LEGISLATIVE COUNCIL

Tuesday, November 18, 1969.

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

QUESTIONS

FLUORIDATION

The Hon. A. J. SHARD: I seek leave to make a brief explanation prior to directing a question to the Minister of Agriculture, representing the Minister of Works.

Leave granted.

The Hon. A. J. SHARD: I have received from a constituent a letter dated November 11, 1969, the first paragraph of which reads:

Can you please say if there is any truth that fluoride has already been added to the water? We are shocked that this may still be going to happen.

I understand that fluoride has been added to some of our water. I should like to give a truthful answer to this question.

The Hon. R. C. DeGaris: You will always get a truthful answer.

The Hon. A. J. SHARD: Can the Minister say whether fluoride has yet been added to the water? If he cannot, will he please find out for me whether fluoride has been added to the water supply and what is the programming for the metropolitan area?

The Hon. C. R. STORY: I appreciate the Leader's anxiety in this matter. As I am not fully in possession of the facts, I will obtain a report.

HEATHFIELD RAILWAY CROSSING

The Hon. D. H. L. BANFIELD: I seek leave to make a brief explanation before asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. D. H. L. BANFIELD: Train drivers are most concerned about the private railway crossing over the main south line about 100 yards on the Mount Lofty side of Heathfield. This crossing gives access to about six houses; it is unprotected and on a heavy downgrade. Visibility of the crossing from down trains is such that it is extremely doubtful whether there would be enough distance for the trains to be stopped short of any vehicle or other obstruction on the line. It is reported that land was acquired for a roadway alongside the railway from the Madurta level crossing to the houses but plans to construct the road were dropped because of opposition based on the necessary removal of trees.

Train drivers claim that it appears that whoever is responsible for not continuing with the building of the roadway is adopting the attitude that the protection of trees is more important than the protection of lives. Several train drivers have been involved in near-collisions at this crossing, and the drivers are becoming extremely concerned about the position. I ask the Minister the following questions: (1) Has there been a proposal to construct a roadway alongside the railway from the Madurta level crossing to the houses? (2) If so, will the Minister take steps to have the roadway constructed? (3) Failing the construction of the roadway, will the Minister take urgent steps to make the crossing completely safe? (4) What is the estimated number of trees that were or are to be removed in the building of the Hills Freeway?

The Hon. C. M. HILL: I will obtain that information for the honourable member.

BURNING OFF

The Hon. L. R. HART: Has the Minister of Roads and Transport a reply to my question of November 6 about burning off on railway lines?

The Hon. C. M. HILL: The South Australian Railways Department restricts burning off along railway lines to those areas where departmental property might be safeguarded, and also where a sighting hazard exists. It burns off railway land where a formal request is received from local authorities or adjacent landholders but, in these cases, compliance with the request is undertaken only subject to the interested parties providing adequate and fully-manned fire-fighting equipment throughout the whole of the operation.

It should be pointed out to the people who are concerned in this matter (that is, the landowners) that no condition laid down by the department in connection with these burning off operations in any way abrogates the responsibilities prescribed in the Bush Fires Act, 1960-1968.

NORTHFIELD SCHOOL CROSSING

The Hon. A. J. SHARD: On November 4 I asked the Minister of Local Government, representing the Minister of Education, a question about the Northfield High School crossing. Has he a reply?

The Hon. C. M. HILL: The Public Buildings Department reports that private offers have been sought, and a recommendation for acceptance of an offer has been forwarded to the

Auditor-General for examination and transmission to the acting Minister of Works. Subject to acceptance, the successful tenderer will be requested to undertake the work as soon as possible.

TEMPORARY SCHOOL BUILDINGS

The Hon. V. G. SPRINGETT: I seek leave to make a short statement prior to asking a question of the Minister representing the Minister of Education.

Leave granted.

The Hon. V. G. SPRINGETT: Because of the rapid growth of the school population in this and other States, there is often a need to use what are called temporary wooden buildings. Incidentally, temporary buildings in this State are regarded as permanent buildings elsewhere. In view of the number of so-called temporary buildings in use and the criticism sometimes made in regard to the comfort of those who work in them, will the Minister ascertain whether any studies have been carried out of the temperatures throughout the year in wooden buildings compared with those in more permanent structures?

The Hon. C. M. HILL: I will refer the question to my colleague.

INTERMEDIATE COURTS

The Hon. D. H. L. BANFIELD: Will the Minister of Local Government, representing the Attorney-General, obtain for me the following information: If intermediate courts are established in South Australia, how many extra judges will be appointed; what is the estimated cost that will be involved, taking into consideration the salaries of judges, reporters, tipstaffs and typistes, and travelling expenses; what is the estimated added cost of buildings and/or renovations for suitable accommodation for the courts throughout South Australia; and what are the locations of the courts to be established?

The Hon. C. M. HILL: I would have thought that these questions and answers were more suitable for the Committee debate on this legislation, which will begin today. However, if the honourable member would like the information in reply to his questions, I will ask the Attorney-General whether he can provide it.

ABORIGINES

The Hon. L. R. HART: Has the Minister of Local Government, representing the Minister of Aboriginal Affairs, a reply to my question of October 21 about Aborigines?

The Hon. C. M. HILL: My colleague states:

The Aboriginal Affairs Department in the first instance would be pleased to receive inquiries from Aboriginal organizations, churches, voluntary charitable groups, and service clubs willing to: (1) exercise managerial oversight; (2) appoint suitably experienced staff; and (3) accept ultimate responsibility for financing the venture. The qualification of the staff required would be previous success in the management of hostels—if possible, hostels for Aboriginal young people.

The hostel staff would be expected to have tact and understanding in dealing with teenagers and ability to control a group of 15 to 18 boys or girls, or both. The staff would need to understand the cultural, social and spiritual needs of Australian Aborigines and be able to identify with and be accepted by the Aboriginal population.

With the assistance of Commonwealth finance, the department would make available to the approved organization the use of the premises, furniture and equipment. The organization would accept inmates referred to it by the department's officers, the department maintaining each inmate to an amount of $8.40 a week, plus all clothing, fares and pocket money.

The organization would be expected to provide facilities for recreational hobbies and religious training. The organization will be required to enter into an agreement with the Minister of Aboriginal Affairs. The conditions of the agreement would cover the matters mentioned in this reply.

It is realized that it may not be possible to obtain an application from an Aboriginal organization, as outlined herein, which is prepared to accept all the responsibilities suggested. However, if possible this should be sought and, alternatively, negotiations entered into for the best compromise of terms available, endeavouring to keep this department's commitments as small as possible. It is hoped that any organization that may be interested will get in touch with the Director.

INTAKES AND STORAGES

The Hon. M. B. DAWKINS: Will the Minister of Agriculture ascertain from the acting Minister of Works how much water is contained in the South Para, Warren and Barossa reservoirs at present, at the beginning of summer? Will he ascertain, too, whether it is expected that the branch main from the Mannum-Adelaide main to the Warren reservoir will be used in addition to the new main from Swan Reach to Stockwell?

The Hon. C. R. STORY: I will obtain a report.

LAMEROO AREA SCHOOL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Lameroo Area School.

LOCAL COURTS 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.

It forms an important part of a closely integrated legislative scheme, the broad aim of which is to overhaul the entire system of subordinate courts (that is, all courts below the Supreme Court). Over the last decade there has been a considerable increase in the work of all courts, and the strain imposed on the State's judicial system has shown clearly that certain reforms have become imperative.

The Supreme Court lists have become unduly swollen both on the criminal side and on the civil side. In the immediate post-war years, the criminal court lists required the services of one judge as a general rule, and in the 1950's on very rare occasions a second judge was asked to assist, perhaps if an unusually long case reached the list. Over the last two or three years, however, two judges and, not infrequently, three have been sitting regularly.

The Government feels that, apart from a general increase in criminal cases, what swells the criminal lists unduly is the large proportion of cases involving comparatively minor and routine indictable offences triable only by judge and jury. If the Supreme Court lists could be relieved of this class of case, the demands on the Supreme Court would be brought within acceptable limits, and the work load would be more evenly distributed.

The same sort of situation exists on the civil side. In recent years, civil lists in the Supreme Court have from time to time become almost unmanageable and, despite every effort by the judges, there have been long delays before cases in the lists could come on for hearing. This increase in litigation has been brought about by an overall increase in all types of cases, especially those arising from motor vehicle accidents.

Local courts have a civil jurisdiction of moderate limits but, if those limits were extended subject to appropriate conditions, cases could be disposed of more expeditiously and, again, the work load would be more evenly distributed. In the courts of summary jurisdiction, special magistrates have striven valiantly to handle lists that have recently become enlarged to an alarming degree. Their task has been rendered more difficult by the large number of minor cases—mainly traffic prosecutions—that they are called upon to hear.

For example, the number of cases heard in the Adelaide Magistrates Courts (including the Juvenile Court) rose from 10,601 in 1954 to 28,816 in 1964, and again to 40,687 in 1968. In the same courts, revenue received rose from $62,180 in the financial year 1953-54 to $407,266 in the financial year 1967-68. These figures reflect the magnitude of the problem. In a recent report to the Attorney-General, the Chief Summary Magistrate stated:

> At present, by using all available part-time magistrates to the full extent of their availability, I am running 10 courts on most days (including the Juvenile Court), eight constituted by magistrates and two by justices. I am sometimes obliged to send to the justices cases for which I do not consider them suited, and this has resulted in several complaints from counsel. Even so, this number of courts is inadequate to cope with the volume of work in the Adelaide Magistrates Court, which has increased three-fold in the past 10 years; and in spite of the fact that all magistrates are working under great pressure and I personally am taking work home nightly, the hearing of contested cases is getting further and further behind. Defendants are now being remanded until well into January, 1970, which, as one counsel put it when protesting on behalf of his client, makes a mockery of the term "summary jurisdiction".

We in South Australia are proud of our professionally qualified magistrates, but their talents and training are wasted if they are burdened with many cases that do not call for such a high degree of professional skill as they offer. At the same time, it is felt that it is neither desirable nor fair to make the extensive demands on lay justices of the peace that would have to be made if substantial relief were to be afforded to the professional magistrates.

The Government considers that, except in those limited spheres in which it is proper to call on the lay justice of the peace, the subordinate judiciary of this State, sitting in both civil and criminal matters, should comprise professional persons of high calibre who can provide a judicial service to the community of comparable worth and reliability. However, the subordinate judiciary will never attract persons of the right kind unless they can be satisfied that the work they will be called on to perform, and their standing in the legal world when appointed, will justify their relinquishing busy practices in which the extent and value of their services to the community are unquestionably great. Only few can reach the Supreme Court bench, but many more can perform work of great importance not confined to the exclusive jurisdiction of the Supreme Court.

Having regard to these general considerations, an integrated legislative scheme has been formulated, the main features of which are as follows:

(*a*) Legal practitioners of standing are to be appointed to judicial office with the rank and style of "judge". One of the judges will be appointed senior judge. The judges will be outside the Public Service, will hold office during Her Majesty's pleasure, and will retire at the age of 70 years, with appropriate pension rights.

(*b*) Judges will be empowered to constitute two classes of court—local courts with a considerably enlarged civil jurisdiction (both in law and in equity) and district criminal courts capable of trying, with a jury, all but the more serious indictable offences (which are being reserved for the Supreme Court).

(*c*) No change is being made in the jurisdiction vested in magistrates to try minor indictable offences, and magistrates will continue to exercise their usual civil jurisdiction in local courts.

(*d*) The Governor is being empowered (on the recommendation of the Attorney-General) to create senior special magistrates from the ranks of special magistrates. Particular regard is to be paid to such titles, by those concerned, when magistrates' salaries are being determined and when cases are being assigned for hearing and determination.

(*e*) The jurisdiction of lay justices of the peace on the criminal side is to remain unchanged, but they are to be relieved of all civil jurisdiction except when sitting as local courts of special jurisdiction to hear unsatisfied judgment summonses.

(*f*) The Governor is being given the power, on the recommendation of the Attorney-General, to appoint as "special justices" persons who are already on the roll of justices and who, by reason of experience and knowledge, are fit and proper persons to be so appointed. A special justice will differ from an ordinary lay justice of the peace in that when sitting alone and constituting a court of summary jurisdiction he will, subject to suitable safeguards, have the powers and authorities of two justices when constituting such a court. He will also be able, when sitting alone, to constitute a local court of special jurisdiction.

(*g*) Consequential changes will need to be made to several Acts already in force governing various aspects of the administration of justice, and all amending Bills will become law on the same day, which will be fixed by proclamation.

(*h*) The whole legislative scheme has been devised with the aim of causing as little disruption as possible to the existing structure of the courts and the jurisdiction of courts, and, in particular, of keeping administrative costs and reorganization to a minimum.

I should here express the Government's gratitude to members of the Council of the Law Society for their study of the Bill when in draft form and for a report submitted by them containing a number of practical and useful suggestions. All suggestions, except for a minor one of a formal nature, have been adopted, and the resulting scheme should, I believe, prove satisfactory to the community in general and to the profession in particular.

The scheme will be implemented in part by extensive amendment to the Local Courts Act and in part by consequential amendments to other Acts. The Local Courts Act will be amended to become the Local and District Criminal Courts Act. Appointments to judicial office will be made under the Act of persons who will have the rank and style of "judge". A judge will exercise jurisdiction in three ways: first, he will preside over local courts, where he will exercise considerably greater jurisdiction in civil matters than is presently exercised by local courts; secondly, in the capacity of "recorder", he will exercise a criminal jurisdiction in district criminal courts by virtue of which he will sit with a jury to try many indictable offences that are at present tried in the Supreme Court; and thirdly, as a judge, either in a Local Court or otherwise, he will hear and determine all other matters in respect of which jurisdiction is, by special enactment, conferred on him.

At this point, a few words of explanation of the judicial title of recorder are appropriate. The title of recorder as a judge in criminal matters goes back many centuries in England, and is particularly fitting to be adapted for use in the context of this Bill. Today, a recorder

must be a barrister of at least five years' standing (he is usually of many more years' standing and a Queen's Counsel). He is appointed by the Crown and holds office during good behaviour. He presides over a separate court of quarter sessions in municipal boroughs, and has an important jurisdiction in criminal matters. The Recorder of London, in particular, has always had an extensive criminal jurisdiction.

I turn now to the Bill in more detail. Clause 2 provides for its commencement on a day to be fixed by proclamation, thus making it possible for this Bill and its associated Bills to be brought into operation at the same time. Clause 3 extends the long title of the principal Act to include the matters that are dealt with by the Bill. Clause 4 is formal.

Clause 5 repeals section 4, which contains the definitions, and enacts a new section containing more appropriate definitions for the principal Act as amended by this Bill. I should like to draw particular attention to the fact that the expression "the local court provisions" is defined as Parts I to XVII, inclusive, of the Act, while "the district criminal court provisions" is defined as Parts XVIII to XX, inclusive, of the Act. Clause 6 is formal. Clause 7 enacts new section 5a of the principal Act. The provisions of this section are, in effect, transitional provisions.

Clause 8 introduces a new Part BI of the principal Act dealing with appointment to judicial office. Judges will be appointed by the Governor, during Her Majesty's pleasure, from those who are qualified for appointment under new section 5b (3). A judge would not be subject to the Public Service Act and would be removable only on an address from both Houses of Parliament. New section 5b also provides for the appointment of a senior judge, and new section 5c makes provision for the appointment of acting judges where the Governor is of the opinion that it is in the interests of justice to do so. An acting judge would hold office for three months initially but his appointment could be extended for further successive periods of three months as thought necessary.

Similarly, by new section 5d an acting senior judge may be appointed when the senior judge is absent on leave or unable to perform his duties. In default of an acting appointment, the next judge in order of seniority (determined by reference to their respective commissions) would perform the functions of an acting senior judge. Amongst other functions, the senior judge is also given power and authority in all matters relating to what may be described as judicial administration in local courts and district criminal courts. A judge would, like a Supreme Court judge, retire at the age of 70 years, although he could continue in office after reaching that age in order to complete unfinished work (new section 5f).

New section 5e provides that the salaries of the senior judge and each judge would be $16,500 and $14,000 a year, respectively. New sections 5g to 5j, inclusive, deal with pension rights and, with respect to the salary paid, the rates of contribution to pension and the rights to pension are similar to the rates of contribution paid by and rights to pension payable to Supreme Court judges. New section 5k empowers the Governor to grant a judge leave of absence as if he was a judge of the Supreme Court.

New section 5l provides that a judge when exercising jurisdiction or performing any duty or function under the local court provisions will do so as a local court judge and, when exercising jurisdiction or performing any duty or function under the district criminal court provisions, will do so as a recorder. Clause 9 specifically confers on all existing local courts the jurisdiction of a local court of special jurisdiction. Clause 10 is consequential on the new concept of local courts of special jurisdiction, which are provided for in order to deal with unsatisfied judgment summonses.

Clause 11 repeals section 8 of the principal Act and enacts new sections 8 and 8a. New section 8 abolishes local court districts, which have been obsolete for some time, and new section 8a restates the formal machinery for the setting up of local courts in the State and for their staffing. Clause 12 brings the references to the Local Courts Act and the Public Service Act up to date. Clause 13 repeals section 13 of the principal Act, which deals with the present procedure for appointing the Local Court Judge. Clause 14 amends section 15 so as to bring its terminology up to date. Clause 15 brings the reference to the Public Service Act, 1936, up to date.

Clause 16 repeals and re-enacts section 21 so as to provide, *inter alia*, that: (*a*) all actions cognizable under the local court provisions by a local court of full jurisdiction shall be heard before a judge; (*b*) all actions cognizable under the local court provisions by a local court of limited jurisdiction shall be heard before a judge or a special magistrate; and (*c*) all matters cognizable under the local court provisions by a local court of special jurisdiction

shall be heard before a judge, a special magistrate, two justices or a special justice.

Clause 17 repeals section 22 of the principal Act, which becomes obsolete. Clause 18 re-enacts section 23 so as to provide that, when a special magistrate or special justice is available and willing to act, a local court of special jurisdiction shall be constituted of the special magistrate or special justice, and not of two justices. Clause 19 re-enacts section 24 so as to provide that, if the parties to the action consent in writing, any special magistrate may hear and determine an action that a judge has power to hear and determine.

Clause 20 makes a number of consequential amendments to section 25. Clause 21 makes consequential amendments to section 26 and brings a reference to the Audit Act up to date. Clause 22 makes a consequential amendment to section 27. Clause 23 amends section 28 so as to confer on the senior judge or any other judge (in place of the Local Court Judge or any special magistrate) the power to make rules of court for carrying into effect the local court provisions or any other Act conferring jurisdiction upon local courts. Clause 24 makes a consequential amendment to section 30 of the principal Act.

Clause 25 (which has the support of the Law Society) amends section 31 of the principal Act by raising the general upper limit of a local court of full jurisdiction from $2,500 to $8,000. Clause 26 (which, too, has the support of the Law Society) amends section 32 of the principal Act by raising the general upper limit of a local court of limited jurisdiction to $2,500. Clause 27 enacts new sections 32a and 32b. New section 32a provides, in effect, that where a claim arises from a vehicular accident the upper limit, if a judge is sitting, will be a claim for $10,000.

New section 32b provides that a local court of special jurisdiction shall have jurisdiction to hear and determine any unsatisfied judgment summons, whatever the amount of the judgment may be. Clause 28 amends section 33 to make it clear that a local court of full or limited jurisdiction has, by consent of the parties, jurisdiction up to any amount. Clauses 27 and 28 have the support of the Law Society. Clause 29 introduces new sections 35a to 35f of the principal Act. New sections 35a to 35e, inclusive, are designed to resolve a difficulty relating to local court jurisdiction that has troubled the bench and the legal profession for many years.

Under the present law, unless proceedings are being taken under Part XII of the principal Act (which relates to the special equitable jurisdiction of the local court) the local court is, in essence, a court of common law and if, in ordinary proceedings before it, a point of equity arises incidentally, the court is not able to do complete justice between the parties by taking cognizance of that point of equity and adjudicating upon it. The new sections 35a to 35e would overcome this difficulty and, in the language of new section 35e, would enable all matters in controversy between the parties to be completely and finally determined and all multiplicity of legal proceedings concerning any of such matters to be avoided. New section 35f extends to local courts the judicial power, at present confined to the Supreme Court, to make interim awards of damages.

Clause 30 strikes out section 39 (1) of the principal Act, which contains a limitation on the jurisdiction of a local court of limited jurisdiction. Clauses 31 and 32 make consequential amendments to sections 40 and 41 of the principal Act. Clause 33 re-enacts section 42 (1) with consequential amendments. Clause 34 makes a consequential amendment to section 50 of the principal Act.

Clauses 35 to 40 make provision generally for appeals and reservations of questions to go from a local court to the Full Court of the Supreme Court, and not to a single judge of the Supreme Court. It raises the level of claims from $60 to $200 (a figure supported by the Law Society) below which an appeal will not lie, but provides a safeguard against rigidity by giving the Full Court power to grant leave in special cases even where the amount involved does not exceed $200.

Clause 41 introduces an important new section 71a, sought by the Law Society. Where a defendant has been vexatiously or oppressively sued, or has been wrongly sued through, for example, failure to ascertain his true identity, new section 71a gives the court the power, in proper cases, to compensate him for the trouble, expense and distress caused by his having been so sued.

Clause 42 brings up to date a reference to the Commonwealth Service and Execution of Process Act. Clause 43 repeals two sections that have become obsolete. Clauses 44 and 45 bring up to date references to the Mental Health Act. Clause 46 brings up to date a reference to the Commonwealth Service and Execution of Process Act.

Clause 47 (a clause sought by the Law Society) adds a new subsection (6) to section 98 of the principal Act giving power to require greater precision of pleading than has hitherto

been required, where the amount of the claim brings it before a local court of full jurisdiction. Clause 48 clarifies a provision of section 105 of the principal Act. Clause 49 makes a consequential amendment to section 106 of the principal Act.

Clause 50 is an amendment that has been sought by the Law Society. Section 108 of the principal Act provides that "if the defendant does not enter an appearance in any other action, the clerk of the court shall, at the request of the plaintiff, set the claim down for assessment of damages, and afterwards the defendant shall not be at liberty to enter an appearance in the action except as provided by this Act".

The section thus requires an assessment of damages in every case. In many cases the claim for damages for injury to property is a small account for repairs to a motor vehicle, the defendant has no desire to dispute the amount, and there is no reason to think that it will be reduced on an assessment. In such cases it is regrettable that an assessment of damages is necessary. The plaintiff is in difficulty in inducing repairers to leave their business to give evidence; the repairers are put to considerable and unnecessary inconvenience; the witness fees become disproportionate to the amount involved; costs are inflated not only by witness fees but also by counsel's fees; and the plaintiff incurs the substantial expense of witness and counsel fees which he may not recover from the defendant. Conversely, the defendant is saddled with these unnecessary costs although he may have had no desire to dispute the amount of the claim.

The Law Society has considered that it should be possible to devise a procedure that would render assessment unnecessary in the straightforward cases but would preserve some supervision of these claims to guard against the possibility of excessive claims. It is proposed, therefore, that the plaintiff should be given the right to apply in chambers for leave to sign judgment for damages for injury to property without assessment. The judge could then examine the affidavits and decide whether the claim was straightforward and an assessment would serve no useful purpose, or whether the whole or some part of the claim should be left to assessment. The amendment to section 108 made by this clause gives effect to this proposal.

Clauses 51 to 53 make consequential amendments to the principal Act. Clause 54 repeals and re-enacts section 135 of the principal Act so as to provide that a party to an action or proceeding or a practitioner of the Supreme Court may appear and conduct the action or proceeding, but it also provides that an articled law clerk, acting on his principal's instructions, or a staff solicitor may appear in a local court of limited jurisdiction or a local court of special jurisdiction.

Clause 55 brings up to date the reference to the Commonwealth Bankruptcy Act. Clause 56 brings up to date a reference to the Real Property Act. Clauses 57 to 60 make consequential amendments to various sections of the principal Act. Clause 61 raises the jurisdictional limit for claims for recovery of premises in section 216 from an annual rental of $1,060 to an annual rental of $2,120. Clause 62 raises the jurisdictional limit for claims for recovery of possession of premises in section 228 from an annual rental of $1,060 to an annual rental of $2,120.

Clause 63 raises the jurisdictional limit for claims for recovery of possession of land under the Real Property Act from land whose value does not exceed $8,000 to land whose value does not exceed $10,000. Clauses 64 to 77 make appropriate consequential amendments to various sections of the principal Act. In particular, clause 65 raises the various limits to the special equitable jurisdiction exercisable by a judge to figures that match the jurisdictional limits created elsewhere in the principal Act.

Clauses 78 and 79 re-enact sections 295 and 296 in a manner sought by the Law Society to provide more flexible provisions for fixing and taxings costs, having regard to the increased jurisdictional limits created by this Bill. Clause 80 makes a consequential amendment to section 297 of the principal Act. Clause 81 repeals section 298 of the principal Act, which is obsolete. Clauses 82 to 89 make appropriate drafting and consequential amendments to various sections of the principal Act.

Clause 90 enacts new Parts XVIII, XIX and XX of the principal Act. Part XVIII deals with the establishment and administration of district criminal courts and may be summarized as follows: The Part sets up district criminal courts, which will be courts of record whose jurisdiction would be exercisable by a recorder sitting in open court, with or without a jury, or in chambers. District criminal court districts would be established by proclamation (on the recommendation of the senior judge) by means of which the Governor divides the State into districts, specifies their boundaries, names them and appoints places within the districts where district criminal courts will be held.

New section 320 confers on the senior judge the functions of assigning recorders to districts, the publication of lists, the appointing of times and places for the dispatch of business, the making of arrangements for the hearing and determination of cases by recorders and the doing of other things necessary for the disposal of district criminal court business.

New section 321 confers a rule-making power on the senior judge and two other judges with respect to the pleading, practice, procedure and business generally of district criminal courts. This power is in terms similar to the rule-making power in the Supreme Court Act.

New section 322 is designed to enable the assistance of the police to be obtained for the purpose of executing processes and orders of a presiding recorder. New section 323 makes provision for a seal of court and its use.

New sections 324 to 326 contain detailed provisions for appointing a principal registrar, assistant registrars and other officers and for prescribing and regulating their functions, duties and responsibilities. New section 327 makes provision for representation of the parties in a district criminal court. Only actual parties, the Attorney-General and legally qualified practitioners would be entitled to appear.

New Part XIX deals with matters of jurisdiction, powers, practice and procedure of district criminal courts. Generally speaking, new section 328 places the district criminal court in the same position as the Supreme Court with respect to powers and jurisdiction to try and sentence persons for indictable offences, except that a district criminal court cannot try or sentence a person charged with a group I offence (which is either a capital offence or an indictable offence carrying a maximum term of imprisonment exceeding 10 years).

It will be convenient here to refer to the grouping of indictable offences as defined in new section 4, to be enacted by clause 5. That grouping determines the limits of a recorder's jurisdiction and has important consequences at the stage where a person is committed for trial.

I have already referred to a group I offence. A group II offence is an indictable offence carrying a maximum term of imprisonment not exceeding 10 years. A group III offence is an indictable offence carrying a maximum term of imprisonment not exceeding four years. Group I offences can be tried only by a Supreme Court judge and jury. Group III offences, generally speaking, can be tried only by a recorder and a district criminal court jury. Group II offences may be tried either in the Supreme Court or in a district criminal court: which of the two it would be will depend on the discretion of the committing magistrate or justice, subject to certain overriding powers vested in the Attorney-General and in the Supreme Court, to which I shall refer later.

Certain principles will be laid down in proposed amendments to the Justices Act for the guidance of the committing magistrate or justice when exercising his discretion. By new section 328 (3), the summary trials of children and the summary hearing of minor indictable offences are not affected by this Bill.

New section 329 contains important provisions with respect to habitual criminals. In effect, where the Attorney-General seeks to have a person convicted in a district criminal court declared a habitual criminal, the case is removed, by operation of this section, into the Supreme Court, and the proceedings with respect to the declaration continue in the Supreme Court.

New section 330 is a comprehensive section the object of which is to place district criminal courts on the same footing, with respect to pleading, practice and procedure, as the Supreme Court. The provisions of the Criminal Law Consolidation Act referred to in this section concern such matters as accessories, bench warrants, the form of informations, pleas and proceedings on trial, the defence of insanity, verdicts, costs, witness fees, compensation, fines and forfeited recognizances.

New section 331 provides generally for trial by jury. Specific provisions to implement this provision will be contained in a proposed Bill to amend the Juries Act. New section 332 provides for the appointment of clerks of arraigns, the issue by them of subpoenas, and sanctions for disobedience of such subpoenas.

New section 333 contains powers for the effective protection of district criminal courts from contempt of court in all its aspects, whether in the face of the court or otherwise. New section 334 confers all necessary powers for the enforcement of judgments, orders, etc., of a district criminal court or a recorder. They are the same as those already conferred on the Supreme Court, with necessary modifications and adaptations.

New Part XX deals with presentation for trial, which is the special concern of the Attorney-General. The powers and machinery in relation to presentation for trial in district criminal courts are along much the same lines as those in relation to trials in the Supreme Court, with a few modifications and adaptations. As hitherto, depositions of those committed for trial will be forwarded to the

Attorney-General and it will be for him to decide whether to present a person for trial and, if he does, on what charges.

By new section 335 (1), the Attorney-General is empowered, where a person has been directed to be put on trial in a district criminal court, to present that person for trial accordingly on offences other than group I offences. By subsection (2) he may present him for trial in the Supreme Court, notwithstanding that he may have been committed for trial in the district criminal court. Subsection (3) enables a Supreme Court judge, on his own motion, or upon an application by the Attorney-General or the defence, to order that a person directed to be put on trial in the Supreme Court shall be tried, in due ccurse, in a district criminal court.

Subsection (4) provides for the converse case, so that a person directed to be tried in a district criminal court may, by order of the appropriate Supreme Court judge, be tried in the Supreme Court. Subsection (5) provides that an order may be made under subsection (4) notwithstanding that the person could not have been presented for trial upon an information charging him with a group I offence. Where a person on trial in the Supreme Court for a group II and a group III offence successfully applies for separate trials of the group II and the group III counts, those trials, unless the judge for special reasons otherwise orders, will be held in the Supreme Court (subsection (6)).

A Supreme Court judge who orders a separate trial of one or more of the counts to be held in a district criminal court is empowered, by subsection (7), to give all consequential orders and directions for the trial. Subsection (8) ensures continuation of bail and witnesses' obligations to attend a trial, notwithstanding a change in the court in which the trial is to be held.

New section 336 empowers the Attorney-General to have the case of a person due to appear for sentence in a district criminal court removed into the Supreme Court for sentence there. New section 337 gives the senior judge power to order a change of venue, for the purpose of trial or sentence, where he is of the opinion that it is in the interests of justice to do so, and makes provision for consequential variations to the recognizances of witnesses and to the terms of bail.

New section 338 constitutes, in effect, an explicit instruction to courts to construe all the legislation forming part of the integrated sytem in such a way as will be most conducive to the fair and expeditious administration of criminal justice in the district criminal courts. New sections 339 and 340 deal with important functions of the Attorney-General.

New section 339 preserves his power to enter a *nolle prosequi* at any time up to judgment. New section 340 preserves his present sole executive responsibility for preparing trial lists and for determining the order in which persons are presented for trial or appear for sentence, but this responsibility is regulated by the important duties laid on him by subsection (3), which provides that he must do his best to ensure that the cases of persons in custody shall be brought on before those on bail, and that all lists are disposed of with as little delay as is reasonably practicable. New sections 341 and 342 are financial provisions that simply require payment into general revenue of fines, fees and penalties received under Parts XVIII, XIX and XX.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (COURTS)

Second reading.

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

That this Bill be now read a second time.

It makes a number of independent changes in the principal Act, the main changes being (*a*) amendments necessary to bring the Act into conformity with the legislative scheme for the establishment of district criminal courts; (*b*) the provision for the decision by the Full Court of questions of law reserved by the trial judge on an acquittal, without disturbing the finality of the acquittal; and (*c*) amendments necessary to clear up certain irregularities and errors in the principal Act as now in force.

Clause 2 brings the Bill into operation on a day to be fixed by proclamation. This is necessary to ensure that all legislation dealing with district criminal courts will come into operation on the same day. Clause 3 amends the long title of the principal Act so as to enable the amendments proposed by this Bill to come within the scope of the long title.

Clause 4 makes certain formal amendments to section 3 of the principal Act. Clauses 5 and 6 update references to section 38a of the Road Traffic Act, 1934, in sections 14a and 38a of the principal Act.

Clauses 7 and 8 include in the definitions of "court" in section 77 and 77a the passage "a district criminal court". This amendment is consequential on the proposed legislation for

the provision of district criminal courts. Clause 9 makes a consequential amendment to section 198 of the principal Act. Clause 10 brings the provisions of subsection (2) of section 200 up to date.

Clauses 11 and 12 bring the provisions of sections 266 and 283 up to date. Clause 13 provides for payment by an accused of such fee as the court or a judge may direct for a copy of the depositions taken against him.

Clause 14 makes a drafting amendment to section 300d. Clause 15 corrects an error in section 319 of the principal Act. Clause 16 makes certain amendments to section 348 that are consequential on the proposed legislation for the provision of district criminal courts.

Clauses 17 and 18 are also consequential on the proposed legislation for the provision of district criminal courts. Clause 17, however, also empowers a presiding judge to reserve questions of difficulty concerning sentencing for the determination of the Full Court. Clause 19 makes a consequential amendment to section 352.

Clause 20 updates the reference to the Supreme Court Act, 1878, in section 356 of the principal Act. Clauses 21, 22 and 23 make consequential amendments to sections 358, 360 and 366. Clause 24 amends section 368 of the principal Act so as to extend the scope of that section to cover the principles contained in this Bill. Clause 25 repeals a provision of the 1956 amendment to the Criminal Law Consolidation Act. That provision is now exhausted.

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

JURIES 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.

Although the amendments sought to be made by it are fairly substantial, they involve no departure, in principle or in policy, from the principal Act, and have been made necessary by the legislative scheme for district criminal courts.

Part II of the principal Act bases the present jury system on jury districts. A new Part IIA proposed to be inserted by clause 7 would place the jury system connected with district criminal courts on the basis of jury regions. The distinctive expressions are chosen to avoid confusion in administration, in correspondence and in conversation.

This parallel system is then carried through all relevant provisions of the Act so as to render it, in its amended form, applicable to district criminal courts in substantially the same manner as it is at present applicable to criminal courts presided over by judges of the Supreme Court. The clauses of the Bill give effect to the principles I have outlined.

Clause 2 provides for it to commence on a day to be fixed by proclamation. This will enable all related Bills to be brought into operation on the same day. Clause 3 amends section 3 of the principal Act by adding new definitions to the section. These amendments are consequential on proposed amendments to the Local Courts Act.

Clause 4 is formal. Clause 5 amends section 7 of the principal Act by providing for trials in district criminal courts by juries of 12, as in the Supreme Court. Clause 6 makes a drafting amendment.

Clause 7 inserts a new Part IIA in the principal Act under which there is to be a jury region for each district criminal court district. Each jury region is to consist of one or more subdivisions and will be constituted by proclamation.

Clause 8 replaces section 14 of the principal Act. The new section re-enacts the present provisions and also provides that, as in the case of jury districts, a person is not qualified or liable to serve as a juror in a district criminal court unless he resides within the jury region constituted for the district criminal court district within or in connection with which that court is sitting. Clause 9 amends section 19 of the principal Act so as to extend the sheriff's power of exemption with respect to Supreme Court jurors to cover district criminal court jurors.

Clause 10 extends the duty of the sheriff to prepare annual jury lists for each jury district to include a duty to prepare those lists for each jury region. It also gives him more time to perform those duties by removing the requirement that they be prepared during the month of December in each year and by authorizing and requiring their preparation before December 31 in each year.

Clause 11 repeals and re-enacts section 24 of the principal Act so as to fix the numbers of names in the annual jury lists for the jury districts for the Supreme Court Adelaide criminal sessions at not less than 1,000, for the Supreme Court circuit sessions at not less than 300, and for each jury region at not less than 200.

Clause 12 extends to jury regions the application of the provisions of section 22 of the principal Act. Clauses 13 to 15 make consequential amendments to sections 23, 25 and 27 of the principal Act.

Clause 16 repeals section 29 and inserts in its place a new section that provides for the issue of precepts for the summoning of juries. The Supreme Court will (as hitherto) issue them for Adelaide Supreme Court sessions and the circuit sessions while the senior judge or the recorder concerned will issue them for a district criminal court. The power to discharge jurors previously given only to Supreme Court judges is extended to the recorder in question, and a consequential power is given to summon further jurors, if necessary, to complete the sessions being held at the time of the discharge.

Clause 17 extends to the recorder or senior judge the power given by section 30 to the Supreme Court to summon jurors in two sets. Clause 18 provides for the usual form of precept prescribed by section 31 to be adapted or modified when used by a recorder or the senior judge. Clause 19 provides for service of jury summonses by post.

Clause 20 makes a decimal currency amendment to section 40. Clauses 21 to 28 make either consequential or decimal currency amendments to various sections. Clause 29 re-enacts section 83 of the principal Act so as to extend the protection given to Supreme Court jurors against persons who unlawfully try to influence them to jurors who will be summoned to attend district criminal courts.

Clause 30 makes a consequential amendment to section 88 of the principal Act. Clause 31 makes a consequential amendment and adds to section 89 a new subsection (2) by virtue of which section 321 of the Local and District Criminal Courts Act, 1926-1969, empowering the senior judge and two other judges to make rules of court, is deemed to confer a power similarly exercised to make rules of court to carry into effect the objects and provisions of the principal Act with respect to district criminal courts.

Clause 32 makes a consequential amendment to section 90 of the principal Act. Clause 33 re-enacts section 91 of the principal Act so as to extend to district criminal courts the power that was formerly confined to Supreme Court judges to make oral orders for the return of a jury and for amending or enlarging a panel of jurors returned for the trial of any issue.

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

JUSTICES ACT AMENDMENT BILL (COURTS)

Second reading.

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

That this Bill be now read a second time.

Inter alia, it proposes three important changes in the law, namely, (1) it provides for the appointment and functions of special justices of the peace; (2) it provides for the conferring on certain special magistrates of the title of senior special magistrate and prescribes the consequences of doing so; and (3) it provides rules in pursuance of which a justice of the peace or special magistrate would commit persons for trial, or direct them to appear for sentence either in the Supreme Court or in a district criminal court. It is thus integrated with the legislative scheme for subordinate courts generally.

Clause 4 inserts into section 4 of the principal Act the definitions of "senior judge", "district", "district criminal court", "group I offence", "group II offence", "group III offence", "recorder" and "special justice". These definitions are made consistent with the scheme of legislation proposed for reorganizing the subordinate courts.

Clause 5 amends section 5 of the principal Act by adding a new subsection, which provides that a special justice, when sitting alone and constituting a court of summary jurisdiction, shall, subject to appropriate safeguards contained in subsections (3), (4) and (5), have all the powers and jurisdiction of two or more justices when constituting such a court. Clause 6 adds a new subsection to section 10 of the principal Act requiring the Attorney-General to keep, as part of the roll of justices, a roll of special justices.

Clause 7 introduces a new section 10a headed "Special Justices". Under that section the Governor is empowered, on the recommendation of the Attorney-General, to appoint as special justices persons who have their names on the roll of justices and who, in the opinion of the Attorney-General, have experience and knowledge of the law rendering them fit and proper persons to be so appointed. Special justices would receive a remuneration to be fixed by the Governor.

The Government considers that these provisions should enable persons with special experience of the workings of courts of summary jurisdiction to take a fair proportion of the load of the comparatively minor cases from the magistrates, giving them more time to devote their professional skills to the hearing

and determination of the more important cases, of which there are now many in the courts of summary jurisdiction. It is hoped that appointees will be found among the ranks of experienced and senior justices of the peace, senior clerks of court, retired legal practitioners and other persons who, though not legal practitioners, have had a close association with the law and its operations and who could be safely entrusted with the responsibility ordinarily left in the hands of two justices.

Clause 8 re-enacts section 11 (2) of the principal Act by bringing its contents and the drafting of the subsection up to date. Clause 9 enacts a new section 13a, which introduces an important new policy with respect to magisterial appointments. It has seemed to the Government to be fitting that a special magistrate, whose value to the community has been significantly enhanced by administering the law in courts of summary jurisdiction over a period of years, ought, generally speaking, to receive recognition in the form of being assigned the title of senior special magistrate, and that those concerned with the determination of magistrates' salaries and with the assignment of cases for hearing and determination should be required to pay regard to the standing of senior special magistrates. New section 13a makes provision for these matters.

Clauses 10 to 14, by means of new sections and consequential amendments, seek to introduce changes in the process and machinery by which persons are committed for trial or sentence, so that the principal Act, as so amended, would accommodate itself to the establishment of trials and hearings in the district criminal court as well as in the Supreme Court. The system as proposed to be varied by these clauses may be summarized as follows:

(*a*) Committal proceedings remain unchanged up to the point where the justice or magistrate reaches the conclusion that the accused should be committed for trial or for sentence.

(*b*) At that point the justice or magistrate must decide whether to commit to the Supreme Court or to the appropriate district criminal court.

(*c*) If the justice or magistrate commits to a district criminal court, he commits to the district criminal court established in the district in which he is sitting to be next held not less than 14 days after the committal record is made.

(*d*) If the committal is for a group I offence, he must commit to the Supreme Court; if the committal is for a group III offence, he must commit to the appropriate district criminal court; if the committal is for a group II offence, the justice or magistrate has a discretion whether to commit to the Supreme Court or the district criminal court.

(*e*) In the exercise of his discretion, the justice or magistrate is required to have regard to the gravity of the offence or offences involved, the complexity or otherwise of the evidence tendered, the difficulty or uncertainty of the law involved or likely to be involved, the respective requests (if any) of the defendant and the informant, and the circumstances of the case generally.

(*f*) In all cases of committal, the justice or magistrate is required to make a record of the offence or offences in respect of which he orders a committal and of the court to which the defendant is committed.

I should like to make special mention of new subsection (6) inserted into section 112 by clause 10. This provision contains a helpful machinery provision designed to overcome a practical difficulty that has caused trouble to courts, defendants and the Crown alike. Because of the lateness of some committals and delays in forwarding depositions, the first day of a session is sometimes reached before all informations have been prepared and filed. The absence of an information has been treated as justifying the release of the person committed for trial. The new subsection bridges that gap without in any way derogating from the Attorney-General's power to enter a *nolle prosequi* or to present the person concerned for trial in the ordinary way. Clauses 15 and 16 make consequential amendments to sections 141 and 142, respectively, of the principal Act.

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

JUVENILE COURTS 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.

It makes some amendments to the Juvenile Courts Act that are consequential upon the

establishment of district criminal courts and is to be read as part and parcel of the legislative scheme concerning those courts. The main purpose of this Bill is to ensure the retention of the policy requiring children under the age of 18 years, except in the case of very serious offences, to be dealt with in specially constituted juvenile courts, with special powers to deal with juvenile offenders.

The principal Act was drafted and passed against a background of two levels of courts—the Supreme Court and courts of summary jurisdiction—that had jurisdiction in criminal matters. Under the legislative scheme for the establishment of district criminal courts, a third level of courts is provided for; accordingly, the principal Act must be brought into conformity. There are no changes in the principles or policies of the Act.

Clause 2 brings the Bill into operation on a day to be fixed by proclamation. This will enable all related legislation to come into force on the same day. Clause 3 amends section 5 of the principal Act by including a district criminal court in the definition of "court" and by adding definitions of "district criminal court" and "recorder". The other amendments sought to be made by the Bill are consequential on the proposed legislation providing for the establishment of district criminal courts and the appointment of recorders.

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

POOR PERSONS LEGAL ASSISTANCE 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.

It extends to recorders the powers of a judge in appropriate cases to assign a counsel or solicitor or both for the defence of a person committed for trial for an indictable offence. The Bill is consequential on the proposed legislation dealing with the establishment of district criminal courts and the appointment of recorders for those courts.

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

OFFENDERS PROBATION ACT AMENDMENT BILL (COURTS)

Second reading.

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

That this Bill be now read a second time.

Its object is to confer on district criminal courts sought to be established under another Bill before this Council the extensive and useful powers, given by the principal Act to the Supreme Court and courts of summary jurisdiction, of releasing offenders on probation in appropriate cases. The Bill is consequential on the proposed establishment of district criminal courts. Clause 2 provides for the Bill to be brought into operation on a day to be fixed by proclamation, thus ensuring that all related Bills will become law on the same day. Clause 3 extends the definition of "court" in section 2 of the principal Act to include a district criminal court. Clauses 4 (*a*) and 5 make consequential amendments to sections 4 and 9 of the principal Act. Clause 4 (*b*) makes a formal decimal currency amendment to section 4 of the principal Act.

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

PRISONS ACT AMENDMENT BILL (COURTS)

Second reading.

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

That this Bill be now read a second time.

It makes amendments to the Prisons Act that are consequential upon the establishment of district criminal courts and is to be read as part of the legislative scheme dealing with those courts and providing for the appointment of recorders to preside in those courts. The amendments involve no change in principal or policy but merely extend the provisions of the principal Act to embrace the concepts contained in the legislative scheme of which this Bill is a part.

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

EVIDENCE 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.

It makes a few amendments to the Evidence Act that are consequential upon the establishment of district criminal courts and is to be read as part and parcel of the legislative scheme concerning those courts. Clause 2 brings the Bill into operation on a day to be fixed by proclamation. This will enable all related legislation to come into operation on the same day. Clause 3 amends the definition of "court" in section 4 of the principal Act by including a recorder within its meaning. Clause 4 amends the definition of "judge" in section 52 of the principal Act to include a recorder in relation to proceedings pending before a

district criminal court. The definition relates to Part V of the Act, which deals with bankers' books, and to applications to a "judge" in relation to bankers' books and inspectors thereof. Clause 5 amends section 56 of the principal Act by extending to a recorder the power given by that section to certain named officials of effecting transmissions of certain court documents by electric telegraph.

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

BULK HANDLING OF GRAIN ACT AMENDMENT BILL (QUOTAS)

Adjourned debate on second reading.

(Continued from November 13. Page 2985.)

The Hon. M. B. DAWKINS (Midland): I support the Bill, which is necessary because we are experiencing an over-production of wheat. This over-production arises particularly because of the two good seasons we have just experienced (there was a phenomenal harvest last year, and a somewhat similar harvest is now approaching), which have created records in this State; and particularly because some farmers and even some graziers have been in the habit of getting on the band waggon in recent years and sowing large acreages of wheat, having in mind the first advance of $1.10 a bushel. Large acreages were sown by many farmers in 1968 following the 1967 drought; with almost a double issue of ground prepared, farmers tried to recoup some of the losses incurred in that disastrous drought year. Another factor contributing to the need for the Bill is that marginal, and even in some cases pastoral, areas have been sown to wheat, particularly in New South Wales but also in other States, including South Australia to some extent.

With a large quantity of last year's wheat still to be sold, the Commonwealth Government had to put some limit on the quantities for which it was prepared to pay the first advance of $1.10 a bushel. While perhaps it would be a brave man who would say that $1.10 was an excessive payment, it must be admitted that it has been a major cause of over-production in recent years. I believe that the early payment of $1.10 a bushel had a large bearing on the excessive acreages planted. I draw attention to the fact that the Commonwealth Government has, at the request of the Australian Wheatgrowers Federation, imposed a limit of 357,000,000 bushels on which it is prepared to support the payment of this advance of $1.10, and I underline the fact that this limit is imposed at the request of the federation. The federation subsequently asked the Commonwealth and State Governments to pass legislation designed to implement the quota system.

I agree with the Hon. Mr. Hart that the 45,000,000 bushels allocated to South Australia is a reasonable quota. I do not know that we could say that it was generous, but it certainly is reasonable, because it is not much below the average. Only four or five years ago, when we had a wheat harvest of over 50,000,000 bushels, we thought it was nearly a record, and the 45,000,000 bushels is not much below the average.

The Hon. L. R. Hart: It has been exceeded only five times.

The Hon. M. B. DAWKINS: True; I have noted that it has been exceeded only five times in the history of the State. If we were not having another near-record season, perhaps the 45,000,000 bushels would not have presented so great a problem. However, we know that this year's harvest is estimated at between 65,000,000 and 67,000,000 bushels, and this will create great problems. We must therefore implement the quota system with which this Bill and two other related Bills are concerned. I think every member realizes that, although the quota system is unpalatable to some of us, it is necessary. Unfortunately, there have been some injustices and imbalances in allocating quotas, and I hope these may be ironed out by the special appeals committee to be appointed by the Minister as soon as the necessary legislation has passed through this Parliament. The committee that has made the allocations comprises 11 members, eight of whom are commercial growers. I agree with and make no apology for quoting the Hon. Mr. Hart, who last week said:

> If criticisms are to be made of the quotas allocated, they should be directed to the appropriate representatives on the quota committee rather than to members of Parliament, as suggested by some people. The Government is acting only as an agent for the industry, and if members of the industry, on second thoughts, consider that the legislation recommended is unsatisfactory then it is up to the industry as a whole to come forward and say so. Members of Parliament individually are in no position to interfere with the quota system.

I endorse those remarks completely. Although that is not to say that members of Parliament will not do whatever they can to help a constituent who is in great difficulty. I believe that the present method is to approach a representative on the existing committee, and the method will be to approach the special committee when it is formed. Despite what one or two

people have said, I do not believe that members of the present committee should pass the buck by suggesting that people who have grievances should subsequently go to their members of Parliament. As my colleague has said, the Government is acting as an agent at the request of the industry, and I believe that, if in the first instance a person has a complaint, he should go to his representative on the committee.

This Bill is one of the three Bills that I consider are most necessary to enable the quotas to be implemented. Unlike the other Bills, which deal with the actual setting up of the machinery for the system, it has only one most important clause: clause 2, which enables South Australian Co-operative Bulk Handling Limited to refuse in certain circumstances to receive grain. This is most necessary; if quotas are to be introduced, the receiving authority must have the necessary power to refuse to receive more than the quota allocated. Therefore, as much as I regret the necessity for introducing this type of legislation, I believe that in the circumstances in which we find ourselves the Bill points to the most satisfactory way of dealing with what might otherwise be chaos, and I support it.

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

WHEAT INDUSTRY STABILIZATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 13. Page 2985.)

The Hon. M. B. DAWKINS (Midland): This is one of the other two Bills to which I referred when I said there were three related Bills that were necessary to deal with the present state in which the wheat industry finds itself. I support this Bill, which enables a quota system to be introduced. The Bulk Handling of Grain Act Amendment Bill gave power to South Australian Co-operative Bulk Handling Limited to implement the quota system by authorizing it to refuse to take more than the correct quota from people. This Bill, as I have said, enables the introduction of the scheme.

In clause 3 quotas and quota seasons are defined. Clause 4 amends section 14 of the principal Act and provides that the cost of the quota scheme can be absorbed as part of the normal marketing costs of the industry. In clause 5 the Minister provides that over-quota wheat can be included in the following season's quota but that the quota for that season (presuming it is a quota year which, in present circumstances, we foresee) will be reduced by the amount of over-quota wheat. In clause 6 the Minister has provided for a special price for home sales of wheat not for human consumption. This will be not lower than the export price $1.41 a bushel, I think it is.

The Hon. C. R. Story: That is right.

The Hon. L. R. Hart: It is $1.45.

The Hon. M. B. DAWKINS: The Minister has just told me I was right when I said $1.41, so I shall not argue on that. This is a necessary part of the three-pronged movement to implement this system and rationalize the present wheat situation and so avoid the chaos that would otherwise occur. It is a necessary Bill, and I support it.

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

WHEAT DELIVERY QUOTAS BILL

Adjourned debate on second reading.

(Continued from November 13. Page 2987.)

The Hon. L. R. HART (Midland): Having already spoken on two of the three Bills at present before us dealing with wheat marketing, I find it somewhat difficult to make a further contribution without repeating some of the matters already mentioned. This Bill sets out to endorse in various ways a successful marketing scheme for wheat. The wheat industry marketing arrangements have been the envy of many other primary industries, and the scheme of orderly marketing, together with price stabilization within the industry, has brought economic stability to it. As is always the case when economic stability comes to an industry, others are attracted into that industry, so we have seen some expansion in the wheat industry in recent years. It has taken place in other than traditional wheatgrowing country.

Because of a downturn in the wool industry, we have seen a movement from that industry into wheatgrowing, which has been one reason for the increased wheat production and our present wheat surplus. Coupled with this are increased yields from new varieties of wheat. In addition, we have modern methods of farming, with large machines that can work over vast areas of country in a short time. Other countries have been increasing their production, too, and what were once importing countries are now virtually self-sufficient; in some cases, they are on the verge of being exporters. This has meant a lack of sales for wheat exporting countries, of which Australia is one of the leaders. This, in effect, has meant that we have a large surplus.

It is against this background that the wheat industry has set out to rationalize delivery, and it is hoped to rationalize it, too, in terms of decreased production. It is only by making production balance consumption that the industry can survive economically. This Bill sets up two committees—the Wheat Delivery Quota Advisory Committee and the Wheat Delivery Quota Review Committee. In any quota system anomalies are inevitable. This was recognized by the industry, so it has recommended to the Government that a review committee be set up to hear appeals against quotas allocated by the advisory committee and, if possible, to iron out anomalies.

Two factors make the task of the advisory committee difficult. One is that during the five-year period of averages used to establish quotas there was one extreme drought, in which there was virtually no production, and there were two years with adverse seasonal conditions, thus limiting production considerably. In this situation the five-year average did not reflect a true average production for a particular area, and it is on this score that many of the appeals are being made. Secondly, during the last five years people whose quota cannot be satisfactorily based on the five-year average scheme have come into the industry. Provision is made by clause 23 for a quota for those people who have not been producing wheat during the last five years.

Some people say that these producers are not traditional wheat farmers and, therefore, should not be entitled to a quota. Many producers subjected to this criticism are no doubt farmers with sons whom they have set up in the wheat-growing industry in the last five years with a high capital investment and large overheads who would, if deprived of a quota, be forced into bankruptcy. So there is a case for the provision of a quota for people who have not necessarily been producing wheat during the last five years. It can therefore be readily seen that the advisory committee had a difficult task.

One fact we must not lose sight of is that South Australia has an overall quota of 45,000,000 bushels and an estimated crop of about 67,000,000 bushels. The problem we have to face is how best we can make the quota of 45,000,000 bushels satisfy the needs of the producers of this State.

Many farmers have openly said that they would not reduce their acreage because they thought that they could have a dry year not only this year but perhaps next year and they preferred to grow the wheat when they could. This has posed a problem, because we are having a bounteous year on top of the record harvest of last year. Two factors are concerning farmers: one is their quota wheat, for which they will receive a first advance of $1.10 a bushel, and the other is how they will store their over-quota wheat for which they will receive no payment.

Many producers are saying that greater consideration should have been given to the traditional farmer, the man who has been growing wheat on his property for decades. They believe that the newcomers to the industry should not receive a quota if they were not growing wheat previously. Many of those people have a high capital investment; they have huge payments to meet, and they have no other means of meeting those high commitments other than selling their wheat crop. Therefore, this poses a difficult problem when a wheat quota is being allocated.

The Hon. M. B. Dawkins: Some people receiving assistance under the Rural Advances Guarantee Act come into this category.

The Hon. L. R. HART: True. Many farmers are facing bankruptcy because they cannot market the greater proportion of their present crop. The Murray Mallee seems to be one of the areas most severely affected by the allocation of quotas. The situation there is further aggravated by the admission at a meeting at Waikerie last night that some errors had occurred in establishing some quotas.

I think we are all prepared to admit that some mistakes are forgiveable in such a complex exercise as setting up the present quota system, but this is unfortunate because these mistakes can cause a great lack of confidence in the advisory committee and much criticism of its decisions.

Wheatgrowers in the Mallee area survive only by the good graces of nature, which turns on an occasional bounteous season to compensate for the less profitable ones. When, as in the present instance, further man-made restrictions are imposed on these growers, they are then placed in an impossible position to meet their commitments.

In saying this, I am not being critical of the advisory committee: it has a difficult task. It has spent about two months deciding on the method it will adopt in trying to establish quotas, and obviously it has looked at all the alternatives. However, the facts of life must be faced, and one of those facts is that many people will be virtually forced off their land

because of this situation. It is partly their own doing because of the increased acreages they have been cropping, but I think one can say that it is mainly due to the fact that we have been unable to get sufficient oversea sales.

It appears also that certain anomalies have occurred in the allocation of quotas. Whether these anomalies can be traced to the advisory committee or whether they result from certain factors in relation to the applications of farmers themselves, it appears that some farmers have restricted their acreages voluntarily, in some cases by up to 20 per cent, yet they still have considerable wheat above their quota. We have the other situation where some farmers have not restricted but have increased their acreages, and they seem to have come out with a rather favourable quota. This would indicate that possibly the committee took into consideration not only the five-years' average but also the acreage sown in the current season.

There have been other criticisms suggesting that the people who were on drought relief during the drought period had received rather favourable quotas, considerably more than their five-years' average.

The Hon. M. B. Dawkins: In some cases, more than they actually require, I believe.

The Hon. L. R. HART: In some cases farmers have received a quota over and above their requirements.

The Hon. R. A. Geddes: Will they be giving them back?

The Hon. L. R. HART: The Bill provides that these people are required to hand back their excess quota to the committee. I believe that this is also a necessary requirement, because we cannot afford to have people trading in over-quota wheat. It has been suggested to me that people being assisted by the Development Bank have also received rather favourable concessions with regard to quotas. I imagine that this would be in relation to the development of new country. I do not know whether the committee has taken into consideration the financial commitments of these people. However, these are some of the criticisms that one hears.

I think that in fairness to the quota committee we should commend it for the work it has done. The task it has had to do has been difficult, and I think it has carried it out to the best of its ability. However, whether it has carried it out to the satisfaction of all the wheatgrowers in this State is open to question. In fact, this would be an impossible assignment, because some areas have had more favourable seasonal conditions in recent years than have other areas.

I believe that the Bill is very satisfactory, for it seems to have taken care of most of the contingencies likely to arise. It had to make provision to prevent the sale on the black market of over-quota wheat, and it also had to provide for a review committee to look at the situation and see whether certain anomalies could be rectified.

Most of these reviews will hinge on whether there is sufficient free wheat in the contingency pool. If most of the 45,000,000 bushels has already been allocated, I do not see what effect the review committee can have. It will be most difficult to iron out any anomalies that may exist. There is no question whatever that the industry is in for a tough time, not only for this season but also possibly for next season. However, this will depend to a large extent on the conditions not only in Australia but also in oversea countries.

It is most likely that we will also have a quota season next year, and no doubt this will drive many of the traditional wheatgrowers into other industries. If some of the former woolgrowing areas revert back to woolgrowing instead of continuing with wheat production, this will be a good thing. If many wheatgrowers decide to change to barley growing, we may well find ourselves with excess barley. If we increase wheat production we will have trouble in storing the grain. In other countries the wheatgrower has to provide for storing wheat on his farm. Whilst this method is not satisfactory, nevertheless it is one that the industry in this State will have to face if it continues to increase production.

Another factor that will influence the amount of wheat grown next year is whether the Commonwealth Government will continue the payment of $1.10 a bushel in the coming season. If the Commonwealth Government, in its wisdom or otherwise, decides to reduce this payment or to reduce the quantity of wheat on which payment is made, the acreage sown will be affected. However, in connection with this Bill and the two associated Bills, I do not think Parliament can do much in the present circumstances. The industry has recognized its problems and it has not asked for amendments to this Bill. Therefore, Parliament must be prepared to pass it. I support the second reading.

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

CROWN LANDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 29. Page 2557.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I have already spoken on the Supreme Court Act Amendment Bill, which has passed all stages in this Council except the third reading stage. That Bill establishes a new division of the Supreme Court, the Land and Valuation Court. The only objection I had to that Bill was connected with the abolition of the right of appeal, which objection has now been rectified. This Bill and several other Bills on the Notice Paper relate to the Supreme Court Act Amendment Bill, but in a subsidiary way, inasmuch as these Bills confer the power to refer matters to the jurisdiction of the Land and Valuation Court.

I think, for the purpose of brevity, I should include in my general remarks references to the other Bills, because they are all in a similar category, although it will be necessary for this Council to consider each one separately. What concerns me about these Bills is that they all withdraw cheaper forms of legal proceedings in favour of a more expensive form. Everyone knows that costs in the Supreme Court are on a considerably higher scale (and rightly so) than those in the Local Court, where costs are deliberately kept as low as possible.

I would expect that the Government's general object would normally be to make legal proceedings cheaper to litigants. Indeed, in an earlier session I introduced a private member's Bill, which met the fate of most private member's Bills, that provided that, unless proceedings against the Government were found to be capricious or unjustified, the Government should pay its own costs, because it had its own legal department in any event. My motive was to make it easier for people to establish their legal rights against the Government of the day.

My Bill met some sort of response, because the then Premier said that he was preparing a more comprehensive piece of legislation and that, when he was doing it, he would consider the content of my Bill. Unfortunately, because that legislation has not seen the light of day, I have made no progress. These Bills seem to be going in the opposite direction, because they establish the Supreme Court as the sole court to which persons can go for compensation or for appeals in connection with land valuation, rates, rents, etc. I have no objection to this in relation to those cases that would normally go to the Supreme Court.

The Government intends to establish a specialist jurisdiction, and I can see merit in this, but at the same time it intends to take away the less expensive jurisdiction in connection with comparatively minor compensation cases and cases involving relatively small sums. This seems to be a move in the wrong direction. This Bill amends section 289 of the principal Act, which provides:

(1) All valuations under any of the Crown Lands Acts (except valuations of rents and improvements to be made by the board), and valuations of improvements on resumed miscellaneous leased lands, shall be determined, in case of dispute, by two arbitrators . . .

That is, in my estimation, a cheaper form of procedure than the proposed procedure. In the other Acts that will be affected there is an appeal to a court having appropriate jurisdiction; this court is, in many cases, the full jurisdiction of the Local Court—a less expensive form of proceedings. Because under this Bill the less expensive form of proceedings is taken away, I consider it my duty to mention that in all these instances the Government will be one of the parties. An amendment of this nature, which makes it more expensive for people to establish their legal rights, must act in favour of the Government, because it must discourage people from appealing or measuring whether it is worth while spending all the money involved in an expensive appeal.

In most cases, especially where smaller sums are involved, a person seeking compensation will probably decide that it would be too expensive for him to attempt to assert his rights by appeal. This is not a good thing, and I hope the Government will consider whether an alternative jurisdiction appropriate for the sum involved should not be available. Certain Acts already provide for this. Section 3 (1) of the Encroachments Act provides:

The Supreme Court shall have jurisdiction to hear and determine any application or proceeding under this Act, irrespective of the amount involved.

In other words, a litigant can go to the Supreme Court, whatever amount is involved. However, subsection (2) provides:

The local court of full jurisdiction nearest to an encroachment or a boundary shall, subject to subsection (3) of this section, have jurisdiction to hear and determine any application under this Act relating to that encroachment or boundary.

Subsection (3) provides that a local court of full jurisdiction shall not, except by the consent of both parties, have jurisdiction to make an order for the payment of compensation in excess of a certain amount. I ask the Government in all these cases not to effect the land and valuation court as such but to give an appellant the right to go to the local court, if he so desires and if the amount of the claim is within the jurisdiction of that court, just as he is given the right under the Encroachments Act before any amendment is made to it.

This is not too much to ask; it is giving away nothing but is preserving the rights of a person affected by these various Acts by giving him an alternative and less expensive procedure if he chooses to take advantage of it.

The Hon. R. A. Geddes: Would you have a figure for the other court?

The Hon. Sir ARTHUR RYMILL: It is laid down by the Local Courts Act, which has been amended recently because of the changing value of money.

The Hon. F. J. Potter: It is $2,500 now, and it will be $8,000 when the new district courts are established.

The Hon. Sir ARTHUR RYMILL: I thank the honourable member. If my suggestion is adopted and many of these cases go to the local court, I imagine that the Government might consider having a special branch in that jurisdiction to consider litigation of this nature. Again, it would be easy to do. It would not cost the Government anything extra; indeed, it might cost even less, and it would certainly give people much more opportunity to assert their rights.

I sincerely request the Government, before proceeding with these Bills, to consider establishing an alternative and cheaper jurisdiction for lesser causes. This would apply particularly to appeals against council and water rates which, in the main, come in the lesser categories. It would also apply to much of the more minor land acquisition. It would be wrong not to give people a chance to go to the courts of the land established for the express purpose of giving an individual rights to obtain justice on a less expensive scale of expenses.

The Hon. R. C. DeGaris: You are applying this as a philosophy to all the consequential amending Bills, are you?

The Hon. Sir ARTHUR RYMILL: I have read all the Bills. It applies more particularly to some than it does to others, but in general it applies to all. I have had time to compare this Bill with only the Encroachments Act Amendment Bill and the Highways Act Amendment Bill, but certainly the philosophy applies to those three. However, on reading the other amending Bills and their second reading explanations, I think it would apply to all of them. I ask that, before proceeding further, the Government consider my representations.

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

ENCROACHMENTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 29. Page 2557.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading. The matter raised by the Hon. Sir Arthur Rymill has concerned me, too, because this Bill and the others consequential on the passing of the Supreme Court Act Amendment Bill refer jurisdiction to the new court. It seems to me that some of these Bills deal with comparatively minor matters that until now we have seen fit to entrust to a board, to arbitration, to a special magistrate or to the local court. Like the honourable member, I would not like to see the costs involved in this kind of application suddenly skyrocketing because, after all, the applicant will be the person affected.

There could be a way out of this problem, however, and I trust that the Government will consider it. The question of costs depends largely on what rules of court are made under the main Act. Such rules will fix the fees and court costs payable for particular types of application, and the fixation of costs will ultimately be dealt with by the court.

When we were considering the main Bill, an amendment was added at my suggestion. Under the rules of court, certain delegated parts of the jurisdiction of the new Land and Valuation Court can be exercised by the Master sitting as a registrar. This might be one way to overcome the problem raised by the Hon. Sir Arthur Rymill: namely, that if the Master is registrar under the delegation of power that will be given to him he can exercise the present jurisdiction of, say, the local court. I think this will go a long way towards dealing with the problem. The Government has not indicated, except in a general way, that this is contemplated, but I urge that it give some consideration to the matter and, perhaps, an undertaking to this effect.

I do not know that I entirely agree with the Hon. Sir Arthur Rymill's statement on

the previous Bill that the processes of arbitration can be less costly than court proceedings. I have had limited experience of arbitration, but I know that most members of the profession fly away rapidly from any prospect of arbitration. That is because it is first necessary to select an arbitrator and then pay him, whereas parties to a court action do not have to pay a judge. In certain circumstances arbitration may be cheaper than a court action, but it is little used in this State despite the fact that an Act provides for it; I think that is sufficient indication that it is not as inexpensive as one might think.

The Hon. S. C. Bevan: A litigant should have the right to go to a lower court rather than to the Supreme Court or an intermediate court.

The Hon. F. J. POTTER: Of course, and that is the point raised in this and the previous Bill. In the previous Bill we were speaking of arbitration, but in this case it is possible to go to a lower court. If a lower jurisdiction up to the jurisdiction now provided for the local court is provided for the registrar of the proposed new court, I think this will help solve the problem, provided that costs follow the schedule of costs applying in the local court.

It may be said that it is a little more costly to pay counsel to appear in the Supreme Court or in any of its branches than to appear in a local court. I suppose that is generally accepted, but it would not always be so, because costs depend mostly on the complexity of the issues involved. Sometimes the issues decided in a lower court can be just as complex as those in matters before a superior court.

However, I urge the Government to consider the matter raised by Sir Arthur Rymill. I support his comments, and I think the Government should indicate how, as a matter of administrative practice, it intends to deal with this problem. I support the Bill.

The Hon. Sir ARTHUR RYMILL secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL

In Committee.

(Continued from November 13. Page 2984.)

Clause 23—"Points demerit scheme."

The Hon. R. A. GEDDES: Owing to the illness of the Hon. Sir Norman Jude, who proposed moving a further amendment, on his behalf I move:

In new section 98b (11) to strike out all words after "trifling" and insert "or that any other proper cause exists, it may order that no demerit points or a reduced number of demerit points be recorded against the convicted person in respect of that offence".

This will mean that not only may a person appeal to a court if he considers his offence trifling but he may also present an argument to that court that a proper case exists for a reduction in demerit points. A man telephoned me last night and asked my advice on a hypothetical case. This man lives on the land, his wife is sick, and he said, "My wife cannot drive; I live 25 miles from the nearest doctor; how would I get on if I lost all my points?" I believe such a person should be able to present evidence to a court, which should consider not imposing the maximum number of demerit points.

The Hon. Sir Arthur Rymill: Is that not covered, in part, by new subsection (16)?

The Hon. R. A. GEDDES: In part, yes. Without this amendment the court may, if evidence is given on oath that the offence is trifling, not award demerit points. It is only in connection with "trifling" that the court can do it.

The Hon. F. J. Potter: The court does not award points, does it?

The Hon. R. A. GEDDES: That is correct. As the Bill stands, a court may, if it considers an offence trivial, issue a certificate and no demerit points will be awarded against a defendant. The amendment adds words that give the court power to order that no demerit points shall be awarded. The Minister has on file an amendment to the amendment I have moved on behalf of the Hon. Sir Norman Jude; it is to strike out "or a reduced number of demerit points". Therefore, I ask leave to amend the amendment by striking out "or a reduced number of demerit points".

Leave granted.

The Hon. C. M. HILL (Minister of Roads and Transport): The Government supports this proposal. It will now not be necessary for me to proceed with my amendment. The Government originally did not intend to give the court the opportunity to order that no demerit points should apply to any offence: it intended only that the court should give a certificate when, in its opinion, the offence was trifling. However, as certain words have been removed from the amendment, it is now a satisfactory compromise.

The Hon. F. J. POTTER: I support this amendment, which goes further than the original one. Some honourable members may be a little confused about what administrative

method will be adopted. I foresee that, as it is first necessary to obtain a conviction for an offence before the question of demerit points can arise and as it is the function of the police to lay a charge in the first instance, in a traffic offence the police will lay a charge and a summons will be served on the defendant. The matter will be heard by the court, which will in appropriate cases record a conviction. The court will then inform the Registrar of the name and address of the person concerned and the conviction recorded. Where it grants a certificate of triviality, nothing will pass on to the Registrar.

Amendment, as amended, carried.

The Hon. C. M. HILL moved:

In new section 98b (16) to strike out "it" second occurring and insert "the court or magistrate".

Amendment carried.

The Hon. A. F. KNEEBONE: When I was in Western Australia recently, concern was expressed that the public had not been told that, when each licence was renewed, the number of demerit points would appear. It was thought that this was not right, as it would influence traffic inspectors and policemen when dealing with people who might have breached the law; as soon as they saw a licence with some demerit points recorded on it, it would affect their unbiased approach. Is this intended to be the case in South Australia? I ask the Minister to consider this point, because I do not think that that is right and proper.

The Hon. C. M. HILL: I thank the honourable member for raising this point. We do not intend what he suggests happens in Western Australia, that the demerit points score will be marked on a new licence when issued. That will not be done.

Clause as amended passed.

Clause 38—"Enactment of Third Schedule to principal Act."

The Hon. S. C. BEVAN: Having considered this matter carefully, I still do not like the omission of the word "maximum" because it will mean that it will be mandatory for the Registrar to award the number of points specified. The Minister said that these would be the minimum points. That would make it worse, because the Registrar would have a discretion to award the minimum points or more. He could say, "You do not seem to have learnt your lesson. Instead of awarding three points against you, I shall award six." Some of these points appear to be high and others not. Some matters are not dealt with—for instance, unroadworthy vehicles, which can be more dangerous and cause more accidents on the roads than drunken driving. If a person is ordered to make his vehicle roadworthy and fails to do so, no points will be awarded against him. If this Bill becomes law, each State will be operating a different points demerit system. The Minister has told us that drivers from other States will not be affected by the legislation. I wonder whether the same thing will apply in other States with regard to tourists from South Australia and elsewhere. Apparently, there is to be no reciprocal arrangement.

The Hon. R. C. DeGaris: But that could be arranged, couldn't it?

The Hon. S. C. BEVAN: It probably would be better it it could be. Our own drivers will be bound by this legislation, but apparently a driver from another State can break every one of these rules and not be affected. The Bill introduced in the Victorian Parliament on November 11 has a schedule showing the various offences that carry demerit points, and it is interesting to compare the various breaches that carry points and the number of points compared with our proposed system. I believe that the number of points for offences in Victoria, some of which are serious, is light compared with the points under our system. Causing death by negligent driving in South Australia carries a penalty of six points. This offence is not mentioned in Victoria; the nearest to it there is "careless driving", which carries a penalty of two points.

The Hon. R. A. Geddes: What is the number of points before a driver loses his licence in Victoria?

The Hon. S. C. BEVAN: The same as here: 12 points in three years. However, the Victorian Bill differs from this Bill, for if a driver has 12 points debited against him within 12 months he loses his licence for six months.

The Hon. C. M. Hill: In other words, it is tougher than ours, as I said before.

The Hon. S. C. BEVAN: In that respect it is. However, I suggest that if a driver amasses 12 points within 12 months he deserves to lose his licence for six months. If a driver in Victoria amasses 12 points within three years, he loses his licence for three months, so over this three-year period the Victorian system is the same as our proposed system. However, I think Victoria lists only about half the points-carrying offences that we propose here.

The Hon. F. J. Potter: Doesn't a Victorian driver get debited with one point for any offence at all?

The Hon. S. C. BEVAN: Where a successful prosecution takes place, the driver is debited with one point. The driver of a vehicle transporting more than 450 gallons of flammable liquid who fails to stop at a railway crossing is debited, on conviction, with four points, and the driver who fails to stop and render assistance after an accident gets three points. For careless driving, a driver in Victoria is debited with two points. What amazes me is that the offence of being drunk in charge of a motor car carries a penalty of only three points.

The Hon. R. C. DeGaris: The offence of careless driving carries a penalty of three points, the same as here.

The Hon. S. C. BEVAN: The point I am trying to make is that the offence of causing death by negligent driving is not listed in Victoria; the nearest approach to it is "careless driving", which carries a penalty of three points.

The Hon. R. C. DeGaris: These are not included in the Victorian Bill because they are covered by Statute.

The Hon. S. C. BEVAN: That is so. A person in Victoria convicted of racing up and down a highway receives a penalty of three points.

The Hon. R. C. DeGaris: That is the same as here.

The Hon. S. C. BEVAN: This is a serious offence, seeing that our aim is to prevent accidents. The most a driver can lose in Victoria is four points. The difference between the Victorian Bill and our Bill is that if a driver in Victoria amasses 12 points within 12 months his licence is suspended for six months.

The Hon. C. M. Hill: What point is the honourable member trying to make?

The Hon. S. C. BEVAN: My point is that not sufficient consideration has been given to the allocation of points in our schedule. I am rather amazed at the number of points a driver here can lose compared with the number of points one loses in Victoria.

The Hon. R. C. DeGaris: They are very similar.

The Hon. S. C. BEVAN: I would rather be convicted for many of the offences in Victoria than be convicted for those offences here.

The Hon. R. C. DeGaris: Which one?

The Hon. S. C. BEVAN: Many of them. The conviction for any offence in Victoria not listed in its schedule carries a penalty of one point. However, we are listing many more offences than is Victoria.

The Hon. F. J. Potter: We haven't got a blanket provision like that, have we?

The Hon. S. C. BEVAN: No, but some of these offences in Victoria are quite serious. I oppose the schedule in its present form because further consideration should have been given to the scale of demerit points and to points demerit schemes in other States. There should be a reciprocal arrangement.

The Hon. R. C. DeGaris: This cannot be done.

The Hon. S. C. BEVAN: If a motorist has demerit points recorded against him in Victoria, the South Australian Registrar should be notified.

The Hon. C. M. Hill: For such a procedure to be introduced, the schemes would have to be uniform.

The Hon. S. C. BEVAN: Would that be so hard? In the past we have heard much from Liberal and Country League members about uniform legislation. Now that we are considering a Bill dealing with the very important matter of road safety, surely the need for uniform legislation is particularly great.

The Hon. R. C. DeGaris: You cannot have uniform legislation because the Acts in the various States are different.

The Hon. S. C. BEVAN: In the other States the penalties for breaches of Acts dealing with road traffic matters are more or less similar to the penalties in South Australia. Consequently, I do not think it would be very difficult to have uniform points demerit schemes. I do not see why a motorist from another State should go scot free while South Australian motorists have demerit points recorded against them.

The Hon. C. M. Hill: A motorist from another State who commits a traffic offence in this State will be convicted by our courts.

The Hon. S. C. BEVAN: Yes, but he does not have demerit points recorded against him. Unroadworthy vehicles should be provided for in the schedule. Some vehicles on our roads have been brought from other States because they cannot be put on the market there.

The Hon. R. C. DeGaris: You can move amendments quite easily.

The Hon. S. C. BEVAN: At this stage I am not prepared to do so, because insufficient consideration has been given to the schedule.

The Hon. R. C. DeGaris: You have the opportunity.

The Hon. S. C. BEVAN: At this stage I am inclined to vote against this new clause.

The Hon. A. M. WHYTE: I agree with some of the points made by the Hon. Mr. Bevan. Some parts of the schedule are rather hard to follow. For instance, four demerit points will be recorded against a motorist who passes a "stop" line or enters a pedestrian crossing while a "stop" sign is being exhibited. However, the same number of points is provided for the dangerous practice of passing a vehicle stopped at a pedestrian crossing to give way to a pedestrian. Surely this offence, which is ten times more serious, should carry more demerit points. I voted against the Bill earlier because it did not contain a schedule. I am happy that it now contains one, but I agree with the Hon. Mr. Bevan that more consideration should have been given to it.

The Hon. R. C. DeGaris: You have had it for a fortnight.

The Hon. A. M. WHYTE: Not the schedule.

The Hon. R. C. DeGaris: Yes, you have.

The Hon. A. M. WHYTE: The Hon. Mr. Bevan referred to the number of offences in the schedule. Because Queensland's points demerit scheme has 22 offences, whereas ours has 49, its scheme seems to raise less controversy than does the scheme in any other State. I hope the Bill achieves what the Minister has worked so very hard to achieve.

The Hon. C. M. HILL: First, I will deal with the point made by the Hon. Mr. Whyte, the Hon. Mr. Bevan and some other honourable members that the list of offences in the schedule is much longer than is the corresponding list in other States. The Western Australian scheme has 20 headings, compared with 49 in our scheme. The "give way" offences are in one section of the Western Australian Act, whereas our Road Traffic Act spells out the "give way" offences in five sections, each of which is shown in our scheme. Similarly, speeding is covered by two sections of the Western Australian Act, whereas in our Road Traffic Act speeding is dealt with in 10 sections, each of which is shown separately in our scheme.

Whilst this makes our scheme seem more detailed, the actual number of offences is, generally speaking, no greater than in any other State with a points demerit scheme. So, if we summarize each State's scheme under the headings "Excessive Speed", etc., we find that they all come out about the same.

The Hon. Mr. Bevan said that we had not done enough homework in preparing the schedule. I have already said, and I repeat because of his accusation, that much time was devoted to its preparation. The matter was referred to an expert committee comprising members of the police force, the Registrar of Motor Vehicles and representatives of the Royal Automobile Association of South Australia. If the honourable member thinks that he can do better than the committee did, I should like to hear some suggestions from him.

Despite what is commonly believed, unroadworthy vehicles are not a great cause of accidents in this State. The police have power to place "defect" notices on such vehicles, and they also have power, which they exercise, to go into used car yards and place such notices on vehicles.

The Hon. A. J. Shard: That is one good thing we did.

The Hon. C. M. HILL: It is good legislation, but apparently the honourable member's colleague has forgotten that it was introduced during his Party's rather short term of office. The schedule was drawn up on the principle that the offences mentioned therein are the most accident-producing offences. True, that might not be the case in Victoria or Western Australia, but statistics have proved that under local conditions these are the most accident-producing offences, and it is these at which we are aiming.

The Hon. Mr. Bevan said that the schedule could be improved. I should like to hear his suggestions in this respect. The schedule was distributed to honourable members on October 23, which is just over one month ago. Since then honourable members have had time to peruse and assess it.

The Hon. S. C. Bevan: Who gave it out?

The Hon. C. M. HILL: The Chief Secretary, when he spoke on the Bill. Prior to that I had advertised it in the press. The Government is concerned for all people and, as I wanted them to give me their comments, we gave the matter maximum publicity. I should like to know what the honourable member's proposals are to improve it.

The Hon. S. C. Bevan: I could easily improve it.

The Hon. C. M. HILL: I am prepared to give the honourable member time to do so. However, I believe he is merely trying to delay the matter. I have given him an opportunity to make suggestions, but he has merely referred to unroadworthy vehicles. I think the honourable member believes that the schedule is splendid.

The honourable member should realize that there cannot be a uniform system in all States unless they each start off from scratch. Victoria based its schedule largely on many of the principles contained in our legislation. Indeed, Victorian members often telephoned me to discuss the matter before their Bill was prepared. They wanted to know what we were doing and, to a certain degree, their measure has been prepared along the same lines as our legislation. This is a compliment to us and to the officers of whom the honourable member is so critical in saying that the schedule is not satisfactory.

Clause passed.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 13. Page 2992.)

The Hon. G. J. GILFILLAN (Northern): I speak to this Bill with some misgivings. I spoke strongly against the Bill introduced last year to establish and provide terms of reference for an electoral commission, and the Bill before us is the result of evidence taken by the commission and of the report tabled by it in this Council. I do not criticize the electoral commissioners, because I believe they have done an excellent job within the terms of reference contained in the Bill passed last year, which I think caused many members and people outside Parliament misgivings because of the possible future representation they may have in this Parliament.

I refer particularly to the big difference in representation between country and metropolitan areas and, more particularly, between rural areas and the metropolitan area and the larger country cities. Under the proposed redistribution there will be 28 metropolitan seats and 19 country seats, but four of the latter are not in rural areas and are concerned mainly with city interests.

However, I am more concerned with the direct contrast between country representation as a whole and representation of the metropolitan area, because there is some community of interest between large country cities and the rural areas surrounding them. It has been argued that metropolitan and country districts are dependent upon one another, and I believe that to be true. However, there is direct competition between the developed areas and those areas still in need of help for available funds and amenities.

Experience shows that public funds naturally flow towards the areas with greater centres of population. In almost any large centre of population the ordinary amenities of life are taken for granted: the standard of education, the qualifications of teachers, hospital facilities, amenities such as electricity, sealed roads, kerbing, sewerage, and all amenities that go to make life pleasant, as well as those necessities that help to make industry and enterprise more successful.

All of these things are accepted as a natural course of events within large centres of population, whereas many rural areas are still fighting for even the most elementary facilities: many do not have sealed roads and electricity has still to go a long way before it covers all areas of the State. It is becoming increasingly difficult in many country areas to maintain education, hospital and, particularly, medical services. The better facilities in the larger centres of population are tending to attract medical officers and others who serve the community, and they are tending to drift to these larger centres so that their families can enjoy the amenities provided and their children can be educated with a minimum of expense and effort.

I believe that the time has surely come when our electoral system and electoral distribution should be revised, but this Bill goes much further than that. It provides for a complete reversal of previous representation principles. If it is passed, an overwhelming number of members will represent metropolitan areas. This could mean that, if a Labor Government were elected under the proposed redistribution, that Government might not contain one rural representative. This would mean that the rural population would have no voice in shaping Government policy, and I believe that that is a retrograde step affecting not only the interests of the people of the State but also the interests of the State itself.

I believe that democracy, a word used frequently in connection with electoral redistribution, should go much deeper than the ballot box. It has to work within our Parliamentary system and in the interests of the people of the State. In the framing of this Bill, too little notice has been taken of the interests of the community as a whole.

I believe that, as well as taking population into account, we should always take into account the needs of the State and of the large areas served by single members. It is most disturbing, almost ludicrous, to find that most of the metropolitan districts will consist of an area of about two or three

square miles. That is almost unbelievable to members representing much larger districts. For example, in outback areas, as the Hon. Mr. Whyte would know, an area of two or three square miles would not be the size of one small paddock. Therefore, I believe too much emphasis has been placed on population and not enough has been placed on the interests of the State or on the area that must be served outside the main centres of population.

This Bill has been introduced as a result of years of debate on electoral representation in South Australia, and it represents a compromise of the electoral speeches of the two Leaders in the House of Assembly. As I recall, the L.C.L.'s political platform originally involved 43 seats, which later grew to 45 and ultimately, before the Bill was introduced, to 47. Although the Hon. Mr. Kemp suggested that the State did not want more members of Parliament, I am arguing not against that point here but, rather, against the point that 28 of the 47 members proposed will represent a few square miles, the huge remainder of the State to be covered by 19 members.

The Hon. M. B. Dawkins: Most of it will be covered by 15 members.

The Hon. G. J. GILFILLAN: True. It is regrettable that the rural areas should be intended to have so little representation. There is the popular catch-cry of one vote one value by those who do not stop to think of the real issues at stake. One vote one value is A.L.P. policy, and undoubtedly the Bill is a result of a compromise in this direction. I am not surprised that the measure is supported by Opposition members, because they are gaining something towards their policy.

There is a noticeable lack in the Bill of provision whereby women are entitled to vote for members in the Legislative Council. Much lip service is paid to providing electoral reform, and this matter, which should naturally flow from other statements made on electoral reform, during the 1968 election campaign should have been considered in the Bill. The women of the State share an equal responsibility in many fields but are disfranchised, largely because of the peculiar position in South Australia regarding property ownership. I believe that the commission's recommendations are probably the best that could have been made under its terms of reference. In the proposed redistribution, the five seats in the Legislative Council are much different in outline from those under the existing Act.

The Hon. M. B. Dawkins: Would you agree that the commission was unable to observe the instruction to alter boundaries as little as possible?

The Hon. G. J. GILFILLAN: I believe the commission did an honest job of defining the boundaries under the rather difficult terms of reference it received. Indeed, the commission was given an almost impossible task of defining the boundaries. Bearing in mind the proposed 28 metropolitan and 19 country seats in the House of Assembly, we have had in the past some balance to this proposal through the representation in the Legislative Council. But we now find that only one of the five new Legislative Council seats will be a true country seat, two of the remaining four being wholly metropolitan seats and the other two becoming increasingly dominated by the expanding metropolitan area. I believe that these points are not emphasized in newspapers circulating throughout the State. Those representing country areas who have studied this matter in depth are most concerned about these proposals.

The Hon. R. C. DeGaris: They haven't the chance to protest.

The Hon. G. J. GILFILLAN: True.

The Hon. S. C. Bevan: You had a chance at the last election.

The Hon. G. J. GILFILLAN: Unfortunately, the voice of those concerned with non-metropolitan districts is becoming smaller in Parliamentary representation, and this is a retrograde step concerning the future interests of the State. I once heard an interesting talk given by a person who had had considerable experience in decentralization not only in Australia but in several oversea countries and who had seen many attempts to bring about true decentralization. However, there is throughout the world an increasing move towards centralizing population, with the result that areas outside the larger centres of population are fighting to hold what they have rather than to receive any substantial increases in numbers. This person believed from the experience he had gained that the only true way to hold population in the more remote areas or the areas outside the main centres of population in South Australia was to have as much decentralization of authority as possible.

That is the very root of the problem facing a State with our population distribution, where we have a large concentration of population in the metropolitan area and smaller concentrations in three or four country cities, the remainder of the State being sparsely populated.

I fear for the future of any State or country that follows the principles outlined in this proposal. I will support the second reading of the Bill to enable it to get into Committee, where I understand some amendments may be moved, and reserve my right for a final vote on the third reading.

The Hon. Sir ARTHUR RYMILL moved:

That this debate be now adjourned.

The Council divided on the motion:

Ayes (13)—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill (teller), 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 9 for the Ayes.

Motion thus carried; debate adjourned.

CORONERS ACT AMENDMENT BILL

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

CRIMINAL INJURIES COMPENSATION BILL

Adjourned debate on second reading.

(Continued from November 13. Page 2993.)

The Hon. H. K. KEMP (Southern): I do not wish to speak at great length on this Bill, but some points should be put forcibly before the Government. I do not think anybody in the community will not accept the principle behind and the need for the Bill. My doubt is whether the compensation promised to people injured by criminal acts (often when they are assisting the police to do their duty, and sometimes of their own volition when protecting people) is sufficient. A limit of $1,000 is placed on compensation payable as damages to a person injured in this way.

I recall a recent incident in our own community of a young man, barely 21, being reduced to complete helplessness through fractures to the cervical vertebrae. He will for the rest of his life be completely helpless in a wheelchair. In those circumstances, $1,000 is more of an insult than a help. This young man was injured when he went to the assistance of people who had been wantonly assaulted at a dance in the neighbourhood. There is no doubt that his action was most courageous.

What was in mind when this Bill was drafted were the comparatively minor injuries that are so often the lot of people who get in the way of a person running berserk, but this must cover not only severe and permanently disabling injuries such as I have described as actually having occurred in the last few months but also death, which can always happen in these cases.

At the other end of the scale, $100 is laid down as the point of eligibility for compensation when a person is tried and no conviction is recorded. I agree with the Hon. Mr. Banfield here that this seems to be most unfair. If there has been an injury of any kind that merits compensation, there should be no upper or lower limit, within reason.

Turning to the Bill itself, I see difficulty in the matter of definition. I am rather worried about the definition of "injury", which is as follows:

"Injury" means physical or mental injury sustained by any person, and includes pregnancy, mental shock and nervous shock.

I wonder whether "mental shock" and "nervous shock" would be defined as a layman would define them or as the medical profession would define them. I think there is real need to look closely at this, because I consider that it could lead to many claims by neurotic people. These two states of shock should be very clearly defined.

The matter is tied up in clauses 4, 5 and 6 in a tremendous amount of verbiage, and these clauses have to be read many times before their exact meaning becomes clear. We must look closely at them to get the full meaning or the shades of meaning that are implied.

I do not think anyone will grumble at the principle or the aim of the Bill. However, there is good reason to think that the scale is much too low and the conception of it too superficial. I think the scale should be set more or less on the scale that has operated for so many years under the workmen's compensation legislation, for this is more or less comparable legislation. The scale that has been worked out under that legislation is just and is certainly far above what is laid down in this Bill. With those few remarks, I support the Bill but reserve the right to comment further in Committee.

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

ELECTORAL ACT AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments Nos. 1 to 9, to which it had disagreed.

The Legislative Council granted a conference as requested by the House of Assembly, to be held in the Legislative Council conference room at 7.45 p.m., at which it would be represented by the Hons. S. C. Bevan, G. J. Gilfillan, C. M. Hill, C. D. Rowe, and A. J. Shard.

[*Sitting suspended from 5.44 to 7.45 p.m.*]

At 7.45 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 11.47 p.m. The recommendations were as follows:

As to amendments Nos. 1, 2 and 4: That the Legislative Council do not further insist on its amendments.

As to amendment No. 3: That the Legislative Council insist on its amendment and that the House of Assembly do not further insist on its disagreement thereto. That the Legislative Council make a further amendment to the Bill on page 5, line 36 (clause 19) by inserting after "years" the passage "or any person who is an elector of the Commonwealth", and that the House of Assembly agree thereto.

As to amendments Nos. 5, 6, 7, 8 and 9: That the Legislative Council do not further insist on its amendments but make the following amendment in lieu thereof:

Page 8 (clause 25)—Leave out lines 10 to 37 and insert in lieu thereof the following:

25. Amendment of principal Act, s. 86—preliminary scrutiny of postal ballot-papers. Section 86 of the principal Act is amended—

(*a*) by striking out the passage "subsection (2)" and inserting in lieu thereof the passage "subsection (4)";

(*b*) by striking out paragraphs (*a*) and (*b*) and inserting in lieu thereof the following paragraphs:

(*a*) examine the signature of the elector or the authentication on each postal vote certificate and examine the signature of or the authentication in respect of the same elector on the application for that certificate and allow the scrutineers to examine such signatures or authentications:

(*b*) if he is satisfied that the signature on the certificate is that of the elector who made the application or that the authentication on the certificate relates to the elector in respect of whom the application is authenticated as the case requires and if he is also satisfied that the envelope bearing the certificate—

(i) was received by him, any returning officer, any assistant returning officer or any presiding officer prior to the close of the poll;
or

(ii) bears a post mark disclosing a date not later than the polling day

accept the ballot-paper for further scrutiny but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it was contained:

and that the House of Assembly agree thereto.

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

I thank honourable members for the confidence they displayed in the managers by inviting them to attend on their behalf, and I thank the managers for the earnest manner in which they applied themselves to the work during the rather long and trying conference.

In our discussions in the conference, three main issues were involved, and I think I can explain these generally in the order of importance as the managers viewed the situation. First, there was the question that dealt with the illiterate voter and our amendment to try to extend that voting right to others. Secondly, there was what I call the age question in which this Chamber wanted witnesses to be 21 years of age whereas the other House wanted the age reduced to 18 years. The third and most important issue was (I am speaking in general terms) the requirement of this Chamber that postal voting papers be received for seven days after polling day, the other House contending that they should be in no later than the actual polling day.

Negotiations proceeded, and in regard to the illiterate voter the managers from this Chamber yielded. Regarding the age question, the House of Assembly agreed to the provision for the age to be 21 years but asked that any Commonwealth elector should also be included. That covered the situation of servicemen who were under 21 and who had the right to vote, and we thought that was reasonable.

In regard to postal votes, the other House agreed to the seven-day period but asked that any postal voting envelope which was received during that seven-day period but which was franked later than the polling day ought not to be accepted by the returning officer and, secondly, that any postal voting paper handed in by the elector after the polling day ought not to be received or allowed by the returning officer. To those conditions our managers agreed. The amendments give effect to these matters, which I have explained in broad principle, and I ask the Committee to accept them.

The Hon. G. J. GILFILLAN: I support the motion. The relevant section of the Electoral Act is section 86, which was repealed by the Bill as it came to this Chamber and which has been reinstated by these amendments. The first part of section 86 contains the following words:

. . . received by him up to the end of seven days immediately succeeding the close of the poll or received up to the close of the poll by any other returning officer or any assistant returning officer or presiding officer in pursuance of subsection (2) of section 81 . . .

This provision must be considered in connection with the amendments now before the Committee. The negotiations took some time, and the Legislative Council managers held firmly to the principle that an elector who has voted should have that vote considered. The point has been made in debate here that the prime purpose of an election is to find out the will of the people, and the managers from this Chamber considered that, particularly as some post offices close on Saturdays, to require all postal voting ballot-papers to be in the hands of a returning officer by the close of poll on a Saturday would disfranchise voters who could not comply, through no fault of their own but because of delays in the post or because of sickness.

Our managers persisted in this point of view until ultimately the Assembly managers proposed the amendment now before the Committee. The final decision is still left with the returning officer. Proposed clause 25 (*b*) provides that the matter of allowing the franked ballot-paper received is still left to the discretion of the returning officer. This amendment does not fully cover the objections raised in this Chamber, in that many post offices now close on Saturdays and the number may increase until all are closed. This would mean that a vote, to be franked, would need to be in a post office on the Friday immediately preceding the poll.

However, on due consideration of all factors, it will be realized that probably this would apply to only a small minority of those who had voted by post and, as this Chamber desired that an elector have the right to have his or her vote counted, and also keeping in mind the need to minimize improper practices as much as possible, I consider that the amendment is satisfactory.

[*Midnight*]

The Hon. H. K. KEMP: Because it is far too late tonight to make a decision on a very important point affecting the government of this State, I move:

That progress be reported.

The Hon. H. K. Kemp's motion negatived.

The Hon. C. M. Hill's motion carried.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 13. Page 2994.)

The Hon. H. K. KEMP (Southern): We must consider many important matters in connection with this Bill. It sounds very easy simply to regulate oil tankers working along the Australian coast, but much more is involved in this matter than most people realize. It is terribly important that we know what is involved in this Bill.

Honourable members are talking right around the Chamber at present, but do they realize just what is involved in the pollution of waters? I do not think they do because, if they did, they would be paying much more attention. Superficially, this Bill deals with oil tankers working along our coastline. Such tankers may lead to a disaster like that in which the *Torrey Canyon* was involved in the English Channel. This is something that nature can deal with.

The damage done when the *Torrey Canyon* ran on to the rocks off Land's End was done not by the oil that flowed from the tanker but by the people who poured so much detergent on to the oil and who dropped many fire bombs on to that tanker to try to get rid of it.

This is the silly and curious thing that is happening every day. We come up against people who think they have the answer, people who have come out of the university and say that they have the answer to every question that comes forward, but in every case they let us down badly.

This Bill is simple, clean, and thoroughly worth while. As it will control the dumping of oil, and putting water into a tank which has been carrying oil and which can be dumped at sea, it will save the immediate pollution of our beaches, but oil as it comes from oil wells can be dealt with by nature. It can make a mess for a time but without much delay nature will look after the horrible pollution that can be caused by oil. People do not realize this, and think that, when they get their hands dirty from oil when tinkering with a motor car, the mess cannot be dealt with. However, natural oils as they come from the oil wells do not contaminate nature for a long time. When we pour detergents on

it to get rid of it and when we send it in ships that suddenly and accidentally release large quantities of oil, we think that these situations have to be controlled, but that is wrong.

Undoubtedly, natural oils from wells can be dealt with. For a short time oil, when floating on the surface of the water, places our natural fauna in jeopardy: it will sink seagulls, shags and other birds that float on the surface and cause them dire trouble, but while the oil is lying on the surface of the sea it does little or no damage to the many organisms lying below the surface. It may cause them to be short of oxygen but, in a surprisingly short time, the oil that is floating on the surface is broken up, oxidized, and turned into completely harmless combinations. When we try to solve the problem of anyone who has spilt oil on water and is faced with a large fine, as provided in the Bill, there is danger involved to a larger group of organisms.

The usual result of mistakes that have been made at Port Stanvac, when any oil has been released accidentally, is to send out boats with jets of chemical substances that will emulsify the oil, causing it to sink below the surface, where it will not be so much trouble. The danger is that, when we dispose of oil in this way by emulsifying it and turning it into something that looks harmless, we are doing so much more damage right down to the bottom of the sea. This must be considered. When the *Torrey Canyon* disaster occurred in the English Channel, it would have been better to let that oil float up rather than do what was done—take the detergents and these active chemicals and spray them on the water with the idea of hiding the mistake.

There is no doubt that nature can deal with the hydrocarbons it has evolved and stored. It is when we cart them around in big ships and make mistakes in our navigation that they become menaces to ourselves, to wildlife, and to the whole system of life as we know it. I do not doubt that this is a clean Bill, which does not lend itself to any great criticism, but this question must be emphasized: are we doing the right thing by just taking the easy way out? I am sure we are not and that much more responsibility must be taken. We can ask a ship's captain to do the impossible, to submit forms and returns all the time, but we must look at the other side and realize that it is not good enough merely to avoid responsibility. We must examine the way in which these owners, agents and masters can solve the problems created by legislation like this. They can submit returns within (a curious term I have found in this Bill) "one marine league" of the South Australian coast. Beyond that distance they need not comply with any legislation we pass here.

I do not know what "one marine league" is; it is a phrase we do not often encounter. Beyond that limit they can do what they like. This is necessary legislation, but we must use common sense. When we impose restrictions on people who are carrying large quantities of oil near our coastline, we must assume responsibility or we shall not be able to use our beaches and enjoy surfing or swimming in the sea.

When a responsibility is put on people through ambiguous legislation, there can be much greater danger. Oil must be released at times, and much more damage can be done by detergents, which are much longer lasting chemicals, than by D.D.T., etc., which is being heresied at the moment. It is 12.15 a.m., and I should like to carry on with this subject for a long time because there is much to be said that should be put before the public. However, I think the best thing I can do at this stage is to ask leave to continue my remarks.

Leave granted; debate adjourned.

ADJOURNMENT

At 12.17 a.m. the Council adjourned until Wednesday, November 19, at 2.15 p.m.