the council may then carry out that work if it desires to do so. However, the cost responsibility lies with the developer. If the Bill is passed in its present form, it could be that at some future time the Housing Trust could advise the municipality of the City of Whyalla that it will have to pay for that work.

I appreciate that in areas being developed by the trust it has met its responsibilities and has carried out the necessary work in those areas and met costs associated with it. It has not resulted in a charge to the local council concerned, even though the trust may have taken some time to complete the work. I do not see any reason why the proposed subclauses should be included in the Bill, because they deal with something in the future.

If an agreement exists and certain moneys have yet to be repaid to the trust under the conditions of that agreement because it has carried out work at some previous time on behalf of the council in an area that is the responsibility of the council, and the arrangement is that the cost of that work shall be repaid at so much each year and included in the rates, then I think the clause should say so. If not, a clause could be inserted to that effect without the need for this clause and its five subclauses.

If new section 871vc is passed, then the municipality of the City of Whyalla will be the only council in South Australia that has to accept responsibility for work carried out in a developing area. I appreciate that land developed by the trust in the first instance is Crown land, but when a transfer takes place in a developing area from the Lands Department, to the trust to enable the latter to build houses, then in such circumstances the owner of the land would be the Housing Trust. Because of that, occupants of those houses would have to pay rent to the trust, not to the Lands Department. Therefore, the ownership of the houses would still be with the trust, but under this proposed new section the trust could be releived of any responsibility relating to roadworks, footpaths, kerbing, water tables, and drainage within that developing area.

We know perfectly well that Whyalla is developing rapidly every day. I think this clause and its five subclauses should be carefully examined as to their possible ramifications. I believe the position could be adequately met if a clause were inserted that, notwithstanding anything appearing in Part XXI of the Act, or any agreement existing between the municipality of the City of Whyalla and the South Australian Housing Trust relating to work performed and not yet paid for, the agreement could stand until it is paid for.

My only other comment relates to the boundaries of the City of Whyalla. I am not speaking of individual wards but of outside boundaries mentioned in the Bill and the extent of the municipality of the City of Whyalla.

Some areas should be extended, and I know that this matter was dealt with by the committee. I also know the recommendations made by the committee on this matter, and I am referring to what I term an industrial area on the outskirts of the City of Whyalla.

The Hon. C. M. Hill: Is that the one in which the piggery is situated?

The Hon. S. C. BEVAN: No, it is on the opposite side; I refer to the area where the Broken Hill Pty. Co. Ltd. has an establishment. I have one or two comments to make on the piggery later. I think the area I am speaking of should be included in the boundaries of the City of Whyalla. Here is a council area right on the edge of the township; it is a big area, which I think will in future be more and more developed by industry. The Port Augusta council area reaches to a certain position, and then there is a gap between that and the City of Whyalla. That area is excluded from the schedule of the Bill, and I do not think it is right that such areas should be excluded from the boundaries of a local government authority.

I know certain difficulties exist with this area as far as the company is concerned, but I think those difficulties could be overcome. The chairman and the secretary of the special committee established to investigate this matter met top representatives of the company, including Sir Ian McLennan, in Melbourne, and I know considerable discussion took place on this matter at that time, because I have read the report tabled in this Council. Agreement could not be reached; the B.H.P. Company would not agree to relinquish the whole of their area to local government; and I can appreciate its reasons. An Indenture Act applies to the area, and nothing can be done until that Act has been amended. That Act cannot be amended without the agreement of the B.H.P. Company.

I understand that the company is prepared, as it has always been, to meet its obligations in Whyalla. To be frank, I think it has more than met its obligations since establishing industries in Whyalla. I know this has been set down in writing, that the B.H.P. Company in a letter agrees to conform to the building regulations, health regulations and to making *ex gratia* payments of not less than the rate that would have been levied on an unimproved capital value system. The company is prepared to do that, and has committed itself to those *ex gratia* payments to the City of Whyalla. The company would depart from this policy only by giving two years' notice in writing to the council. Therefore, if the company desired at some time in the future to alter its policy in this matter, it would give two years' notice to the council of its intention to do so, and both parties would have two years in which to negotiate on the matter.

The company has undertaken to meet all of its liabilities in relation to the Building Act, the Health Act, and the other Acts that come within the province of local government, but it is not prepared to have the Indenture Act amended to have its own area taken outside that Act and brought under local government control. I think this is very fair, for the City of Whyalla would not be losing anything by entering into an agreement such as the company has suggested. The council itself is getting all the benefits that it would derive if the area was in fact brought under local government control.

I am concerned with the position of the other industries on the opposite side of the road to the B.H.P. Company. I consider that the company has more than carried out its obligations to the council in what it has done for the development of Whyalla. I understand that the industries to which I have referred have made *ex gratia* payments to the council in lieu of rates, which the council has no jurisdiction to levy. However, they have attached strings to such payments, and have specified the purposes to which the money can be applied. It seems to me that this sort of thing is wrong. I am under the impression that those *ex gratia* payments would not be on the same basis as the rates that would be collected if the boundaries of the council area were extended to take in those industries.

I believe that this area will be extended as a result of other industries coming into that area opposite the B.H.P. works. It seems to me that there would not be any difficulty in extending the boundary of the ward to cover that side of the road and thereby take in those industries. The B.H.P. Company would still carry on under its lease, the terms of which I believe are acceptable; it would carry on until the terms were altered in the future. However, as I said, I believe that the council boundaries should take in these other industrial areas, and I think that before this Bill passes these matters should be seriously considered.

The other point the Minister mentioned to me this afternoon concerned the piggeries and the horse stables. These, together with the aerodrome on the opposite side of the road,

have been brought within the council boundaries. I cannot say that bringing the aerodrome within the council boundaries will have any beneficial effect on the council, because this is controlled by a Commonwealth department and the council gets nothing from it in rates.

The Hon. R. C. DeGaris: There may be a change in policy regarding control of the airport.

The Hon. S. C. BEVAN: That may be so, but it would be an easy matter to amend the boundaries at that stage. The piggeries are a considerable distance from the city. I know that certain arguments were advanced in connection with the health aspect, and this may be a sufficient reason for extending the boundaries to take in that area. What amazes me is that this area is a considerable distance from the city and there is no other development near it. Although there might be future development in the area, no doubt it will be some years before this occurs. I understand that the boundaries have been extended to take in that area because otherwise a health hazard could arise. Even though it means that the pig farmers and the people running the dairy will have the full benefit of all the facilities of Whyalla, I doubt whether it is wise at this stage to bring that area within the city boundaries. As I have said, it is a long way from the city.

Although these areas have been brought within the city boundaries for health reasons, the people who are involved in the industries to which I have referred and who should be standing up to their obligations are outside the council area altogether, even though they are much closer than are the piggeries. The committee's recommendation was that this entire area, including the company's area, should be brought within the control of the city itself, but that it appreciated the difficulties to which I have referred. I am quite happy regarding the circumstances of the B.H.P. Company but I am not happy with the circumstances governing the other industries in this area, and I think we should seriously consider these matters before the Bill is passed. I appreciate that as this is a hybrid Bill a Select Committee will be appointed to deal with these matters, and undoubtedly the committee will have a good look at them. However, I think honourable members themselves should examine the position before the Bill passes this Council. I support the second reading.

Bill read a second time and referred to a Select Committee consisting of the Hons. S. C. Bevan, C. M. Hill, R. A. Geddes, A. F. Kneebone and A. M. Whyte; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on Tuesday, November 25.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2840.)

The Hon. A. F. KNEEBONE (Central No. 1): The principal Act which this Bill amends is an important one. When it was introduced in 1961 it was welcomed by many people who thought it would effectively prevent the damage and destruction attendant upon careless or deliberate release of oil in waters close to our shores.

Although we have heard and read of many disasters overseas in relation to oil tankers, we do not have to rely on those reports to appreciate the damage that can be done. There have been many instances of oil releases along our shores. It was reported only last week that the beaches of Westernport Bay in Victoria had been badly contaminated with oil.

One has only to speak to amateur and professional fishermen operating in Spencer Gulf to know how many times oil has been released close to Adelaide. I do not know how many prosecutions have been launched or how successful they have been, but apparently they have not been very successful—hence these amendments. I am told that the usual procedure when oil is spilt in the sea is to spray some type of detergent on the area that will carry the oil to the bottom of the sea. However, fishermen claim that this procedure also kills fish and the weed on which the fish feed. The cure is apparently as bad as the malady.

Normally, after ships have discharged oil at Port Stanvac their decks are washed down with detergent to carry excess oil into the water; it then sinks to the bottom and is washed along the south coast, killing fish as it goes. Surely this is a breach of section 10 of the principal Act, which provides that a mixture containing oil must not be put into the sea from a ship.

The Hon. D. H. L. Banfield: Have there been any prosecutions for such offences?

The Hon. A. F. KNEEBONE: I do not know. This Bill will facilitate the launching of prosecutions against such offenders. Clause 2 amends the definition section of the principal Act by deleting the reference to the Harbors Board, which has been replaced by the Marine and Harbors Department. The clause also provides for a very much improved definition of "the jurisdiction". This definition will be included in similar Acts in other States. The Victorian Government has announced that an amendment to the Victorian Act will be considered by the Victorian Parliament this week.

I agree to the insertion of the new subsection that permits regulations to be made prohibiting or restricting the carriage of water in a tank that has contained oil. I agree, too, to the provision dealing with the records that must be kept by the owner, agent or master of the ship; these records relate to overflow or spillage of oil into the sea. The regulation-making power is made slightly more comprehensive. Another loophole will be eliminated by this Bill, because it extends the effect of the principal Act to cover a charterer and an agent. I support the second reading.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ABORTION)

Adjourned debate on second reading.

(Continued from November 11. Page 2841.)

The Hon. V. G. SPRINGETT (Southern): Before speaking to any Bill it is customary for honourable members to seek whatever information is obtainable as a background to their speeches. Sometimes such information is not easy to acquire and honourable members have to hunt for it, but I do not think any honourable member is in this position in connection with this Bill. We have all been made aware of many viewpoints, both for and against the Bill—and in good time. Almost without exception people who have presented viewpoints have seen the issue as either black or white. The statistics they have used have, on occasions, been used to draw different conclusions. In other words, this subject has strong emotional overtones, and views on it are often passionately held. These views vary from deeply held religious convictions to the most liberal humanism.

There are two main factors and facets involved in a consideration of this Bill. One is a strong social element and the other is the inevitable medical element, which is basic, because any measure such as this must rely upon a medical background and medical action. In some universities the social element and the medical element have been overlapped; for instance, there are chairs in social medicine, emphasizing, of course, that medicine today spills over beyond the old categories of medicine and surgery into new disciplines. Man in his society is regarded differently today from the way he was regarded a few years ago.

Sociology, therefore, has become a factor within the framework of medicine yet, in a broad sense, medicine and its practitioners have no greater skills and no greater knowledge than have other groups of citizens when they speak on social problems. What they do have to offer is their own special experience. I am very conscious that I speak here this afternoon as the only medical member in either House of this Parliament. I have a viewpoint that, socially and morally, may be exactly the same as that of some other honourable members, but I have a background of experience that, naturally, no other honourable member has. However, I do not mean to say that my experience makes me wiser.

Most of us think of this Bill not as the Criminal Law Consolidation Act Amendment Bill but as the Abortion Bill. The word abortion as it is used in society has suspected overtones. It is a word that is associated with suspicious deeds and nasty happenings. We can use the term "termination of pregnancy"; that is healthier, yet abortion is one form of terminating a pregnancy.

We discuss, factually, with emphasis on wedlock and on the married woman, the subject of abortion, yet in the back of our minds we have the thought of the unwed, the extra-marital incident, the distraught young person seeking desperate help from a section of society which works outside the law and which preys upon the distress caused by foolish actions. We cannot help having that in the back of our minds when we think of this subject.

I ask just where I stand in relation to this subject. Were society a Utopia, the only need for an abortion would be in a few well-defined clinical cases, and in those circumstances I would say it should be left to the doctor and the couple concerned to make their own decision. Where there is no husband and the woman is alone, I say it should be left to the doctor and the woman, were we living in Utopia. However, society and the community is far from a Utopian one. I therefore accept

that there is a place for clinical, not criminal, abortions in our society on a number of occasions. I base my acceptance of this view upon a considerable number of years of experience involving not a few of such cases and my knowledge of them. With that knowledge I couple, I hope, humanity based upon Christian principles, because I have found that certain people who have pressed their views upon me have seemed to accept that Christianity must be associated with and parallel with a disbelief in abortion, while others have held that it is un-Christian not to believe in abortion.

I hold my views based upon years of experience coupled with, I hope, Christian principles. Accepting this stand (and I realize certain of my colleagues with as much experience and perhaps even more than me in some cases will not agree with me), how should the situation be met and dealt with? There are those who say that the requirements for abortion should be decided entirely by the woman concerned. With that I am in strong dispute. No one person can ever decide this clearly and succinctly.

In normal circumstances where a married couple is involved and the question of the need for a termination of pregnancy arises, both of them should seek advice and opinion. Why should it be considered that a normal self-respecting husband devoted to his wife would seek other than her best interests? Where there is only a woman and in the circumstances no husband, she alone must seek advice.

What are we doing to married unity when we say that the woman alone and no-one else should decide whether the pregnancy should be terminated and that she should be able to tell the doctor to do as he is told?

The Hon. D. H. L. Banfield: She might not have been responsible for becoming pregnant.

The Hon. V. G. SPRINGETT: I will come to that in a moment. Marriage as an institution incurs as a responsibility the privilege of procreation within the accepted framework of society, and when by physical union conception occurs both partners normally accept the responsibility of parenthood, and that is when the woman as well as the man take the decision. I appreciate the honourable member's interjection that the woman may not have been responsible (I think that is perhaps not quite the word, although that is what he said) for becoming pregnant.

Reckless emotion, alcohol, and reunion after long absence may cause indiscreet carelessness which leads to a pregnancy. Surely all of us throughout our lives must accept certain responsibilities for our actions. When we say that the woman should have the only say, we speak as if she may not have become pregnant voluntarily but as though the majority of pregnancies are the result of legalized rape. However, that is not the position. The majority of pregnancies occur within the framework of healthy, happy and contented marriages.

If an abortion is to be performed at all, are we sure of what we are doing? Are we, as some people declare, deliberately destroying a life? In fact, when does life begin? Some people say that the foetus is not human until a certain length of gestation has passed, but what period is it? Some people say it is eight weeks, and I have heard some say it is 10, 15, 21 and even 28 weeks of the normal 40-week term of pregnancy.

Before the pregnancy is possible we must remember that the living ovum and spermatazoa are necessary. If either is non-viable, there is no possibility of pregnancy occurring. Life must therefore be within the seed and within the egg. Therefore, new life must be present at least when conception and fertilization have occurred. Some say that we cannot recognize the foetus as a human being in the earliest weeks. I agree that it does not look like a human being then. However, does that give us the right to say that the future of such a creature can be destroyed indiscriminately, just because it does not resemble a human being? If it does, where does that philosophy end and how far can that doctrine extend?

Again, I ask whether pregnancy should ever be terminated. I have already said I think it should, and I repeat that there are times when a pregnancy needs to be terminated. It is impossible to separate the effect of the mother upon the child and *vice versa*. I agree they are separate and complete entities, each of which is dependent on the other. Indeed, they are so inter-dependent that sickness of one can affect the other, and can even be responsible for the other's death. I hope it is not too simple an anology to say that a man or a woman has two legs, and in my life I have on occasion had to decide to remove one of those legs from a patient. That person then ceases to be an entire person; I have destroyed part of his being. This can be related to a pregnancy. I know from my years of accumulated experience and from the far greater experience collected together by the members of my profession as a whole that there are

certain conditions and circumstances that make pregnancy a considerable and a desperate hazard for a woman. Modern drugs and modern therapy reduce the risk to life, but that risk still exists. Should I leave a woman in these circumstances to deteriorate, with the risk of death occurring? Should I save the mother and forgo the baby? Such a decision is rather like asking any honourable member what he would do if two members of his family were in danger of drowning and he could save only one of them. It is the old philosophical question: which do we save? Frankly, I think there is no universal answer. Each case needs an independent decision. That is how I regard abortion.

Where, therefore, does this Bill fit in? The principal Act to be amended by this Bill refers to the unlawful administering of any poison or noxious thing or unlawfully using an instrument. It is worth recalling that, if it is possible sometimes to use instruments or administer drugs unlawfully, there must be occasions on which it can be done lawfully. Surely one is the corollary of the other. In other words, it must be lawful (at least medically, as I see it) to procure a miscarriage or abortion in certain circumstances.

The classical modern case, of course, is *Rex v. Bourne,* in 1938 in Great Britain. I remember the case well. It was a case in which a 14-year-old girl was raped by two guardsmen in Hyde Park. She was later treated at St. Mary's Hospital, Paddington, where an abortion terminated her pregnancy. The case became celebrated and in due course it came to be recognized as a case that changed, slightly if not considerably, the law of abortion as it applied in Britain.

What was the alternative to doing that? Should this 14-year-old girl have been left a victim to bear the consequences of a vicious criminal assault with all its horror or should she have been protected from the biological sequelae to such a savage attack? Yesterday, the Criminal Injuries Compensation Bill was introduced in this Council, and the Minister said:

> But the criminal law is directed at the protection of society and the reformation of the offender and does not provide the innocent victim of criminal activity with any recompense for personal injury that has been unjustly inflicted upon him.

He protested that this new legislation was to lay emphasis on the care and the needs of the victim. When we come to deal with the law on abortion, there is a place for consideration of the needs of the victim. In this State there is a degree of common law which has become accepted, that if in their wisdom and discretion two legally qualified medical practitioners (and, in practice, this means usually that at least one of them is a gynaecologist or psychiatrist) decide that it is necessary, using the usual professional ethical standards applicable to medicine, to terminate a pregnancy, then no-one says them nay. That is a general principle. This is a twilight zone in which room is given to manoeuvre to anyone who does not uphold the highest ethical standards but at the same time it also leaves a sense of unease for those deeply concerned and conscientious colleagues of mine who form the majority of doctors.

In a morally strict society our present system is accepted, but can we claim that with the present-day permissiveness it is enough? Is it necessarily enough even merely to codify the present accepted position? I think these are points on which every honourable member, irrespective of his background training, is as competent as any other to express an opinion. Clause 3 is the essence of the Bill. It stipulates "two legally qualified medical practitioners". Obviously, this is a "must", because any one doctor acting alone would naturally be open to suspicion. He would be a fool and justly suspect of his standards, except in cases of the gravest and most urgent emergency.

In introducing the Bill yesterday, the Minister referred to a "prescribed hospital" or a hospital of a "prescribed class". I should like more information and detail of what is a prescribed hospital and how the hospitals will be put into this prescribed class. I am not quite sure of the meaning of the following statement made by the Minister:

> The word "permanent" is omitted in the corresponding provision of this Bill because a "grave" injury could be fatal without being permanent.

I understand that, in medicine, fatal means dead and death is permanent. It should read "because a 'grave' injury could be permanent without being fatal".

The Hon. R. C. DeGaris: A fatal injury must be grave.

The Hon. V. G. SPRINGETT: It is very grave but it is not clear whether or not it is permanent. There is a residential qualification in this Bill that a woman must have been in South Australia for four months. I appreciate the reason for this provision being inserted:

it is to prevent South Australia becoming what is being termed "the abortion centre of the Commonwealth". We know that in other parts of the world there are regular aeroplane trips and special rates and fares for women from all over Europe to get to London. That is bad indeed for everybody, and we do not want that sort of thing here.

The Hon. L. R. Hart: It brings in foreign capital!

The Hon. V. G. SPRINGETT: I can think of other ways of bringing in foreign capital. New section 82a (2) states:

Paragraph (*a*) of subsection (1) of this section does not refer or apply to any woman who has not resided in South Australia for a period of at least four months immediately before the termination of her pregnancy.

This does not seem to be an adequate measure, because there are migrants coming here from overseas and persons who are transferred here for business reasons. In other words, there are circumstances in which women come to South Australia in a state of pregnancy or who become pregnant soon after arrival. They then have to wait for four months, and after four months a woman is getting to a stage of her pregnancy where the risk of a medically-induced abortion becomes a more considerable factor than when the pregnancy was at an earlier stage. Ideally, all abortions should be done within a period of three months. Four months is outside that time, and I do not think it is a good period.

The Hon. H. K. Kemp: In effect, it would put women off having an emergency abortion when they really wanted it?

The Hon. V. G. SPRINGETT: Not necessarily. I should like to get more assurance from the Minister on that but, as the position now stands, it may be true. Without looking into that further, I would not like to comment. However, it is a fact that four months is too long a period for a woman to have to wait if there is a reason for her to have an abortion at all; yet at the same time I can see the reason for having some residential qualifications.

The Hon. A. F. Kneebone: There could perhaps be some amendment to provide that more than two doctors would have to agree in certain cases.

The Hon. V. G. SPRINGETT: This is a point that can be discussed by honourable members, whose views I shall be interested to hear. Like other honourable members, I am aware that there are already on the file amendments to exclude consideration of a woman's actual or reasonably foreseeable environment being taken into account when considering whether pregnancy is a greater risk for her than an abortion, or *vice versa*. Bearing in mind that these words that are proposed to be struck out by the amendment would form what some people might call a form of social clause, I can understand people not wanting it in; but quite frankly I do not see the need for it to be there at all, because when any doctor assesses a patient and the patient's condition he inevitably takes into account the environment and the circumstances concerning that person's life.

To use a simple illustration, two people may have a severe chest infection; one of those persons may live in a good house while the other may live in a humpy; the man in the good house can be left at home to be looked after because his environment is good, but the other man is put into hospital because he could not survive if left at home.

That sort of thing happens automatically, and I think it could quite easily happen automatically in the same way under this legislation, even though the amendment suggested by the Hon. Mr. Hart might be approved. As I see it, the key to orderly control and management of the Bill is contained in paragraph (*b*) of new section 82a (4), which provides:

The Governor may make regulations for requiring any legally qualified medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be prescribed to such persons or authorities as are prescribed.

This is an important matter, and the Minister will correct me if I am wrong, but I am taking it that a committee of some sort will be set up by the Medical Board and to that committee will be reported records of abortions which are to be performed or which have been performed and thereby there will be made known to this committee the means, the frequency, and the reasons and circumstances of abortions. Since those abortions are to be done only in prescribed hospitals, with their records of operations and with the proper facilities and so forth, there is the minimal risk of evading legal implications, because to do so would require the connivance between the doctors concerned, the nursing staff, the hospital administrative staff, the office workers and everyone else, and I think even the most suspicious mind would accept that such an entire group as that could not successfully connive for very long.

Speaking from experience, I would say that that is a fact. Whereas one might find a doctor able to do this sort of thing, it would be expecting too much to get the connivance of an entire hospital. It could not happen, and that is why I cannot express too strongly that this is the key to proper control and safe working of this Act which is not occurring in other parts of the world.

Subsection (5) of new section 82a is one that I wholly endorse. No-one should ever be compelled to participate in the performance of a planned procedure to abort a woman. No-one should ever be forced into that position against his or her will, be it on religious grounds or others. Anyone who has a conscientious objection to the procedure must have his conscience left unviolated.

Naturally (and as this Bill stands every doctor will agree with this), there is a big difference between the performance of or assisting at a planned procedure and the turning of a hand to restore the state of a moribund woman to normal. In other words, no-one would expect the scruples to prevent lending a hand if a woman was brought into hospital in a moribund state as a result of some illegal procedure, even if it were due to an abortion. If her condition was due to an abortion, obviously nurses and doctors in these circumstances would get down to it and forget the circumstances which caused the condition and aim to save the patient's life.

I have said nothing about illegal abortions, although I could have said very much. Much has been argued concerning the effect this Act will have on the illegal operator. Figures have been produced to prove that there will be no change in the proportion; other figures have been produced to prove a decrease; and yet others have been produced to prove an increase. However, one thing is certain: I am quite convinced that we will have a recorded increase in abortions as a whole; it is inevitable that that will happen. I do not believe that the Sarah Gamps will go out of business. Promiscuity, extra-marital indiscretion, and experimental errors will remain and perhaps even increase in our modern society. However compassionate we may be, and however generous our thoughts, many such cases, for shame and in a desire to hide the affair that has happened, still provide trade for the back-street worker. I am afraid this is likely to be true.

Although I like to think (and I hope it is not entirely wishful thinking) that with the passing of time society's view of reckless stupidity has become a little more gentle and that in years to come it will become even more so, I would remind members that not so many decades ago the use of anaesthesia was regarded as interference with the prerogative of God. People of a godly nature condemned the doctors who used anaesthetics. However godly a man is today, I do not think he would like to undergo a major operation without an anaesthetic.

Am I wishing too much when I suggest that the one thing that has impressed itself upon me in all the welter of correspondence and literature and pressures which we have been subjected to regarding this matter is the crying need not for legalized abortions but for preventions of pregnancy, and not the destruction of a foetus after the fact has been established. I am quite convinced that clinics giving advice on all methods of contraception are long overdue. In this, may I emphasize that there should be no force of any particular method. There are some methods that are completely repugnant to some sections of the community on religious grounds. Some can use only the rhythm method, while mechanical and chemical methods are acceptable to others. As I said, there is a need for clinics where all types of advice can be given to any people who seek it.

The Hon. R. C. DeGaris: Where would you have these clinics?

The Hon. V. G. SPRINGETT: To start with, I would have them in the main centres of the community—in any town where there are large numbers of young married people. I have in mind places like Elizabeth, Whyalla and the suburbs of Adelaide.

The Hon. F. J. Potter: Family planning associations run these clinics in England.

The Hon. V. G. SPRINGETT: Yes, I have done their courses and I took their certificate many years ago. They are very active. If the need for family planning clinics becomes more widely accepted and established, perhaps that will be the most vital issue. In the consideration of this Bill by all honourable members, I am sure that compassion and thoughtfulness will be the twin cornerstones. I will be interested to see what amendments are moved during the Committee stage.

I recall the words of a learned gentleman who had a very great respect for the law; in the 1930's, when asked what he would do if

his daughter became pregnant, he replied, "Since it is illegal for her to be aborted openly, I would search the length and breadth of the land to find someone willing to do it for her." How many parents have said the same! With certain reservations, I support this Bill, and I hope to make a further contribution during the Committee stage.

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

[*Sitting suspended from* 6.2 *to* 7.45 *p.m.*]

GAS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2849.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of the Bill, about which I do not think much needs to be said at this stage. The Hon. Mr. Kneebone yesterday discussed the only two important points in the measure. Like him, I and all other members are pleased that natural gas is about to arrive in Adelaide from Gidgealpa and are all looking forward to its reticulation throughout the metropolitan area. It will be a considerable time before all consumers can enjoy the benefits that we have all been told will accrue to us from its use, and it will be a slightly longer time before we will be able to enjoy the benefit of a reduced price.

The Hon. A. F. Kneebone: You and I will not see it.

The Hon. F. J. POTTER: It will be some years, I guess, but we are assured that this reduced price will eventuate in due course. I suspect that the Hon. Mr. Kneebone thought this might be even further delayed if the company were allowed to pay an increased rate of dividend on its shares. It is interesting to note that the company is returning this year to the same rate of dividend as was prescribed in 1924, so things have not changed much in this direction since then. I doubt whether the increased rate of dividend will affect the possibility of reducing the price of gas. There might not be as much share capital or capital investment in the company today as was the case in 1924.

The Hon. S. C. Bevan: It still amounts to a nice tidy sum each year.

The Hon. F. J. POTTER: I have no doubt that it does. However, I do not think any member of this Council can do anything about that matter. It has been decided and approved by the Treasury, and there we must leave it.

The Hon. D. H. L. Banfield: You think the Treasury overrides Parliament, do you?

The Hon. F. J. POTTER: It is a question not of overriding Parliament but of the Treasurer having discretion to approve the dividend rate within the provisions of the Act. It does not provide that the dividend rate will increase to 8 per cent.

The Hon. A. J. Shard: Representatives of the Gas Company told the Select Committee that they did not want it and might never use it. If they want it in the future, let us deal with it then.

The Hon. F. J. POTTER: It is a long time since this rate has altered, and some of the provisions in the Bill will show that an opportunity has been taken to amend some sections that have needed alteration for some time. This Act is not often amended.

The Hon. A. J. Shard: You are more likely to get a better dividend than we are to get cheaper gas.

The Hon. F. J. POTTER: There is nothing to show what effect this will have on the possibility of a decrease in the price of gas, but I look forward to paying a little less for gas soon; and I hope this provision will not affect the position. Mention was made of the possible difficulties that would be involved in allowing entry to temporarily unoccupied houses for the purpose of shutting down the present supply of gas to allow for the changeover to natural gas. One always looks at the provisions in Acts of Parliament of this kind suspiciously, or at least carefully, but I am persuaded that clause 6 is essential for the safety of property and perhaps even of lives.

The Hon. A. J. Shard: We are all agreed on that; we think likewise.

The Hon. A. F. Kneebone: We accept that.

The Hon. F. J. POTTER: As there are safeguards in the clause to the effect that the employee who enters a house must be accompanied by a member of the Police Force and his rights of entry are limited to interrupting the supply of gas to render it safe, we can be assured that the provisions of this clause are reasonable in the circumstances. I understand the Bill must be considered by this Council urgently because the changeover to natural gas will take place within a week from today. I have pleasure in supporting the second reading and hope the Bill has a speedy passage.

The Hon. C. D. ROWE (Midland): We seem to be agreed on most matters in this Bill. Clause 12 strikes out section 38 (2) of the principal Act. In his second reading explanation yesterday, the Minister said:

Clause 12 enables the South Australian Gas Company to invest its funds at the discretion of the Directors of the company. Section 38 (2) of the Act at present limits the types of fund in which its depreciation and reserve accounts may be invested. It seems unnecessary for the Directors to be restricted in the way in which specific portions of its funds may be invested and, as there is no need for statutory direction in this matter, clause 12 deletes this subsection.

As I understand the effect of this, it means that, if any funds are held by the company against a claim for depreciation or to set up reserves, this clause gives the directors of the company power to invest in any type of security they choose without any advice from Parliament. While I have every confidence in the directors of the company, I am wondering whether we are going too far. Experience over the last few years has shown that many people have invested in things they thought were gilt-edged securities but which turned out not to be.

The Hon. A. F. Kneebone: This may affect our chances of getting cheaper gas.

The Hon. C. D. ROWE: It may. It is not our intention, by removing the limits on the kinds of investment that the directors can make, to give them a completely free hand to invest in other than securities. This is a public utility and the directors are like people who hold public office. I sincerely hope they will be cautious in the types of investment they make when putting money into reserve.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Standard rate of dividend."

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

To strike out paragraphs (*a*), (*b*) and (*c*).

These paragraphs increase the rate of dividend that the Gas Company can pay its shareholders. In the Select Committee dealing with this matter representatives of the company were asked whether they were seeking this, and they said, "No"; they probably would not use it in the future even if it was granted. It has been suggested that we may as well have these provisions as the Act is being amended anyway. In 1924 the rate was 8 per cent; in 1950 it was reduced to 4½ per cent or 5 per cent; in 1961 it was increased to its present rate, and now, in 1969, it is to be increased to 8 per cent, which is the maximum rate at the disposal of the Treasurer. However, I rather think the maximum rate will become the actual rate to be applied. The company says it does not need this but, if it is there, I believe the shareholders will clamour for it. If nobody is asking for it, why have it in the Bill? It would be better to reduce the price of gas than increase the rate of dividend.

The Hon. C. R. STORY (Minister of Agriculture): I oppose the amendment. Under section 27 there is a standard rate of dividend of 6 per cent or, on the approval of the Treasurer, 7 per cent. The standard dividend rate provided in the Bill is 7 per cent, and on the approval of the Treasurer it can be 8 per cent.

In today's conditions it would be virtually impossible for the company to negotiate a separate share issue at such a low dividend rate. The present paid-up capital of the company is $976,390, and an additional 1 per cent represents $9,763 a year, which is not a princely sum for the amount involved in the company. The Queensland Statute allows, on paid-up ordinary shares, 3 per cent a year above the effective annual rate of interest; the Western Australian Statute allows 2½ per cent above the bond rate; and the New South Wales Statute allows 2 per cent above the bond rate, and it can now go up to 8 per cent. Each of those three States will permit these various rates above the bond rate, without there being any Government limitation, whereas the Bill proposes that the approval of the Treasurer must be obtained before 8 per cent can be paid.

The current dividend rate paid by gas utilities in other States is as follows: South Brisbane Gas Company, 8 per cent; Colonial Gas Holdings, Melbourne, 8 per cent; Geelong Gas Company, 8 per cent; Launceston Gas Company, 8 per cent; Fremantle Gas Company, 7.9 per cent (this was its maximum, but with the new bond rate it can now pay 8½ per cent); Brisbane Gas Company, 7½ per cent (it can now pay up to 9 per cent if desired); and Australian Gas Light Company, 7.4 per cent (it can now pay up to 8 per cent).

Some of the criticism seems to imply that some gremlin came along and inserted this provision into this Bill. It was said that it was not asked for. However, it was actually asked for by the South Australian Gas Company in a letter of September 26.

Although it was not asked for in the present form, beneficial terms were requested by those who required this Bill. The Treasurer, after discussion with the Under Treasurer, negotiated with the company on this basis, and the company accepted the proposal.

The Hon. A. J. Shard: What the company told the Select Committee was not correct, then?

The Hon. C. R. STORY: I do not know about that.

The Hon. A. J. Shard: It is in the evidence.

The Hon. C. R. STORY: I do not think the question asked in the evidence was along those lines. The Government does not actually force this sort of thing on people against their wishes. I think the rate prescribed is very fair, because the Gas Company is an established organization that has rendered a good service to this State over many years. If and when it has to go to the public, even for debentures, I believe that it should have the benefit of this rate. After all, we have the protection that the Treasurer has to give his agreement before this can actually come into operation.

The Committee divided on the amendment:

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

Noes (13)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, V. G. Springett, C. R. Story (teller), and A. M. Whyte.

Majority of 9 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (8 to 14) and title passed.

Bill reported without amendment. Committee's report adopted.

The Hon. C. R. STORY (Minister of Agriculture) moved:

That this Bill be now read a third time.

The Hon. A. F. KNEEBONE (Central No. 1): I do not usually speak on the third reading of a Bill but, during the second reading stage, I asked the Minister for an assurance in regard to clause 6. Can the Minister assure me that, before a private home is entered, every other available means will be taken to meet the situation? I hope that the Gas Company will give notice to the householders and try to arrange for them to leave a key if they will not be at home.

The Hon. C. R. STORY: I can give that assurance as far as one can give an assurance in such matters.

The Hon. A. J. Shard: I have heard it repeated outside about four times by the General Manager of the Gas Company.

The Hon. C. R. STORY: I am assured by the General Manager that the company will take every possible precaution and will use this provision only when there is a real need for it. Assurances that have been given outside Parliament and in another place show that the company is sincere in its determination that this provision will be used only in a case of dire necessity. It is a necessary provision that will not be abused.

Bill read a third time and passed.

LAND SETTLEMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2846.)

The Hon. M. B. DAWKINS (Midland): I support this Bill, in effect, which provides for an extension of the Land Settlement Act. The Parliamentary Committee on Land Settlement was established in 1944; since then by a succession of amending Acts the life of the committee has been extended by two-yearly intervals. The last of such extensions will expire on December 31 of this year. This Bill extends the life of the committee and the operation of the principal Act to December 31, 1973. The Land Settlement Committee has done very worthwhile work. In latter years it has assisted the Government in connection with proposals for assistance under the Rural Advances Guarantee Act.

The committee has also been involved in the development and drainage of the South-East over many years. On occasions it has saved large sums of money that would otherwise have been spent on propositions that were uneconomic or found to be unnecessary. In recent years there have been six members from another place and one from this Council on the committee. The reasons for that are well known, but I would be sorry to see anything that tended to perpetuate that state of affairs. Section 4 of the Land Settlement Act, 1944, provided that the committee should consist of seven members of Parliament appointed by the Governor. Section 4 (2) provided:

Two of the members of the committee shall be members of the Legislative Council and five shall be members of the House of Assembly.

As a result of an amendment to the principal Act in 1965, provision was made for the committee to have six members from another place and one from this Council in certain circumstances. As I am a great believer in the bicameral system, I do not think that this is necessarily a good thing. The Government of the day should be able to select the committee members from either House in accordance with the provisions of the original Act.

On April 11, 1968, the Australian Labor Party made appointments to the committee; consequently, there are now four members of another place from that Party on the committee, two members of another place who are members of the present Government Party, and one member from this Council. When the Government is considering appointing members to this committee it should be able to select its four members from whichever House it chooses within the limits of the original Act.

New section 4 (2a) provides:

> Notwithstanding anything in subsection (2) of this section if, in respect of any proposed appointment of a member or members who is or who are required pursuant to that subsection to be appointed from amongst the members of the Legislative Council, the Governor receives from the President of the Legislative Council a message to the effect that—
> (*a*) the Leader of the Government in the Legislative Council has certified that no member of the Legislative Council belonging to the group led by that Leader is available for appointment as a member;
> or
> (*b*) the Leader of the Opposition in the Legislative Council has certified that no member of the Legislative Council belonging to the group led by that Leader is available for appointment as a member,
> then the Governor shall so exercise his power of appointment that one of the members shall be a member of the Legislative Council and six of the members shall be members of the House of Assembly.

The Land Settlement Act, 1944, provided that there should be two committee members from this Council and five from the House of Assembly. Only in the event of this being impossible (as it was four years ago) should it be necessary to have six members from the House of Assembly and only one from this Council.

The present legislation provides that the Governor if he receives a message from the President of the Legislative Council shall so exercise his power of appointment that one member of the committee shall be a member of this Council and six will be members of another place. I suggest that "shall" could be amended to "may" so that the Governor may do this only if the situation is such that it is impossible for a member of a particular Party to be selected. On the other hand, this suggested amendment would leave the present Government or a future Liberal and Country League Government in the position in which it could, if it so desired, appoint two of its four members of the committee from another place and two of its four members from this Council in the situation I have outlined. In the present circumstances this could well strengthen the committee.

I cannot take exception to anything in the remainder of the Bill, which contains an amendment regarding power to acquire land in the South-East for the duration of the Act, and other amendments are consequential on the advent of decimal currency.

I was pleased to hear the Hon. Mr. Banfield say something with which I entirely agree when he spoke on the Bill. Not often do I find that he is right, but on this occasion he said:

> It has been proved and the Government agrees that the Land Settlement Committee has done a good job over the years.

I presume the Opposition also agrees wtih this because four or five days before it went out of office it made new appointments to this committee. The honourable member then went on to say something about salaries with which I would not agree, because the salary (if one would care to call it that) is really an honorarium. I do not think the work that the members of the committee do should be related to the honorarium they receive. However, I agree with the Hon. Mr. Banfield that the committee has done a good job over the years.

I cannot agree always with the honourable member. Yesterday he said something about 53 per cent, but what that had to do with the Bill I do not know. However, as he referred to it, I presume it was relevant. I remind him that from time to time he talks about other people not sticking to the truth and saying the right thing. When he spoke about the 53 per cent in the context in which he referred to it yesterday, I must inform him that that 53 per cent included Social Credit and Communist votes. If the honourable member wishes to be associated with Communism, that is all right. I am sure that other gentlemen who sit opposite me and for whom I have considerable respect would not wish to be associated in any way with the Communist Party.

The Hon. A. J. Shard: It wasn't 53 per cent.

The Hon. M. B. DAWKINS: The Hon. Mr. Banfield is wrong, and he had better go back and examine the matter. He mentioned this figure, but I do not know what it had to do with the Bill. I pay a tribute to the work that the Land Settlement Committee members have done over the years. In the years before I was a member of the committee it did valuable work indeed, and I know that it has continued in that vein during my period on it. Last year the committee managed to save the Government over $500,000 so I presume it is still of some use. I support the Bill.

The Hon. L. R. HART secured the adjournment of the debate.

DOG FENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 11. Page 2847.)

The Hon. A. M. WHYTE (Northern): I have pleasure in supporting the Bill. It has taken a number of years and much persuasion for the Government to realize that an amendment such as that proposed in the Bill is necessary. As far back as 1961 not only those people who were paying rates but also the rest of the people in the State realized it was necessary to obtain a substantial increase in the subsidy to enable the necessary buffer fence to be maintained.

All the clauses of the Bill except clause 7 relate to decimal currency amendments and, therefore, require no further explanation. Few people apart from those who pay rates realize the importance of maintaining the dog fence and the consequences of not doing so. Some have even confused wild dog rates with dog fence rates; it is perhaps significant that the wild dog rate is levied for the purpose of providing funds from which bonuses are paid for the destruction of wild dogs or dingoes on the production of tails or scalps of the animals, and also to meet the cost of aerial baiting for the destruction of dingoes in areas where it is not practicable to bait by other means.

This rate is payable by all landholders who hold land of four square miles or more in the ratable area, which comprises the whole of the State except the more closely settled sections south of the Murray River and south of a line which runs from Morgan and angles upwards to about Port Pirie. The dog fence rate is levied for the purpose of establishing and maintaining a dog-proof fence in the northern part of the State in order to prevent the entry of wild dogs into the pastoral and farming areas of the State.

The fence itself runs from the New South Wales border to above Lake Torrens, out to the East-West line at Wynbring; it then swings back to near Lake Everard and then west on the edge of the settled or surveyed areas of the West Coast to the Nullarbor Plain, where it meets the sea.

The ratable area in this case includes the same land as is ratable under the Wild Dogs Act, except that lands situated north of the dog fence itself are exempt from payment of rates as landholders there derive no benefit from the fence. The funds obtained by rating are applied in the payment of an annual subsidy to the owners of the various sections of this fence to assist them to keep it in order, which is their own responsibility, whether they be private lessees or vermin boards. The dog fence is 1,470 miles long, and I have already outlined the route it takes. In 1968-69 the rates levied in this respect amounted to $34,617. The Government subsidy was $19,781. Over the 10 years of which I have spoken, the dog fence fund dropped to $2,972. It had fallen regularly year by year, and last year's upkeep of the fence resulted in a deficit of $1,315.

The present rate of payment by the Government to the people whose properties adjoin the dog fence is $37 a mile. In New South Wales it was $174 a mile as far back as 1959. Many applications have been made to the various Government departments over the last eight years to increase this subsidy which, it is believed, will achieve the purpose of maintaining this important fence. Although it is important, so very few people realize it, because it is only those people whose properties directly adjoin the fence who appreciate its importance. They own about 2,000,000 of the State's sheep.

The total number of sheep in the State would be about 20,000,000 which means that 18,000,000 sheep are protected at the expense of those people who own only 2,000,000 sheep. It seems only right and proper to me now, as it has over the years that I have spoken on this matter in this Council, that this is not to be regarded as a matter involving only those people paying for the dog fence; the whole State is involved. Therefore, it is only just that the Government should help.

The Hon. A. F. Kneebone: Do you think that, but for the dog fence, the dogs would come much further south?

The Hon. A. M. WHYTE: I am grateful to the honourable member for that interjection. I have no doubt that, if this fence was not maintained at its present standard, there would be only half the present sheep population in South Australia today. The Hon. Mr. Bevan has told us of the havoc that these dogs can wreak on the sheep. It is only because the dogs have such a long way to travel and are usually captured before they get to the thickly populated sheep areas that we do not see more havoc than we do amongst the sheep. The New South Wales rate was $174 a mile as far back as 1959. The current rate would be about $200 a mile. Those people who are called upon to pay for the dog fence are paying 35c a square mile; and the Government is subsidizing that to the extent of 20c a square mile. If the Government provides a $1 for $1 subsidy, the fund can then carry on for several years, despite the present cost of erecting new fencing, which varies between $1,100 and $1,200 a mile. That gives honourable members some indication of how important it is that this fence be maintained at its present standard and not allowed to deteriorate. The Government's intention to provide a $1 for $1 subsidy with those people paying dog fence rates is only fair and right, and long overdue, and we should thank those people responsible. I commend the Bill to honourable members.

The Hon. H. K. KEMP (Southern): I back to the last syllable what the Hon. Mr. Whyte has just said. He has called it "the dog fence" whereas in fact it is a fence in South Australia against dingoes. Make no mistake about it: they are not just dogs or wild dogs—they are dingoes. This fence is very important. I have seen devastating losses of sheep when the fence has been breached by dingoes.

However, one thing concerns me. In the far western districts the dog fence runs right across an area in which one of our rarest animals occurs—the hairy-nose wombat. Through the devastation it can cause to the dog fence, it has received harsh treatment. We must have this dog fence—there are no two ways about it—for without it we cannot keep sheep out of reach of the dingoes.

If the dingoes are left uncontrolled, we cannot keep sheep in the area. It is not so long ago that a certain area of Australia was completely written off as a place for running sheep because of the presence of wild dogs. We could not keep sheep there until those wild dogs were exterminated. We have this protection, which has been written up romantically in many publications. Even this week in the *Women's Weekly* there is a romantic story about the people who looked after the dog fence for such a long time.

My plea is that in maintaining this fence we look after other forms of wild life in the area. This can be done if we consult the wild life people in New South Wales and Victoria, to make it possible to give passage to the herbivorous native animals without admitting dogs to the settled areas, which must be protected. We must maintain this fence but must also consider the other forms of wild life in the area.

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

MOTOR VEHICLES ACT AMENDMENT BILL

In Committee.

(Continued from November 6. Page 2802.)

Clause 23—"Points demerit scheme."

The Hon. R. A. GEDDES: I move:

> In new section 98b(14) after "Court" to insert "or special magistrate sitting in chambers".

I base my plea to the Committee on three main grounds. Section 83 of the principal Act provides:

> Any person whose application for the issue or renewal of a licence . . . has been refused . . . may, in accordance with rules of court made under this section, appeal against such refusal, concellation or suspension to a special magistrate sitting in chambers.

It goes on to say that on the appeal the special magistrate may hear the parties and their witnesses; confirm, reverse or vary the decision appealed against, and make any other order which he deems just including any order as to costs. The section goes on to spell out the rules of the court as they shall apply.

This Bill provides that an appeal can be made only to the Supreme Court. The Hon. Sir Norman Jude pointed out earlier that in New South Wales any appeal against penalty under the points demerit scheme was to a Court of Petty Sessions. According to the New South Wales official *Year Book*, the Courts of Petty Sessions are described as follows:

> A limited civil jurisdiction is conferred by the Courts of Petty Sessions on magistrates and justices sitting in a summary way according to

equity and good conscience . . . a stipendiary magistrate may exercise the full jurisdiction of the court or two justices of the peace may hear cases. In general, a decision of the court is subject to review only when it exceeds its jurisdiction or violates natural justice.

As I have said, the appeal is to a court of this type in New South Wales. I remind the Committee that here a person may lose up to 12 points, and if he has reason to appeal to a court the court may grant a remission of one-quarter of the points; in other words, he may be remitted a maximum of three points to keep him on the road.

The Hon. D. H. L. Banfield: To keep him in a job.

The Hon. R. A. GEDDES: Yes. The Attorney-General was quoted in the *Advertiser* of November 6 as saying that the Government thought that, apart from a general increase in criminal cases, there was a large number of cases involving comparatively minor or routine indictable offences which could be tried only by the Supreme Court; and that if the Supreme Court lists could be relieved of these cases the demands on the work load on that court would be brought to acceptable limits. The Attorney on that occasion was talking about a Bill before the other House. The point there is that the Supreme Court has much work before it.

The Hon. Sir Norman Jude: There has been talk about the appointment of district criminal courts, so this Bill could be out of date before we knew where we were.

The Hon. R. A. GEDDES: I would like to see a provision for appeal to an intermediate court, but unfortunately that is not possible at this stage. People such as doctors, commercial travellers, truck drivers, taxi drivers, and bread carters have jobs that necessitate their driving on the roads.

The Hon. R. C. DeGaris: Why should those people have any other than normal consideration?

The Hon. R. A. GEDDES: What I have said could apply to any Tom, Dick or Harry.

The Hon. G. J. Gilfillan: The appeal is open to anybody.

The Hon. R. A. GEDDES: That is so. The point is that at present there can be an appeal only to the Supreme Court which, as we have been told, is overloaded with work. I ask the Committee to support my amendment, for a similar provision already exists in the principal Act, such a provision operates in New South Wales, and there can be no harm in allowing this alternative here. I also point out that there would be a delay in the Supreme Court and a person probably would have to wait a considerable time before he could get his appeal heard.

The Hon. G. J. Gilfillan: That is provided for.

The Hon. D. H. L. Banfield: If there is an appeal, it just stops at that stage.

The Hon. R. A. GEDDES: In that case, I have no more to say on that point. I ask the Committee to accept my amendment.

The Hon. C. M. HILL (Minister of Roads and Transport): I do not oppose the amendment.

Amendment carried.

The Hon. S. C. BEVAN moved:

In new section 98b (15) to strike out all words after "appeal" first occurring.

The Hon. C. M. HILL: The reason why the Bill provides that no order for costs shall be made against the Crown is that the appeal referred to in this new subsection is not an appeal in the normal sense of an appeal to a court. It is very different from an appeal against a judgment handed down in a court: the appellant is really applying to the court for consideration of a decision of the Registrar of Motor Vehicles. This form of application is known as an *ex parte* application.

The Hon. R. C. DeGaris: The motorist has a right of appeal against all his court convictions for traffic offences.

The Hon. C. M. HILL: Yes. The motorist can appeal against every conviction that leads up to his accumulation of 12 demerit points; for such appeals we are not stipulating that the question of costs should be considered in other than the normal way. However, once a person accumulates 12 demerit points we are giving him the opportunity of having his case reviewed, but it is not an appeal in the normal sense of that term. Consequently, the Government believes it is not unreasonable to expect an appellant in these circumstances to pay his costs, irrespective of the court's decision.

The Hon. Sir NORMAN JUDE: I am not satisfied with the Minister's explanation. New section 98b (15) provides that the appellant and the Crown shall be entitled to be heard. Let us consider the case of a person whose appeal is upheld. There may have been some sort of mishap; the papers may have been lost or the summons may not have been served.

The Hon. C. M. Hill: It would not go to the court.

The Hon. Sir NORMAN JUDE: The person has already been there, and there is obviously something wrong. Either the Crown or someone else has appealed.

The Hon. C. M. Hill: The Crown does not appeal in this case.

The Hon. Sir NORMAN JUDE: Why is the provision there? It says that the appellant and the Crown shall be entitled to be heard.

The Hon. C. M. Hill: You said that the Crown appeals: I am saying that the Crown does not appeal.

The Hon. Sir NORMAN JUDE: I imagine that the Crown can appeal.

The Hon. C. M. Hill: Appeal against what?

The Hon. Sir NORMAN JUDE: Against a decision of a lower court.

The Hon. C. M. Hill: The decision is made by the Registrar of Motor Vehicles, not the lower court—on the demerit points.

The Hon. S. C. Bevan: The Registrar makes that decision.

The Hon. Sir NORMAN JUDE: I admit that. However, I agree with the remarks of the Hon. Mr. Bevan. I cannot see why, if the Crown is found to be wrong, it should not pay the cost. A man may have to come from Port Lincoln and it may be discovered that he has had demerit points incorrectly recorded against him by the Registrar through a clerical error. Why should the Crown not pay his fare from Port Lincoln?

The Hon. R. A. GEDDES: I think honourable members would be wise to consider new section 98b (8), which provides:

Where a conviction is recorded against any person and the conviction is subject to appeal, the demerit points in respect of that conviction shall not be recorded against that person until the right of appeal expires, or if there is an appeal, until the determination of the appeal.

The Hon. C. M. Hill: That is a different appeal. You are referring to a different subject altogether.

The Hon. R. A. GEDDES: I take credence of the Minister's comment but, as I see it, every person who loses demerit points has to appear before a court. He has the right on every occasion to appeal against his conviction for an offence. Therefore, I cannot see why new section 98b (15) should not remain as it is.

The Hon. C. M. HILL: The examples given by the honourable member in regard to new section 98b (8) simply apply to convictions imposed by the court on a motorist. Of course, he has his normal right of appeal when that occurs. The question of costs in such appeals is not being considered at all. Therefore, that is a question of a conviction and appeal, which we are not discussing now. The Hon. Mr. Bevan's amendment deals with a different kind of appeal altogether: an application to the court to seek special consideration because a total of 12 points has been reached.

The Government envisages that this could happen in only a few circumstances. The example was quoted earlier of a doctor who might perhaps consider that despite his having reached 12 points he should receive special consideration because of the necessity for him to use his car in the course of his duties. I do not suggest that doctors are prone to commit misdemeanors such as this, but it could happen. If it does, such a person could go to the court and ask it to reduce his points by a figure not exceeding one-quarter of their total.

This application to the court is an entirely separate matter from the convictions of such a person as he gradually accumulates his points. The Government is not interfering with his right of appeal or with the position in relation to the costs of that appeal: it is dealing only with a special application to the court for special consideration to be given to such a person despite his having accumulated 12 points.

The Hon. D. H. L. BANFIELD: The Minister is correct in saying that this is not an appeal against convictions. New subsection (15) gives the Crown the right to be heard, so an appeal could be drawn out. If the Crown is allowed to enter into the matter, an appellant should be entitled, if he can satisfy the court accordingly, to have an order for costs made against the Crown, because the latter has stepped into a matter that really concerns another department. I therefore consider that the Hon. Mr. Bevan's amendment is in the best interests of the community.

The Hon. A. J. SHARD: The Hon. Mr. Geddes justified Sir Norman Jude's belief that a mistake can be made. New section 98b (8) provides that where a conviction is recorded against a person and that conviction is subject to appeal, the demerit points in respect thereof shall not be recorded against that person until the right of appeal expires or, if there is an appeal, until it is determined.

I have been around long enough to know that no matter how sincere a public servant may be he can make mistakes, and this applies

to everyone. If a defendant at, say, Port Lincoln is convicted of an offence that is subject to an appeal, and the Registrar inadvertently records the points in respect of that conviction against him, as a result of which he is delicensed before the case is completed, why should not the Crown pay his costs?

The Hon. S. C. Bevan: This provision is a deterrent to stop people from appealing.

The Hon. A. J. SHARD: That is correct. I do not think it is right for a person to be told that it would not be worth his while appealing against a conviction because of the expense involved. What the Hon. Sir Norman Jude said was correct, and I hope the Committee will accept the amendment.

The Hon. F. J. POTTER: I would be surprised if in the circumstances outlined by the Hon. Mr. Shard it would be necessary for an appeal to be lodged, because if the Registrar or a Minister of the Crown has made an administrative mistake, he has an inherent power to correct that mistake. He does not have to go to appeal to correct it.

I think perhaps that "appeal" is really the wrong word; it is what we in law call a *petitio ad misericordiam* which, in English, means that a person asks the court whether in the goodness of its heart it will mitigate the penalty against him; this is commonly done.

The Hon. C. M. Hill: It is not asking for an error in law to be rectified.

The Hon. F. J. POTTER: That is correct. If it is asking for a factual error to be rectified that can be remedied at the Registrar's level. One does not have to go to court to have that sort of correction made, because if the Registrar is satisfied that he has made a mistake he can correct the record.

The Hon. D. H. L. Banfield: What if the wrong person receives a notice?

The Hon. F. J. POTTER: Such a person could go to the Registrar and say that a mistake had been made and that he was not the person against whom the points should be recorded. The Registrar can then say, "All right; you satisfy me that you are not the same man and I will correct my record." There is no need for an appeal to the court. Anyway, he would not get an appeal to the Supreme Court or to the magistrate within 24 hours. We are raising many non-existent bogies here. Any administrative error can be corrected by the officer concerned.

The Hon. S. C. Bevan: Why should the Crown have the right of appeal and then say, "Irrespective of the result of the appeal, no costs can be awarded against the Crown"?

The Hon. F. J. POTTER: If the Registrar administratively corrects an error that he has made, there is no appeal. If it is done administratively, no costs are involved. An application to the court for a reduction of points for special reasons may be a *petitio ad misericordiam* plea—"I have accumulated the points; they have been properly recorded against me but, in the special circumstances of this case, I need the car. Would you please reduce the points by 25 per cent?"

The Hon. D. H. L. Banfield: Would the Crown then have the right to dispute that appeal?

The Hon. F. J. POTTER: If he can get away with it, well and good. I am not standing in the way of anybody who can make a plea of that kind and can satisfy the court that it should exercise its discretion and mercy and reduce the points by one-quarter. The point at issue seems to be that the Crown should not come into it, in those circumstances. I cannot see how we can prevent the Crown coming in on a plea of that nature. If the Crown is not to come into it at all, it will be a completely one-sided application and the court will have to make up its mind on the facts presented by the applicant, without hearing the other side. Is it contemplated that the Crown be left out completely?

The Hon. L. R. Hart: The Crown may support the application.

The Hon. F. J. POTTER: Yes. In the old days of the Landlord and Tenant (Control of Rents) Act, each party bore its own costs, unless there were special circumstances warranting costs being awarded against one of the parties. The Crown is entitled to be heard.

The Hon. S. C. Bevan: No-one wants to stop the Crown being heard.

The Hon. F. J. POTTER: I am not familiar with the amendment of the Hon. S. C. Bevan, having been out of the Chamber when he moved it. I think we should provide that each party should bear its own costs; only in special circumstances should there be any order for costs against either the Crown or the applicant.

The Hon. G. J. Gilfillan: Why not leave it to the discretion of the court?

The Hon. F. J. POTTER: That could be done, but I should like something more specific, along the lines I have just suggested.

The Hon. L. R. HART: The Hon. Mr. Potter has answered the points I was going to make. The Crown might support the applicant in his case. If the applicant was successful, would the Crown still be required to pay the costs when it had assisted him to win his case? The phrasing of this clause as it stands will give sufficient justice to all concerned.

The Hon. S. C. BEVAN: The Hon. Mr. Potter has confirmed what I have said. If the Crown supported the appellant, surely he should not have had any points awarded against him in the first place. The Chief Secretary has suggested that the period could be two years. Of course, that could not be right, because the maximum suspension is three months, anyhow.

The Hon. R. C. DeGaris: I was talking about the actual time over which the points could have been aggregated.

The Hon. S. C. BEVAN: It could be close to the end of the three-year period. A person could feel that he had been harshly treated, and that it would not be in the best interests of the general public for him to lose his licence. On the appeal, the decision of the court could be that his licence should not have been taken away from him. At present the court has no discretion whatever in making an order for costs; this subsection exempts the Crown from the payment of any costs whatever, and I say that that is not right. If in its wisdom the court thinks that each party should pay his own costs, it should be able to say so. In my opinion it is wrong to prevent the court from using any discretionary power whatever in relation to costs. I oppose subsection (15) as it stands.

The Hon. F. J. POTTER: I would not like to see, in any appeal of this kind, the costs being left to the discretion of the court, because the court would obviously follow the usual rule and order that costs should follow the event. Section 65 (1) of the old Landlord and Tenant (Control of Rents) Act, which has long since gone into limbo, had an ideal provision in this regard, and I think we could well adopt the wording of that section. If we did that, the wording would be along these lines:

No costs shall be allowed in the proceedings unless it appears to the court that the conduct of the party in bringing or resisting the proceedings or in relation to the subject matter has been unreasonable, vexatious or oppressive.

That cuts both ways, and I think it would be an admirable way of getting out of the difficulty.

The Committee divided on the amendment:

Ayes (7)—The Hons. D. H. L. Banfield, S. C. Bevan (teller), R. A. Geddes, G. J. Gilfillan, H. K. Kemp, A. F. Kneebone, and A. J. Shard.

Noes (10)—The Hons. M. B. Dawkins, R. C. DeGaris, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, F. J. Potter, C. D. Rowe, V. G. Springett, C. R. Story, and A. M. Whyte.

Majority of 3 for the Noes.

Amendment thus negatived.

The Hon. R. A. GEDDES moved:

In new subsection (16) after "Court" to insert "or special magistrate".

Amendment carried.

The Hon. R. A. GEDDES: I move:

In new subsection (16) to strike out "it is not in the public interests that the licence be suspended, it" and insert "in the circumstances of the case the licence should not be suspended, the court or magistrate".

I wish to refer to the legal problem of defining "in the public interest". I understand that in the Arbitration Court there have been long arguments about the interpretation of this term. Why should a person who has had convictions recorded against him and who has lost points have to worry about proving that it is in the public interest that his licence should not be suspended? That person may genuinely need to use his motor car in connection with his own occupation.

The Hon. C. M. HILL: It is surely the duty of the Legislature to lay down guide lines for the court to follow. If the honourable member believes there is difficulty in defining "in the public interest" I suggest that there would be much greater difficulty in defining what he has moved to insert. The Hon. Mr. Geddes has said nothing about the grounds upon which the court's discretion should be exercised. The points demerit scheme is intended to operate indiscriminately against those who offend against the road traffic laws.

It is important from the viewpoint of deterrence that it should operate in this manner. The honourable member's amendment invests in the Supreme Court or the magistrate the jurisdiction to hear appeals. However, it gives no guidance as to the grounds of the exercise of that jurisdiction. The amendment will lead to inconsistency in court decisions and to

incoherent principles. As an example of the application of the term "in the public interest" I wish to refer again to the case of a doctor. He may be prevented from attending his patients if he loses his licence; so, "in the public interest" he has grounds to seek further consideration from the court. Accordingly, I strongly oppose the amendment.

Amendment negatived.

The Hon. R. A. GEDDES moved:

In new section 98b (18) to strike out "the Supreme Court" and insert "a special magistrate".

Amendment carried; clause as amended passed.

Clauses 24 to 31 passed.

Clause 32—"Notice of accident or claim."

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

To strike out "under this Act" " first occurring and insert "against this section".

This is a formal amendment.

Amendment carried; clause as amended passed.

Clauses 33 to 37 passed.

New clause 38—"Enactment of Third Schedule to principal Act."

The Hon. F. J. POTTER: I move to insert the following new clause:

38. The following new schedule to the principal Act is enacted and inserted in the principal Act after the Second Schedule to the principal Act:—

THE THIRD SCHEDULE

	Nature of Offence	Number of Demerit Points carried by Offence
Criminal Law Consolidation Act		
Section 14	Cause death by negligent driving	6
Section 38	Cause injury by culpable negligence	6
Road Traffic Act		
Section 47 (1)	Drive, or attempt to put a vehicle in motion, whilst under influence of liquor or drug	6
Section 43 (3)	Failure to stop after an accident involving death or injury	5
Section 46 (1)	Reckless or dangerous driving	5
Section 47b (1)	Drive, or attempt to put a vehicle in motion, with prescribed concentration of alcohol in blood	5
Section47e (3)	Refuse or fail to comply with a reasonable police direction in connection with breath analysis or exhale into breath analyzing instrument as directed	5
Section 63 (1)	Fail to give way	4
Section 65	Fail to give way at crossover	4
Section 66	Fail to give way when entering road from private land	4
Section 67 (1)	Fail to give way to pedestrian on pedestrian crossing	4
Section 67 (2)	Pass "stop" line or enter pedestrian crossing while "stop" sign is being exhibited	4
Section 67 (3)	Passing vehicle stopped at pedestrian crossing to give way to pedestrian	4
Section 72 (1)	Fail to stand	4
Section 43 (3)	Failure to stop after non-casualty accident	3
Section 45	Careless driving	3
Section 48	Exceed general speed limit	3
Section 49 (1)	Exceed 35 miles an hour	3
Section 49 (1)	Exceed speed past school bus	3
Section 49 (1)	Exceed speed past school or playground	3
Section 49 (1)	Exceed 15 miles an hour approaching and within 100ft. of school crossing	3
Section 49 (1)	Exceed 15 miles an hour between signs at road works, etc.	3
Section 50 (1)	Exceed speed fixed in speed zone	3
Section 51 (1)	Exceed speed with pillion passenger	3
Section 53 (1) and (2)	Exceed speed with commercial vehicle	3
Section 53a (1)	Exceed speed—passenger vehicle with seating for more than eight passengers	3
Section 56 (*b*)	Change lanes to danger	3
Section 57 (1)	Cross barrier lines	3
Section 58 (1)	Overtake, or attempt to overtake, before road clear	3
Section 58 (4)	Fail to overtake on left of vehicle signalling right turn	3
Section 64	Fail to comply with "give way" sign	3

THE THIRD SCHEDULE—*continued*

Road Traffic Act—*continued*	Nature of Offence	Number of Demerit Points carried by Offence
Section 68	Fail to give way to pedestrian when turning at intersection or junction	3
Section 69	Fail to give way when driving from stationary position at edge of carriageway	3
Section 75 (1)	Disobey traffic lights or signs when driving vehicle	3
Section 76	Disobey sign—no turns, no right turn, no left turn	3
Section 77	Disobey "keep left" or "keep right" sign	3
Section 78 (1) (2) and (3)	Disobey "stop" sign	3
Section 78a	Disobey road sign or mark regulating traffic movement, or route to be taken	3
Section 80	Disobey railway level crossing signal, gate or barrier	3
Section 54 (1)	Fail to keep left	2
Section 56	Fail to keep vehicle entirely within traffic lane	2
Section 70 (1)	Improper right hand turn	2
Section 74 (1) and (1a)	Fail to signal diverge to, or turn, right or left, stop or slow down	2
Section 74a	Permit signalling device to operate after completed turn or divergence	2
Section 81 (1)	Certain vehicles not stopping at railway crossings	2
Section 83 (1)	Obstruct traffic to danger	2
Section 122	Fail to dip headlamps	2
Section 111 (1)	Drive vehicle without prescribed headlamps (*vide* section 112 (1) (2) and (3))	1
Section 111 (1)	Drive vehicle without prescribed clearance lamps (*vide* section 117 (2) (3) (4) and (5))	1

I am moving this amendment on behalf of the Hon. Sir Arthur Rymill.

The Hon. S. C. BEVAN: I oppose the amendment, which will mean that the court will not have a discretionary power but will have to award the points set out in the schedule.

The Hon. F. J. Potter: They are awarded by the Registrar, not by the court.

The Hon. S. C. BEVAN: All right: by the Registrar. I still consider there should be a discretionary power. To draw an analogy, at many intersections the stop line is so far back from the corner that a driver must proceed over it to see clearly vehicles approaching along the intersecting road.

The Hon. R. C. DeGaris: How many convictions have there been in such cases?

The Hon. S. C. BEVAN: I am not concerned with that. I am afraid that if points are awarded there will be convictions.

The Hon. R. C. DeGaris: Rubbish!

The Hon. S. C. BEVAN: If it is rubbish, why is it included?

The Hon. C. M. Hill: It prescribes the minimum number of points. I have been telling you that for days.

The Hon. S. C. BEVAN: If "maximum" is deleted, it will be mandatory on the authority to award the points mentioned, and I object to that. The authority should have a discretionary power to alter the number of points awarded against a person according to the circumstances of the case.

The Hon. C. M. HILL: A person can ask for a certificate of triviality. He is in the court and merely has to ask for it.

The Hon. S. C. BEVAN: I appreciate that, but how many certificates of triviality will be granted? Not many offences have been left under the Road Traffic Act that will not incur points.

The Hon. F. J. Potter: If there is a certificate of triviality, the record will not go to the Registrar.

The Hon. S. C. BEVAN: As I understand the Bill, the court issues a certificate that goes to the Registrar, who does not then award points.

The Hon. F. J. Potter: A note of the certificate of triviality will be made on the court record, which will then be filed.

The Hon. S. C. BEVAN: I understand that the certificate of triviality must be sent to the Registrar. If the word "maximum" is

deleted, these points will have to be awarded against the offender. That would mean there would be no maximum or minimum.

The Hon. Sir Norman Jude: The Minister said that these points would be a minimum.

The Hon. S. C. BEVAN: I cannot support the amendment.

The Hon. C. M. HILL: The list of offences has been drawn up by an expert committee, and this shows the minimum number of points that it is reasonable to allocate to an offender for these offences. The number of points is not a maximum number, because the question of discretion and the varying of points was not considered when the system was conceived. If the discretionary power to vary is considered, the whole schedule of points would have to be completely revised so that maximum points were allocated. It is a specified number but it is prepared on the basis that it is the minimal number that a person should obtain for an offence.

The Hon. Sir Norman Jude: But it is not the minimum: it is the only score.

The Hon. C. M. HILL: If we start dissecting it, we shall have to revise our whole thinking. If these points are varied, the total of 12 that has already been established may have to be revised, too. The Hon. Mr. Bevan has expressed concern that somebody may score points for a conviction for what is normally regarded as a minor offence. The certificate of triviality is included in the legislation to provide for that type of case. Originally, it was not provided for, but it was put to the Government that some relatively minor offences might occur for which a person might accumulate a small number of points when obviously he was a careful driver and would never reach a score of 12. When a person is convicted of a minor offence he can ask for a certificate of triviality, in which case no points are recorded against him. The area of discretionary power is a different point. That will be debated if the Hon. Sir Norman Jude proceeds with his amendment.

The Hon. Sir NORMAN JUDE: I draw the Minister's attention to new section 98b (3), which provides:

That the number of demerit points to be recorded against a person convicted of an offence shall be prescribed in relation to each offence or class of offence and may vary according to the offence or class of offence.

The CHAIRMAN: That has been deleted.

The Hon. Sir NORMAN JUDE: But something must take its place. Perhaps it will have to be reinstated. The new provision was inserted by the Hon. Sir Arthur Rymill.

The Hon. C. M. Hill: That covers it, except that a schedule must accompany it.

The Hon. Sir NORMAN JUDE: Very well. I return to the suggested amendment, that "maximum" be struck out.

The Hon. C. M. Hill: As Sir Arthur wanted.

The Hon. Sir NORMAN JUDE: Yes; I have no objection to that. However, I cannot understand the Minister's saying they are "minimal points". These are "the" points. To say that they are minimal points means that one can accumulate six points for exceeding 35 miles per hour. If that is the minimum, obviously it can be more than that. If those are "the" points, I will go along with that.

The Hon. C. M. HILL: I can tell the honourable member that these are "the" points.

The Hon. A. J. SHARD: If we are going to deal with the schedule and the number of points tonight we will be in for a long sitting. I would be quite willing to accept a vote at this stage on whether or not the schedule is to be included in the Bill. Then, if the Minister raised no objection, the Bill could be recommitted and the question of points could be dealt with tomorrow, because I consider that some of these points are radically wrong and out of proportion.

The Hon. C. M. HILL: I have never intended that we should have the third reading tonight. Therefore, it would be open to this Committee to recommit tomorrow.

The CHAIRMAN: I point out that there are amendments on the file which have some association with the schedule and which will require a recommittal of the Bill.

The Hon. A. J. Shard: As long as we can recommit, I will be satisfied.

New clause inserted.

Title passed.

Bill reported with amendments.

Bill recommitted:

Clause 23—"Points demerit scheme"—reconsidered.

The Hon. Sir NORMAN JUDE: In view of the remarks made by the Minister and by other honourable members, I ask the Minister to move that progress be reported.

The CHAIRMAN: Does the Minister wish to report progress?

The Hon. C. M. HILL: I had hoped that we could get this measure passed as quickly as possible. If we are realistic we will appreciate that the Bill, because of its very nature, will be discussed at considerable length in another place. The Government is keen to have the Bill passed so that the scheme can be implemented and be fully acknowledged by the motoring public before the Christmas period, because we hope that as a result of its implementation we will be able to reduce the road accident rate and save lives over the Christmas holidays.

For that reason, I appeal to honourable members to give every consideration to the amendments which they have on file or which they have in mind in regard to the schedule so that we can deal with the matter expeditiously tomorrow.

Progress reported; Committee to sit again.

LOCAL COURTS ACT AMENDMENT BILL

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

ADJOURNMENT

At 10.2 p.m. the Council adjourned until Thursday, November 13, at 2.15 p.m.