LEGISLATIVE COUNCIL

Wednesday, November 26, 1969.

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

QUESTIONS

PORT NOARLUNGA DOCTOR

The Hon. S. C. BEVAN: I seek leave to make a short statement prior to asking a question of the Minister of Health.

Leave granted.

The Hon. S. C. BEVAN: Last night I had the opportunity to view the programme *Newsbeat,* which is shown weekly on Channel 9, and I was rather perturbed at one segment relating to medical services at Christies Beach and the area to the south. It appears that certain doctors have a clinic at Christies Beach where they consult. From this programme, on which certain residents of the area were interviewed, it was quite apparent that a doctor, whose name was not mentioned, had attempted to open a practice in Port Noarlunga to service the immediate area. It appears also from the comments of those interviewed that there is a need for a resident doctor in this area.

The allegation made is that the doctors who have the clinic at Christies Beach have refused to attend patients in the outside areas, particularly Port Noarlunga, and that patients from that area have to go to the clinic at Christies Beach to consult the doctors there. The people interviewed stated that this caused them considerable hardship, because in some instances it necessitated having to catch two buses to get there. One gentleman, who suffered from what he termed a stiff leg, said that he could not drive a motor vehicle or ride in a bus or taxi because of his leg and therefore could not get to Christies Beach to consult the doctors.

The further allegation is that the doctors consulting in Christies Beach have forced the doctor wishing to practise in Port Noarlunga to relinquish his practice there, and he now has to sell his home and leave the district. During the interview his wife said that, although her husband could have a patient admitted to the local hospital, he could not perform an operation of any kind because the hospital facilities belonged to these doctors, not the hospital. The doctors refused point blank to permit the doctor at Port Noarlunga to use these facilities. These doctors at Christies Beach are forcing another doctor out of the area, although people in the area state frankly that they desire him to remain. Because it is a doctor's duty to attend to the needs of sick people, will the Minister of Health have an investigation made into these allegations and, if they are proved, will he take appropriate action?

The Hon. R. C. DeGARIS: I will have the matter investigated, but I do not know exactly what action the honourable member would recommend that I should take.

The Hon. S. C. Bevan: I think the Australian Medical Association would take some action if the allegations were proved.

The Hon. R. C. DeGARIS: I will obtain a report for the honourable member.

METROPOLITAN ABATTOIRS

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

Leave granted.

The Hon. A. M. WHYTE: For many years the Metropolitan and Export Abattoirs Board provided an excellent system for washing down trucks or stock that had become fouled *en route* to the abattoirs. However, during the last 12 months vandals or dishonest truck drivers have repeatedly taken away the hoses that were used for this purpose. As a result, the Metropolitan and Export Abattoirs Board, in its wisdom, appointed a caretaker who, under union rules, could work only a certain number of hours—from 7.30 a.m. to 4.15 p.m. Because it was decided that it would be uneconomic to pay overtime rates to an employee, anyone wishing to wash down a truck after 4.15 p.m. on a certain day must wait until 7.30 a.m. the following day.

This service is particularly desirable in the hot weather. People very seldom travel with stock in the heat of the day; instead, they usually arrive some time during the night. I know from experience that it is most undesirable to park in the street a truck that has carried stock and obtain accommodation for the rest of the night, if one wishes to stay in Adelaide to conduct business, which is usually the case. The loss of this service to truck drivers has meant a great deal, particularly to large firms whose drivers wish to wash down their dirty transports and return for a second load of stock.

The abattoirs board has thought of various ways of overcoming this problem. At present it is making a charge for the service, the charge

being based on the size of the truck. The charges are 30c, 40c, 50c (for a two-tier, 14ft. tray-truck), and $1 for a semi-trailer. However, the board realizes that this service is not adequate. Consequently, there is talk about installing meters. People will need to have the right amount of silver and will use meters to obtain the necessary water for washing their trucks. Although I am not sure whether this could be an answer to the problem, it will in any case be a start. Can the Minister of Agriculture say what progress has been made in attempting to improve this necessary facility?

The Hon. C. R. STORY: As the honourable member would appreciate, my only responsibility, as Minister of Agriculture, is to ensure that the report of the Metropolitan and Export Abattoirs Board is laid on the table of the Council. However, I also have a duty to see that the asset of the Government, which guarantees the abattoirs, is looked after. I will certainly obtain a report from the board in due course.

WHYALLA HOSPITAL

The Hon. R. A. GEDDES: I notice that further applications have been called for the position of Matron at the Whyalla Hospital. Can the Chief Secretary inform me of the reasons for the delay in filling this position?

The Hon. R. C. DeGARIS: Applications for the position of Matron of the Whyalla Hospital were called. When the Whyalla Hospital (Vesting) Bill went through Parliament the Government undertook that on the taking over of the hospital the employees, with the exception of certain staff, would be employed under the same conditions as they were previously.

Certain standards must be maintained in relation to the desired qualifications of matrons at Government hospitals. Applications have again been called for the position of Matron at Whyalla. If the honourable member desires any further information on this matter, I shall be pleased to obtain a report from the department.

LOCAL GOVERNMENT ACT REVISION COMMITTEE

The Hon. M. B. DAWKINS: Honourable members have been waiting for some time for the presentation of the report of the Local Government Act Revision Committee, which has been delayed through the fault of no particular person. Can the Minister say when this report will be available?

The Hon. C. M. HILL: Some weeks ago I informed honourable members that I hoped the report would be available to me by the end of October. When it was not, I made inquiries from the chairman of the committee, who told me that, unfortunately, due to further illness and absence from the State of at least one of the committee members, the target date of the end of October would not be achieved. He assured me, however, that the report would be available to me by the end of this month.

SHARE VALUATIONS

The Hon. Sir ARTHUR RYMILL: I seek leave to make a short statement prior to asking a question of the Chief Secretary, representing the Treasurer.

Leave granted.

The Hon. Sir ARTHUR RYMILL: Over the years I have had much experience as an executor and trustee, both in a private capacity and as a company director. I have observed lately the wide fluctuations that have occurred in the market value of mining shares in particular. This has been very much apparent in the last few years. When a person dies, it is necessary, before his shares can be negotiated, to obtain probate and thereafter to lodge a succession duties statement, after which, I think, the Commissioner of Succession Duties will in special circumstances try to facilitate a release to the trustee on conditions whereby he can negotiate the shares. However, the minimum time this transaction normally takes would be a number of weeks, or even months.

In these wide fluctuations of value (and let me point out that the value for probate purposes is the value at the date of death) there are stocks that the deceased may have bought for a few cents which, at the date of his death, may be worth many dollars but which by the time the trustee can negotiate the scrip may be back again to a few cents. This would mean that possibly by chance the lifetime's savings of a person could (and I emphasize "could") be lost in succession duties and the estate could be rendered bankrupt through nobody's fault.

All honourable members have probably had knowledge of this sort of situation, which is very difficult. There may be certain solutions. It may be that the value instead of being taken as at the date of death should be at the date when the securities become negotiable; it may be that there should be an option to the trustees to nominate the date of death

or the date of negotiability of the securities as the time at which the market value should be assessed; or it may be possible to facilitate matters so that, on certain securities being given if the value at the date of death were named, those securities could be negotiable at once.

This is a serious matter, especially for people getting on in years. Will the Chief Secretary discuss this matter with the Treasurer and ask him to examine it with a view to seeing what can be done to prevent circumstances attaching to a deceased estate that could well render the estate, through no fault of the testator, either bankrupt or worthless, especially in relation to a lifetime's savings?

The Hon. R. C. DeGARIS: I will draw the matter to the Treasurer's attention. Most honourable members will agree with the Hon. Sir Arthur Rymill that we have all at some stage been involved in the administration of estates. This is a problem that, in view of the present fluctuations of the share market, could warrant close examination by the Government.

POTATOES

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

Leave granted.

The Hon. L. R. HART: From time to time there has been criticism, by growers, of the South Australian Potato Board. It has been directed mainly at the administration of the board itself. In recent weeks some potato growers have defied the board's regulations and sold potatoes direct to consumers on the streets outside the precincts of the East End Market, without the potatoes going through the normal channels provided by the board. I would think that some of the pressures within the board had some bearing on the recent decision by its chairman to resign. He resigned some weeks ago and I should think that some consideration had been given to the appointment of a new chairman. Will the Minister say whether a new chairman has been appointed, or whether there is any likelihood of one being appointed in the near future?

The Hon. C. R. STORY: As the honourable member has mentioned the chairmanship of the board, I can say that, in my opinion, it was as a direct result of the treatment he received that the previous Chairman of the board asked to be relieved of his duties. I very reluctantly accepted his resignation, because I believe that Mr. T. C. Miller did an extremely good job in the interests of the whole potato industry.

I caused an advertisement to be inserted in newspapers throughout the State calling for nominations for a replacement for Mr. Miller, and as a result five applicants submitted their names for consideration. I shall be submitting one of those names to Cabinet on Monday, and I hope that on Thursday next, after Executive Council has met, I shall be able to make an announcement naming the new Chairman of the board.

However, I should like to say in connection with marketing boards that probably the most difficult and most thankless task anybody could attempt at present would be that of chairman of a commodity board. I am grateful that at least we have five applicants to choose from for the position. I believe that the person who will be chosen, if Cabinet is agreeable to the appointment, will, with the experience he has had, do the sort of work that I expect the Chairman of the board to do.

UNFAIR ADVERTISING BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3079.)

The Hon. L. R. HART (Midland): I do not believe that all honourable members would condone some advertising practices indulged in today. Some are no doubt misleading, some are inaccurate and, maybe in some cases, they are untrue. With that background, this Bill has been introduced by the Leader of the Opposition in another place. It has been suggested that legislation of a similar nature has been introduced successfully in other countries and that it is also working in some other States of Australia.

I believe that the Bill goes further, possibly, than similar legislation existing in other States. I am not particularly happy with it, although its motive might, perhaps, be accepted. I think that the Bill is somewhat vague and that it will create some uncertainty in the minds of the public. I am also inclined to think that the Bill is being used, to a certain extent, as political window dressing.

The definitions in the Bill are fairly straightforward. However, it is difficult to know how one would define "inaccurate advertising", "misleading advertising" or "deceptive advertising". One person might regard certain advertising as misleading or deceptive, while another person of superior intelligence would not be influenced

by this class of advertising and, indeed, would perhaps regard it as of a trivial nature and no action would be taken.

I wonder just who would decide when advertising was inaccurate, untrue, deceptive or misleading. I realize that, once action is taken and proceedings are launched, it is the court that makes the decision, but what worries me is who takes the initial proceedings. Would it be the purchaser or would-be purchaser, or could it be a person engaged in opposition to the type of business involved? Perhaps all of these persons would be involved.

If advertising is unfair, it could well be unfair to a person in an opposition business. However, I do not think the Bill is designed to deal with that type of unfair advertising: its purpose is to protect the general public, which I assume means the "purchasing public". However, these are not the only people who could be concerned. I think some of the advertising indulged in today by the big supermarkets, the large combines, the discount stores and some of the K-marts that are being set up today could be termed "excessive advertising", and that advertising could well be unfair, particularly to the small shopkeeper, for with this excessive advertising they could be unduly influencing people to purchase their products.

As this type of advertising cannot economically be pursued by the small shopkeeper, it is unfair to the latter person. However, I do not think the Bill sets out to protect that type of person. We know that, if we took out of our weekend newspaper the excessive advertising of a particular organization, we would not have very much other than the sporting results remaining. No doubt this particular organization keeps that newspaper in print.

Seeing that the Government is always looking for means of raising additional revenue, I suggest that possibly it could have a look at the question of imposing a tax on advertising. Such action might cause some organizations to have a fresh look at their advertising programmes and might even reduce excessive advertising. After all, advertising expenses are a taxation deduction, and the people who indulge in excessive advertising are not necessarily spending their own money entirely, for some of this money is taxation money. Therefore, I believe it would be reasonable for the Government to examine the question of introducing a tax on advertising. I believe there is a very fertile field here to be investigated.

Advertising today is extremely big business, and more and more people are becoming involved in it and making a living out of it. As this advertising is being financed to a large extent by the Government itself, I consider that is sufficient reason for us to have a look at the question of whether advertising could carry a tax.

One of the weaknesses of the Bill is that it contains an escape clause that provides a fairly sufficient let-out for anyone who may be proceeded against for what is regarded as unfair advertising. Clause 3 (3) provides:

It shall be a defence to a prosecution for an offence under subsection (1) of this section for the defendant to prove that the advertisement in question was not intended to deceive or mislead or was of such a trivial nature that no reasonable person would rely upon it.

Any reasonable person (and I believe that most persons are reasonable) should not be misled by advertising. If a person is misled and he takes the case to court, he has to prove that the advertising was misleading. The person responsible for the advertisement is permitted to prove that it was not intended to deceive or mislead. As it is pretty hard to prove that advertising is intended to deceive or mislead, I believe that clause 3 (3) will provide an escape for most people against whom proceedings are taken.

I do not wish to say any more on the Bill. I am prepared to support the second reading, because this legislation might act as a deterrent, if nothing more. However, I have some doubts whether many people will be prosecuted under it.

The Hon. C. D. ROWE secured the adjournment of the debate.

PETROLEUM ACT AMENDMENT BILL

The Hon. R. C. DeGARIS (Minister of Mines) obtained leave and introduced a Bill for an Act to amend the Petroleum Act, 1940-1968. Read a first time.

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

That this Bill be now read a second time.

Its purpose is to amend the Petroleum Act to enable the Government to give effect to an agreement that it entered into earlier this year with Delhi-Santos. Under the terms of this agreement, the annual fees payable in respect of petroleum production licences are to be set off against royalty payable upon petroleum recovered from licensed areas, whether the royalty was paid in respect of the licence covering the area from which the petroleum was recovered or an adjacent area.

It will be necessary also to provide that the petroleum production schedule and programme that a licensee is required to submit may, in respect of contiguous production areas, cover both those areas as if they together constituted a single area. At the same time the opportunity is taken to increase to a more realistic figure the fee for the consent of the Minister to a dealing with a licence and to provide that, where a transaction of a kind for which the consent of the Minister is required under the Act is made subject to conditions precedent, the licensee must notify the Minister when any of these conditions has been complied with.

The provisions of the Bill are as follows: clause 1 is formal, and clause 2 amends section 35 of the principal Act. The present subsection (3) is struck out and a new subsection inserted providing that an annual fee paid by a licensee may be set off against royalty payable by the licensee upon petroleum recovered during the year if the petroleum is recovered from an area comprised in the licence in respect of which the fee is paid, or from a contiguous area comprised in a licence held by the same licensee.

Clause 3 amends section 36 of the principal Act. This provides for a licensee to submit a single production schedule and programme in respect of contiguous production areas. Clause 4 amends section 42 of the principal Act. The fee for the approval of the Minister to a transaction with a licence is increased from $20 to $100. This is thought to be a more realistic figure. New subsection (5) is inserted; it requires a licensee who has entered into a transaction of a kind for which the consent of the Minister is required to inform the Minister of compliance with any conditions precedent to which the transaction is subject.

The Hon. S. C. BEVAN secured the adjournment of the debate.

LAND SETTLEMENT ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

SUPREME COURT ACT AMENDMENT BILL (VALUATION)

Returned from the House of Assembly with the following amendment:

After clause 3 insert new clause as follows:

4. Section 7 of the principal Act is amended by striking out from subsection (1) the word "six" and inserting in lieu thereof the word "seven".

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

The amendment was suggested by this Council; it had to be only a suggested amendment because it related to a money clause. Originally it appeared in the Bill in erased type.

Amendment agreed to.

CROWN LANDS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ENCROACHMENTS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

HIGHWAYS ACT AMENDMENT BILL (VALUATION)

Returned from the House of Assembly without amendment.

LAND SETTLEMENT (DEVELOPMENT LEASES) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

LAND TAX ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

LAW OF PROPERTY ACT AMENDMENT BILL (VALUATION)

Returned from the House of Assembly without amendment.

PASTORAL ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

RENMARK IRRIGATION TRUST ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SEWERAGE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WATER CONSERVATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WATERWORKS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SAVINGS BANK OF SOUTH AUSTRALIA ACT AMENDMENT BILL

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

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

It is a short Bill designed to give the Savings Bank authority to make personal loans to its depositors or to persons whom the bank is authorized to accept as depositors. The bank is anxious to give a wider service to its customers without entering into the normal functions of a trading bank. It has found in recent years that it has been rather handicapped competitively in comparison with savings banks which are associated with trading banks and which are therefore able to offer facilities not available at the Savings Bank of South Australia. The authority to make personal loans to depositors is already possessed and operated successfully by the State Savings Bank of Victoria.

Clause 2 introduces the proposed new provision, which will become section 31a of the principal Act. Subsection (1) of the new section confers the appropriate authority to lend, which is restricted in the same way as is the present authority to accept deposits. It does not extend to the lending of money to companies or partnerships engaged in commerce and industry.

Subsection (2) limits the aggregate of funds in the hands of the bank that may be used for personal loans to one-twentieth of total funds. This will be adequate for the purposes proposed and not so great as to impinge upon the bank's ordinary loans for housing and other mortgages, for local government and statutory body finance, and for investment in Government bonds.

Subsection (3) limits, for the present, any individual loan to $1,500 although, if a depositor has placed with the bank a greater sum than this and wishes to borrow temporarily against it, the limit would be the amount of the deposit. It is thought that $1,500 is a reasonable maximum in present circumstances, though in most cases the actual loans would be lower. It is expected that loans may be made for repairs to homes, for addition to homes, to assist in purchase of some domestic appliance or equipment, to cover succession duties and unusual medical or educational expenses, and the like.

Whereas the $1,500 maximum may subsequently become inadequate as money values may fall, provision is made for its amendment by rules made under the Act. These are required to be tabled before Parliament and are accordingly subject to disallowance. In this way members can be assured that the limits will not be altered without the concurrence of Parliament. Subsection (4) provides that the loans shall be repaid over a short period and in any case not longer than three years.

No specific provision is made in the amendments for the giving and taking of security for personal loans except to specify that the loans shall be upon such terms and conditions as the trustees may determine. In certain cases it may be appropriate to dispense with specific security though in the normal case it may be expected the trustees will take a second mortgage over house property, a bill of sale over equipment or appliances, a guarantee given by some other person, or, as earlier suggested, the loan may be covered by some fixed deposit. Rates of interest have as yet not been determined but it is expected that they will ordinarily be on a flat rate and be effectively rather higher than overdraft rates for secured loans of trading banks but lower than normal loans from finance houses.

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

AUSTRALIAN BOY SCOUTS ASSOCIATION, SOUTH AUSTRALIAN BRANCH, BILL

Second reading.

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

That this Bill be now read a second time.

It amends and consolidates the private Act of the year 1940, intituled the Boy Scouts Association, South Australian Branch, Incorporation Act, following on the granting by Her Majesty the Queen on August 3, 1967, of a Royal Charter incorporating the Australian Boy Scouts Association and declaring the South Australian association, along with the branches in the other Australian States, to be first branches of the Australian body.

The South Australian branch was first created as an oversea branch of the Boy Scouts Association incorporated in the United Kingdom by Royal Charter in 1912. I feel sure

that it is unnecessary for me to explain at length the aims of the boy scout movement, which are so well known but which in short are the building of character and the making of good citizens of our boys, or to explain the value of the excellent training they receive or the value of this splendid association, which exists throughout the British Commonwealth and which is world-wide.

The South Australian branch is linked up with the movement throughout the rest of the world through the Australian association to the Boy Scouts World Bureau. From a small beginning in 1909, the scout movement has over the years steadily developed in South Australia, in common with the other States of the Commonwealth until at the present time it is a very widespread, well-respected, and stable organization with a membership in South Australia of over 17,000 in about 153 groups in the metropolitan area and about 112 groups in the country.

The movement here enjoys the support of a great many prominent citizens who act as officers and members of the branch council and its committees, or as representatives of the branch on the national council of the Australian association. His Excellency the Governor-General is the Chief Scout of Australia and the State Governors act as Chief Scouts of the various State Branches. Mr. H. W. Rymill, C.B.E., has been Chief Commissioner of the branch since 1936, and Mr. Alex Ramsay, C.B.E., is the present President of the Branch and Chairman of its committees.

The Bill provides for the repeal of the 1940 Act and for the re-enactment of its provisions with some amendments, and enacts some further provisions designed to establish the South Australian branch of the Boy Scouts Association on a proper footing now that it has become a branch of the newly incorporated Australian association, and has ceased to be under the direction of the headquarters of the movement in London. Because of the somewhat complex nature of the proposed amendments to the 1940 Act, it was considered that the better course would be to introduce an amending and consolidating Bill containing the existing provisions as proposed to be amended as well as the new provisions required. That has been done.

It would assist honourable members to understand the main object and purposes of the Bill if I were to trace the history of the organization in this State from its inception up to the present time. The Boy Scouts Association was founded in the United Kingdom in 1908 by the late Lieutenant-General Sir Robert Baden-Powell (afterwards Lord Baden-Powell), who was famous in history for his defence of Mafeking during the Boer War and who was at one time Chief Scout of the world.

The movement commenced in South Australia in the following year in the form of scout patrols of boys into whose hands had come copies of Baden-Powell's book *Scouting for Boys*. The principles of scouting, as founded by Sir Robert Baden-Powell and as embodied in this book and in the scout promise and the scout law, are still and will continue to be the basic principles of the scout movement in Australia and other British communities throughout the world.

In 1912, to promote and facilitate the work of the organization in the United Kingdom and throughout the British Dominions, the Boy Scouts Association was incorporated by Royal Charter and granted power to form local branches in all parts of the Dominions. Following on the granting of the charter and a visit to South Australia by Sir Robert Baden-Powell, the movement was properly organized in South Australia and the headquarters in London granted it a constitution under the name of the Boy Scouts Association (Incorporated by Royal Charter) South Australian Branch. The organization was to be governed by a State council and a State executive committee. In 1934 a new constitution was adopted by the State council pursuant to powers conferred on it by the then existing constitution.

In 1927 imperial headquarters of the Association had informed its oversea branches that it was advisable for those branches that had not then obtained a local ordinance of incorporation to do so, to protect their legal status. Eventually, in 1940, it was considered that at its then stage of development it was highly desirable that the movement in South Australia should become incorporated in order to protect its interests and to enable it to hold its properties and possessions (consisting of a valuable city property and other lands, troop meeting halls and camp sites and various stocks and funds) in its corporate name instead of in the names of various sets of individual trustees, which at times had caused unnecessary difficulties in making title. The local branch had been advised many years before by the late Mr. Justice A. W. Piper when he was at the bar that, as the association was incorporated in England by Royal Charter, the local branch

could not properly be incorporated under the Associations Incorporation Act of South Australia.

Accordingly, following precedents set in New South Wales (in 1928) and Victoria (in 1932) the 1940 Act was passed, incorporating the local branch under the name of the Boy Scouts Association (Incorporated by Royal Charter) South Australian Branch. The result was (and that was the main object of the Act) that the branch was enabled to hold property and take legal proceedings for the protection of its property and name in its corporate name without the necessity of recourse to individual trustees.

Since the passing of the 1940 Act, further properties have been acquired, such as lands, troop meeting halls, and camp sites. In particular, I should mention the very fine property of 115 acres, recently purchased in the Adelaide Hills, known as "Woodhouse"; it was acquired as a boy scouts war memorial camping ground and officer training site.

On December 15, 1958, the Australian Boy Scouts Association, by agreement between the British association and the Australian State branches, was formed as a branch of the British association to promote unity of purpose throughout Australia and enable the State branches to act in concert. The Australian association was, however, to be completely autonomous and independent; the State branches became branches of the Australian association, subject in all matters relating to policy and scouting to the direction and control of the Australian body, and ceased to be in respect of such matters under the control and direction of imperial headquarters.

Thus, the Australian association became the successor to the British association in respect of the State branches; and the movement in Australia was then required to function in accordance with the rules set out in the Policy, Organization and Rules, from time to time published by the Australian association.

Subsequently, upon the petition of the then members of the council of the Australian association, Her Majesty the Queen on August 23, 1967, by Royal Charter ordained that the Australian Boy Scouts Association should be a body corporate and declared "The Boy Scouts Association, South Australian Branch", along with the branches in the other Australian States, to be first branches of the newly incorporated Australian association. Among other things, the charter provides that nothing therein is to prejudice or adversely affect any existing right of any existing branch in respect of name, property or otherwise under the laws of its respective Australian State.

Recently, on June 27, 1968, the State council of the South Australian Branch, acting under powers conferred by its constitution and the Act of 1940, adopted a new constitution designed in the main: (1) to meet the new situation where the local branch has finally and conclusively ceased to be under the direction of the British association and has become a branch of the Australian association; (2) to increase the size of the council by adding to the number of lay member supporters of the movement; (3) to facilitate and expedite the work of the executive committee by reducing the number of its members and transferring some of the duties previously performed by it to a newly constituted standing committee, in turn responsible to the branch council; and (4) generally to facilitate the smooth working of the movement in South Australia and the Northern Territory, in respect of which the control of the movement has been entrusted to the South Australian Branch by the Australian association.

Under the new constitution the governing body hitherto known as "the State Council" becomes "the Branch Council", and provision is made for changing the name of the branch to "The Australian Boy Scouts Association, South Australian Branch", on the enactment of the present Bill.

The new Act is being asked for to establish the local branch on a proper footing so as to enable it to continue to control the scout movement in South Australia and maintain an efficient organization in order to promote the objects and purposes of the Australian Boy Scouts Association. The principal new provisions contained in the Bill are as follows: In the preamble it is recognized that the Boy Scouts Association, South Australian Branch, originally an oversea branch of the British Boy Scouts Association, is now a branch of the Australian Boy Scouts Association incorporated by the Royal Charter granted by Her Majesty the Queen on August 23, 1967. The branch is to continue in existence as a body corporate without change of corporate identity but is renamed the Australian Boy Scouts Association, South Australian Branch, including the word "Australian" in its name.

The Bill also provides that the members of the branch council, which is the governing body of the branch, shall so long as they remain such members constitute the branch,

and it goes on to state the usual consequences of incorporation, such as having perpetual succession, a common seal, etc. It is to be noted that the incorporated body is referred to no longer as "the corporation", which is the designation appearing in the Act of 1940, but as "the branch", which is the designation used in the new constitution of the branch adopted on June 27, 1968.

Clause 5 gives the branch power to formulate its own constitution and provides the necessary machinery. This was considered advisable to meet the position where the branch is no longer under the direction and control of the British association, and the Royal Charter of 1967 does not give the Australian association power to prescribe constitutions for the State branches previously formed.

Clause 6 confers on the branch power to change its name or alter the designation "boy scout". This is particularly designed to enable the branch to follow the example of the Australian association should it decide to follow the British association, which has changed its name to the "Scout Association". The remaining provisions of the Bill re-enact with some slight modifications provisions of the 1940 Act as follows:

Clause 7 provides that the branch shall continue to control the boy scout movement in South Australia and confers on it the powers necessary for that purpose. I wish to mention here that the branch also administers the branch formed in the Northern Territory under powers delegated by Australian headquarters. Clause 3 (2), while not conferring any direct power on the branch to do this, permits it to do this if so authorized by the Australian association.

Clause 8 enables the branch to gain title to property held or deemed to be held on trust for it or the association and provides the necessary machinery. This provision is perhaps not so important as it was at the time of the passing of the 1940 Act, when scout property was held in the names of trustees. It is, however, considered advisable to retain the provisions. Clause 9 provides for the mode of dealing with or disposing of property vested in the branch, and prescribes special conditions to be observed in the case of a mortgage or sale.

Clause 13 provides that falsely pretending to be a boy scout or member or officer of the association or of the branch, or to be connected therewith, is an offence. Clause 14 provides that it shall be an offence without the authority of the branch to wear or sell any boy scout uniform, emblem or badge. In each case the penalty is increased to a maximum of $50. The increase is to make up for the depreciation in the value of money since 1940. Other clauses relate to the method of dealing by the branch with grants in aid, to the registration with the Registrar of Companies of any further charter or change in the constitution, to the common seal of the branch, and to the mode of giving of notice to the branch.

The Hon. D. H. L. BANFIELD secured the adjournment of the debate.

GIFT DUTY ACT AMENDMENT BILL

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

It is designed primarily to deal with three particular problems that have arisen and require some clarification. In all three cases the problems were seen when the principal Act was before Parliament as a Bill, and several amendments were accepted at the time in an endeavour to deal with them; but experience and expert comment have suggested that the amendments may not have been completely effective in dealing with all aspects of the problems. The three problems are: first, section 4 (17) prescribes in effect that, if a debt is permitted by a creditor to remain overdue without taking reasonable steps to collect it, interest at 5 per cent a year thereon shall be regarded as a gift. The difficulties appear to arise in that, whilst it was not intended that this provision should apply unless and until the debt actually became due and payable, it could be held that a debt payable on demand should be construed as being due and payable without the making of a formal demand.

Secondly, section 18 relates to a disposition of property with a reservation by the donor of a benefit which may subsequently be converted to a gift and is, accordingly, to be dated back to the time when the earlier disposition was made. It was not intended that an ordinary arrangement whereby a disposition was made, which included payment by way of giving a mortgage and which would be subsequently repayable, should be regarded as a reservation of benefit. Notwithstanding some fears that such a mortgage arrangement might be treated as a reservation of benefit, it has, in fact, not been treated as such. However, the matter should be completely clarified.

Thirdly, the matter of controlled companies was introduced to ensure that persons who

used a private company so as to make disposition, which would undoubtedly be gifts if made by direct means, should pay duty just as the persons acting without such an intermediary arrangement are required to pay duty. The provisions were inevitably complex as they were dealing with a process which is, in any case, complex. An amendment made in Parliament to the original Bill in this regard, whilst substantially securing its primary purpose, is shown upon experience to require further adaptation to cover abnormal cases and ensure equity. As will invariably be the case with entirely new legislation, further clarification in wording and in administrative detail are shown on experience to be desirable.

I turn now to the provisions of the Bill. Clause 2 makes a number of miscellaneous amendments. Paragraph (*a*) involves a re-wording of the definition of a controlled company to make the meaning clear in itself without necessary reference to the subsequent definition of a subsidiary. Paragraph (*b*) is consequential on clause 2 (*d*) which strikes out an unduly wide definition given to "shares" for all purposes of the Act. Paragraph (*c*) makes it clear that a dividend is a disposition of property though it may not be immediately or even eventually paid in cash. It is quite common with private companies, particularly, for dividends to be left indefinitely in a loan account or re-invested in the company. This definition is necessary to clarify difficulties arising in interpretation of section 4 (12) of the principal Act, and it is consistent with the definitions and approach in the Commonwealth Income Tax Act.

Paragraph (*d*) eliminates the very wide definition of shares, which has been found inappropriate for certain sections of the Act where a narrower interpretation was obviously required. Subsequent amendments spell out the matter when a wider application is necessary. Paragraph (*e*) simply eliminates an unnecessary word. Paragraph (*f*) eliminates a paragraph which gives an extremely wide meaning to the expression "related persons" for the purposes of determining what is a "controlled company". Representations have been made by solicitors and accountants that, by virtue of this paragraph, they find it most difficult to determine whether or not a company is likely to be ruled to be a controlled company. Without this paragraph it is believed the definition of related persons will be wide enough to cover all reasonable circumstances and to avoid any extensive avoidance of gift duties through the device of private family companies.

Paragraph (*g*) makes a verbal amendment to secure consistency. The amendment is also consequential on the deletion of the definition of "share". Paragraph (*h*) strikes out a portion of paragraph (*a*) of subsection (11) in one of the difficult provisions dealing with controlled companies. This portion was originally enacted so that the Commissioner could identify a donee to whom he could have recourse for recovery of duty if, for some reason, a controlled company which was the actual donee could not be proceeded against. For instance, the company might be registered outside the State. However, as proceedings will in most cases be against the donor, and as this clause might be capable of inequitable application in cases not contemplated by the original legislation, it has been decided to delete that portion of paragraph (*a*).

Paragraph (*i*) aims to clarify subsection (12) of the section which has given a good deal of difficulty in interpretation to solicitors, accountants and taxpayers. The intention of the subsection was simply to distinguish in paragraphs (*a*) and (*b*) between share issues on the one hand and other company dispositions on the other hand (whether they be by dividend, interest or otherwise). The use of the words "payment of money" in paragraph (*a*) might be construed either widely, as was intended, or restrictively. Clearly, if it is given a restrictive meaning then gifts might be made through controlled companies in a variety of ways by which the effective donors may hope to avoid duty as, for instance, by a credit to a loan account.

Paragraph (*j*) makes an amendment which is repeated in a number of other cases. It has been submitted that, through giving the Commissioner a discretion, the taxpayer could have his rights of appeal to a court restricted. Although it may make administration rather more difficult, the Government has agreed to remove the Commissioner's discretion where it may be regarded as a discretion to impose duties. Where, however, it amounts to a discretion to relieve from duties it will be allowed to remain.

Paragraphs (*k*) and (*l*) deal with a point which may be thought to arise out of a reported decision by the courts, which has been construed to suggest that the powers of a governing director in relation to the determination of dividends may be upset if used in certain ways. However, if those powers are

expressed as given by the constitution of the company and they are actually used to make a gift and their use is not upset by court action by the shareholders, it is clearly proper that the gift should be dutiable. It is obvious that very often the shareholder would not wish to upset such a disposition, for he would clearly gain by letting it stand.

Paragraphs (*m*) and (*n*) clarify an amendment made when the principal Act was under consideration to ensure its equitable working. The basic concept in subsections (12) and (13) of section 4 is that if a governing director has complete and over-riding powers within a private company, all the property is deemed for the purposes of this Act to be his. By virtue of his powers, the property in the controlled company is effectively his, and in most cases will have come from him in the first instance. If he uses the special power to dispose of company property to himself, this is accordingly reckoned not to be a gift; but if he uses the power to divert property to someone else, that is ordinarily reckoned to be a gift coming from him. However, it was recognized when the principal Act was before Parliament that in some cases where such a power is possessed, the governing director does not use it except to ensure a pro rata dividend distribution in relation to shareholdings. In such case it was thought fair not to consider a pro rata distribution as a gift.

The reasonable approach is that the governing director and the company must choose their positions under the Act and reasonably adhere to them. Either the special power may be used to make other than a pro rata distribution or it may not. It should not be permitted to change ground each month, week or day. As some longer time factor must be applied, a fair period would seem that elsewhere used in this Act, that is, three years. If a governing director does not use the special power and has not used it in the last three years to arrange other than a pro rata distribution, then the particular distribution will not be considered a gift. But if he has so used the power during the three years to make a different sort of distribution, then the provision should apply that all distributions except those to himself should be regarded as gifts. This would apply unless, of course, it can be shown that the beneficiaries in some other way gave adequate consideration, when the distribution would not be regarded as a gift.

Paragraph (*o*) clarifies section 4 (15) of the principal Act by stating its provisions in positive rather than in negative form. Paragraphs (*p*), (*q*), (*r*) and (*s*) clarify the relevant provisions by referring to "paid-up" shareholdings and "paid-up" capital rather than using the less precise terms. Paragraph (*t*) relates to the matter to which I referred earlier when collection of debts may not be pursued. To remove any doubts, it introduces a new subsection (17a), which sets out directly and precisely that though a debt is payable on demand it shall not, for the purposes of the Act, be regarded as due and payable unless directly and specifically demanded. Subsection (17) of the principal Act has always been interpreted in this manner, and the amendment will remove all doubts.

Clause 3 provides for exclusion from duty of any gift where both the property and the donor are outside Australia even though the donee is a South Australian resident, except where the location of either is arranged for the specific purpose of avoiding duty. The exclusion is consistent with the provisions of the Commonwealth Gift Duty Act. There have been submissions that a like exclusion should be applied if both donor and property are outside the State of South Australia. However, this is not practicable, for it is so easy for the donor to move his residence within Australia, particularly if the donor is a company or a trust, and relatively easy to move the location of personal property, particularly if it consists of liquid funds or investments. There is, of course, provision for rebate of duty to the extent that duty is payable to another State, but there are certain locations in Australia, including Canberra, where State duties are escaped.

Clause 4 deals with a rather peculiar situation in that remissions or deductions provided in section 11 of the principal Act are applied to individual cases that may be arranged to recur at short intervals. Section 11 (2) was proposed by the Leader of the Opposition and accepted by the Government to give a special deduction of $4,000 in the value of a gift which comprised an interest in the matrimonial home given by one spouse to another. Assuredly, the Leader never contemplated, nor did the Government, that such gifts should be repeated time and again over short intervals and thus receive the benefit of repeated deductions. The obvious intention was that this would be governed by the general principle that all gifts over the preceding and succeeding 18 months would be taken into consideration in this case, too. However, the wording elsewhere in the Act does not ensure this, and it is accordingly necessary to safeguard against a taxpayer taking improper advantage of a technicality. The proposed amendment does this.

Clause 5 is consequential on the deletion of the definition of the term "shares". Clause 6 (paragraphs (*a*) to (*g*)) amends subsections of section 14 relating to exemptions from duty of retiring allowance, bonus, sick, and comparable payments which are not excessive. The purpose of the amendments is to eliminate the specific discretion granted to the Commissioner so as in no way to impede any rights of objection or appeal, and so as to widen the criteria to be considered when determining whether or not the payments may be excessive.

Paragraphs (*h*) and (*i*) raise the exemption in relation to insurance policies from $200 to $500 in a year and makes the exemption apply to all policies for the benefit of the family of the insured person. The $200 exemption was derived from the Commonwealth Act and has not been altered for many years. An exemption of $500 is reasonably consistent with a comparable provision in the Income Tax Act which provides an exemption of $1,200 in a year, but that figure of $1,200 includes also insurances and superannuation for the benefit of the taxpayer himself. Paragraph (*j*) has been introduced to make it quite clear that, when a retiring gratuity or bonus or similar payment is found to be excessive, the amount dutiable is limited to the extent to which it is excessive. The original provision could be construed to make the whole amount dutiable in such circumstances, and this was obviously neither intended nor equitable.

Clause 7 proposes to re-state entirely the provisions of section 18 of the Act to spell out precisely that a genuine mortgage does not constitute a reservation of benefit for the purposes of the Act. As I have said earlier, the present provision has been administered as it was intended and as I still believe it properly means. It has been decided, however, in the circumstances to clarify the position. Clause 8 is a simple clarification indicating that the returns by donors and donees shall be in a manner approved by the Commissioner. The word "form" in the original Act could be taken to have a more restricted meaning than the word "manner". Clause 9 simplifies the provisions of section 20 of the principal Act by removing the Commissioner's discretion to approve of the valuer and by requiring a proper valuation to be made by a competent valuer. Clause 10 re-enacts section 25 (2) of the principal Act by a straightforward rather than a complex provision.

Clause 11 deals with a circumstance which is, as yet, hypothetical. It has nevertheless been submitted with considerable concern by some solicitors and agents that certain sections of the Act, and in particular paragraph (*f*) of the definition of "disposition of property", may tax as gifts some dispositions which may be made at a person's expense and quite contrary to his intention. It is, unfortunately, not possible to restrict the application of the Act to gifts made with the express intent of the donor, for to do so would be to open wide an avenue for avoidance. This could occur by persons arranging their circumstances to make it appear that theirs was neither the action nor the intent. In particular, this can be arranged through private companies and trusts. However, it is recognized that under the Act as it stands there is the theoretical possibility that a donor may, in an extraordinary case, be made liable for duty upon a gift which he neither knew of nor intended, and even for one he knew of and actually opposed though unsuccessfully. Accordingly, in clause 11 a new section 28a which is inserted will relieve the donor from paying the duty in such circumstances should they occur, but of course the donee who receives the benefit in those circumstances would have no case for likewise being relieved.

Clause 12 proposes to double the time within which gift duty must be paid and the time when the Commissioner is empowered to levy additional duty for late payment. It is thought reasonable to make this extension, as some time is necessarily involved in collection of all relevant facts in complex cases. I point out, however, that the provision in question does not make the levying of additional tax compulsory, and the Commissioner has power to remit where appropriate. Clause 13 makes specific provision for a right of appeal against additional duty levied for late payment when the amount is $100 or more.

Clause 14 makes it clear that rebates for gift duty paid in another State or elsewhere extend also to stamp duties paid on any document effecting the gift. Clause 15 eases the penalties that may be imposed by the Commissioner arising from failure to give adequate information to an amount "not exceeding" rather than an amount "equal to" the amounts specified. Clause 16 re-enacts section 43 so that the more severe court penalties of $10 a day for delay in furnishing returns and information shall be applied only when the offence is a breach of a specific court order to

furnish the return or information. This provision is consistent with a provision in the Income Tax Act. Clause 17 is another provision that arises directly from the elimination of the very wide earlier definition of "shares".

I have purposely explained this Bill in great detail because, as the principal Act is a taxing Act and a new one, it has naturally brought in its earlier stages a great deal of professional and public comment, and also some measure of criticism. The Government and its advisers have given a great deal of attention to the comment and criticism. We have examined many individual cases, both actual and hypothetical; we have had a number of conferences with solicitors and accountants and other persons able to offer help; and we have received, examined and personally discussed with their authors some detailed written submissions and comments. This Bill is the outcome of a very great volume of activity on those submissions, discussions and examinations. The Government believes the proposed amendments will make the Act an efficient and equitable measure. I commend the Bill to honourable members.

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

LAND ACQUISITION BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3203.)

The Hon. C. D. ROWE (Midland): In rising to support this Bill I should like to compliment the Government on the work it has done and the investigations it has caused to be made to enable the Bill to be introduced. It provides for the acquisition of land for works and undertakings of a public nature and for purposes incidental thereto, and it replaces the Compulsory Acquisition of Land Act, 1925-1966, which has been repealed.

When speaking in this Council some time ago on another Bill I expressed concern about how the provisions relating to the compulsory acquisition of land would apply to the increased number of acquisitions that would be required consequent on the implementation of the Metropolitan Adelaide Transportation Study Report. I said I thought that the law with regard to this matter should be clear, that it should be expressed in such terms as to be easily understood, and that it should be reduced to the point where payment for land that was acquired could be obtained as quickly as possible.

The Government appointed the Land Acquisition (Legislation Review) Committee to look into a wide range of matters concerning the compulsory acquisition of land, to review the Compulsory Acquisition of Land Act, 1925-1966, and to make recommendations for a new Act. This Bill is the result of the committee's report, and it seems to me that the committee has done a good job. I do not intend to analyse the individual clauses of the Bill, because I shall deal with them during the Committee stage. Certain principal features of this Bill need to be brought to the attention of the public. It is fundamental to the working of the new scheme that no land can be acquired by agreement or otherwise until a document of a description not previously adopted in South Australia (a notice of intention to acquire) has been served on all persons interested in the land to be acquired. That will be the starting point in any negotiations—the serving of a notice of intention to acquire.

The service of that document will have several important results. First, it places on the acquiring authority the obligation of making a definite decision whether or not to acquire before embarking on the process of acquisition. From my own experience, I believe that this is desirable. In the past an authority has expressed interest in a certain piece of land but has not made a firm decision whether it will acquire it. This has led to uncertainty and sometimes to loss on the part of the owner. The requirement in this Bill that this notice shall be served means that the authority must make up its mind whether it wants the land before it serves the notice.

Secondly, the giving of the notice of intention to acquire gives the owner reasonably detailed knowledge of the land likely to be acquired. Thirdly, it gives to the owner the right to obtain details of the scheme for which his land is being acquired, to obtain explanations or particulars with respect to the scheme, and to ask, for various important reasons, to have the scheme varied. This is reasonable, because the owner then has the opportunity of making representations that the purpose for which the land is being acquired could be achieved in a different way. Perhaps an Engineering and Water Supply Department tank is to be built on his land. In one instance we were able, by negotiation, to arrange for such a tank to be constructed on a different part of the property from that which had been proposed; the new site did not have such a bad effect on the environs.

Fourthly, the giving of the notice of intention to acquire freezes the land, for the time being, in the hands of the owner, so that he cannot subvert the acquisition by dealings with the land before ownership finally passes. This is important because, once the owner has received notice that the authority definitely requires the land, he cannot then proceed to sell it, sublet it, or construct a building on it that would make it more difficult for the acquisition to proceed. Fifthly (and this is very important), the notice of intention to acquire sets a date for the commencement of what will normally be a 12-month period before the expiration of which the authority must make up its mind whether or not to proceed with the acquisition. It should be mentioned in this connection that, if the authority fails to proceed within that period, it must compensate the owner for the loss suffered by his having to hold the land.

If the authority decides to proceed, a proclamation vests the land in the authority and converts all the owner's rights to rights for compensation. This sets out fairly clearly what the procedure will be. Once the proclamation is made, the land is vested in the acquiring authority, and the owner's rights are converted to rights for compensation, the authority is required to state a figure that, in the authority's opinion, represents the value of the land, and the authority is required to pay that amount into court. This is a very reasonable requirement. If the authority wants the land and it has served its notice, it should fix the value of the land and it must pay the amount into court. I understand that the owner can then apply for a certain portion or the whole of that money to be paid out to him. This will overcome one of the great difficulties that has been experienced up to the present: money has been tied up and the previous owner of the land has been unable to get hold of it and use it. In general terms, these are the main principles of the Bill. I should like to quote the following passage from the Minister's second reading explanation:

This Bill deals, and is intended to deal, only with procedures and compensation for taking land. The Land Acquisition (Legislation Review) Committee, which recommended this Bill, had before it some submissions relating to the need to provide compensation for losses suffered by persons whose land had not been taken for announced public works projects, but who, in some way (often indirectly), had suffered other losses or disadvantageous consequences either as the result of the announcement of a project or as the result of its execution. Those other losses or consequences are not, in the opinion of the committee and of the Government, susceptible of legislative cure of the kind embodied in land acquisition legislation.

Both the committee and the Government are firmly of the opinion that the solution to the problem of the special sort of losses referred to must be found either in administrative action or in legislation of a social nature specifically directed to the social problems involved, of which monetary compensation is only one. Whether administrative action is taken or social legislation is introduced, the adequacy of the solutions attempted will best be debated as separate issues in Parliament.

I cannot emphasize too strongly the importance of this passage. It raises the question of the adverse effect upon people whose land is not specifically required but who live or own property nearby and are affected by the compulsory acquisition of the land. I am thinking of people who may live on a terrace and may have a six-lane highway constructed right in front of their terrace.

The Hon. C. M. Hill: Or a swimming pool!

The Hon. C. D. ROWE: It could be a swimming pool, but I cannot think why the Minister raised that point. There are many instances where public works can affect the people who live nearby, even though their land is not acquired. Such public works can adversely affect their manner of living and they can create a dust nuisance or a noise nuisance. This is a problem that we must face in the interests of those concerned. To what extent the Government can go towards converting the disadvantages that people suffer into a monetary value is a vexed question indeed and one that the Bill does not solve. This matter will have increasing importance in everyone's mind as the Metropolitan Adelaide Transportation Study proposals are proceeded with.

It has been suggested that this matter may be dealt with by administrative action or by legislation. I consider that these two factors must be combined, and it would be better to work out the problem in an administrative way by arrangement between the departmental officer and the person adversely affected. It appears that legislation will be needed to provide the guide lines upon which the administration can act. However, how that legislation will be drafted is a difficult problem. If the M.A.T.S. proposals are proceeded with, this matter will have to be faced and an anwser found.

I congratulate the Government and the review committee on the work that has been done. Deep thought will have to be given

to the problem of those persons who are injuriously affected but whose land is not actually acquired. I support the Bill.

The Hon. H. K. KEMP secured the adjournment of the debate.

LOCAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3210.)

The Hon. H. K. KEMP (Southern): I earnestly beg honourable members seriously to consider this matter. The Bill sets out profoundly to alter the administration of justice in this State, which has hitherto been admired by every other community in the Commonwealth, which has efficiently served this State, and which has been economical for the individual, far more so than has been the case in other States. I do not think such a profound function of the community can be touched lightly in any way without being deeply considered and without our being certain that a step forward is being taken.

To interfere unnecessarily with these basic fundamental functions of the State is dangerous at all times. In this case the Government has given no reasons for the step that is being taken. It has been rumoured that courts are being overworked. In his second reading explanation, the Minister merely stated that a further system of courts between the Supreme Court and magistrates courts would be set up. Of course, this will be very costly. An unofficial figure of over $200,000 has been given as the cost of setting up this new system and, of course, ancillary personnel and accommodation will also be required; this aspect does not appear to have been examined.

The question of costs should not be overemphasized. Honourable members must examine chiefly the need for this new system. I ask members whether sufficient attention has been given to ascertaining just where the defects that require change in our present system are arising, whether it would not be better for a close examination to be made of the present system and of the future demands that will be made thereon, and whether that system, which is the envy of all other States, could not be expanded to meet the future situation.

Changes to establishments that are working well merely for the sake of change must be resisted until there is clear proof that a real need has arisen therefor. I am justified in raising several matters, the first of which is the question of cost, which has already been referred to sufficiently by the Leader of the Opposition. Therefore, I need add little to what he has said. Honourable members must consider the cost that will be incurred and the number of people who will have to be engaged, as well as the building works and other ancillary matters that must inevitably be involved. If passed, the Bill will greatly increase the number of people engaged in the administration of the law.

One must also ask whether there is a real need for this system. I understand, from inference and from discussions that have taken place, that the Bill has the backing of the Law Society of South Australia. Apparently, however, the law community is by no means unanimous about the need for the new system. Also, honourable members have not heard what the justices and the magistrates think about the matter. These people, who are so vitally concerned, should have been consulted throughout the preparation of the legislation, and their opinions should have been deeply considered.

One must also consider whether the legislation will bring into our legal system the difficulties that have occurred in other States. I have had the experience of having to tell a person, who was obviously involved in an unjust claim by a person in another State, that the official opinion was that it would be better for him not to proceed with the action and to suffer the loss of some hundreds of dollars rather than undertake costly and uncertain litigation. This rarely happens in South Australia. This occurred in a State in which a multi-tier system of administration of justice pertains.

It ill behoves me as a layman to examine a subject of this nature because, as one can gather from the excellent speech made by the Hon. Mr. Potter yesterday, this is a complex matter which only a person who has spent much time in the law can appreciate and determine. Searching inquiries should have been made of people specializing in these matters, but this Bill does not lead us to believe that such inquiries have been made. This is the last matter I wish to raise with the Government to which I should like a reply.

Before we proceed further in this matter, which may be simple and easy for people with a legal background to understand, most of the rest of us must have these questions answered clearly and unmistakably; if necessary, we

should refer these matters to a Select Committee for this purpose. We certainly cannot allow this Bill to be hurried through in the last few days of the session—it is far too serious for that. As I said at the beginning of my speech, this measure will completely change the administration of law in this State. We in this Chamber would be failing in our duty if we did not ensure that the law was administered fairly and not interfered with unduly.

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

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3211.)

The Hon. C. M. HILL (Minister of Local Government): This Bill puts into effect the findings of the electoral commission that was set up by Parliament to investigate new boundaries for the electoral districts of this State. The Bill proposes 47 seats for the House of Assembly and that the boundaries of the five Legislative Council electoral districts be varied somewhat. The new distribution for the House of Assembly is 28 metropolitan and 19 country seats.

I notice with some interest that in today's *News* the Leader of the Opposition in another place criticizes this honourable Council for delaying the passage of this measure through this Chamber. I hasten to point out that during this session two Bills that I introduced here have taken weeks and weeks to be reviewed—the Motor Vehicles Act Amendment Bill (dealing with the points demerit system) and the Supreme Court Act Amendment Bill (endeavouring to set up the new Land and Valuation Court). This Council never hurries its consideration of legislation because, by completely reviewing the matters that come before it, the best results are always achieved.

The Hon. S. C. Bevan: You put four Bills through yesterday afternoon.

The Hon. C. M. HILL: Some minor Bills. If honourable members have no major issues to raise on a Bill, its passage is not delayed in this Chamber. However, whenever major issues come before us, they are properly and adequately reviewed.

This Bill, generally speaking, has taken no longer to be debated than the two important measures to which I have just referred. Some fundamental premises need to be considered when we review the background of this vitally important change in the Constitution of this State. One is that surely we all agree that some change in the electoral system was necessary.

Another important point for our consideration is that, whereas continual reference is made to the metropolitan area, no great emphasis has been placed on the fact that the metropolitan area under consideration in this Bill is a vastly different and enlarged area from the metropolitan area previously accepted in our electoral system. The third point upon which I think we all agree is that the electoral commission should be commended for its work and the way in which, in accordance with its terms of reference, it applied itself to its important task.

In supporting the Bill, I submit that this was the only practical way in which a change could be effected in our electoral system. We must be realistic in considering this matter. We know that, as a result of the last State election, each major political Party has 19 seats in another place, and there is one independent member, so the Government after the last election did not have a constitutional majority.

It had no alternative but to tackle this important problem knowing full well that it did not have a constitutional majority, so it sought some compromise with the Opposition in another place. The Government did so because it believed that the need for a change was very great. Above all else, it accepted the fact that some change had to be made in the State's electoral system. It is no good beating about the bush or denying the situation: the Government took great political risks when it decided that something must be done in the interests of the State.

The Government placed the interests of democratic Government in South Australia above all else when it decided that some action should be taken about the present electoral system. Now, through this sequence of events—the Bill that set up the electoral commission, the findings of that commission, and now this Bill—it is only natural that the two major political Parties have investigated their future prospects.

The Government is still proceeding with this matter, in the knowledge that a swing in the voting will be necessary if it is to continue in office after the next State election. There is no point in denying that or in being unrealistic about it. Despite its concern in that direction, the Government is still proceeding with this measure and is seeking the support of honourable members in this Chamber.

The Government is not blind to the political dangers that lie ahead. In spite of what we hear from members of the Opposition (and, again, there is a report from the Leader in another place in today's paper that he is still not fully satisfied), I say he is tickled pink about the situation. We might as well be frank about it; the Opposition is very pleased with the situation confronting it. However, I believe that the people of this State will respect the Government now and in future for its actions.

The Government has been politically bold and courageous in its endeavours to bring electoral justice to the State, and I believe that the respect that people have for the present Government and for the Party that that Government represents will be evidenced at the next election. Indeed, I submit that this has been the proud record of the present Government ever since it came into office.

The Government has made important decisions on some major issues, and has put the welfare of the people of the State before all else. It has not considered the short-term question of popularity; it has had to make those decisions, and it has made them on the basis of what is best for the State. Outstanding amongst those decisions is the question of the Chowilla dam; another major issue was the Metropolitan Adelaide Transportation Study Plan.

I was interested to read in this morning's newspaper that the Leader of the Opposition in another place is critical of the establishment of the Land and Valuation Court. What the people whose houses are to be acquired in future think about opposition to a court to which they could refer easily, conveniently, and cheaply in order to have their cases heard is something that I leave entirely to those people to decide. However, I was greatly surprised to read that on the issue of the establishment of the court to help people in the way I have mentioned (those people adversely affected by the M.A.T.S. Plan), the Leader of the Opposition in another place was critical.

I make the general observation that, in regard to this Bill and in regard to the decision of the Government, when it has been a question of popularity versus seeking the respect of the people, the Government has sought to do its best for the people of the State as a whole. I think when the electors sit in judgment at the next opportunity they will bear this in mind. Some honourable members representing country electorates have understandably expressed views that have been put to them by people in rural areas who are opposed to this amendment.

The Hon. R. C. DeGaris: It is different from the proportion of 34 metropolitan to 13 country seats that the Australian Labor Party wanted.

The Hon. C. M. HILL: I am coming to that. When the A.L.P. went to the people at the last election it proposed a House of Assembly of 56 members, but on this point I mention that up to the present rural electorates have comprised 26 seats, but the rural districts under this Bill will be reduced to 19. However, six seats at present are partly metropolitan anyway, and that is a natural development where fringe suburbs of metropolitan Adelaide have spilled out into areas that were previously country seats. Seats included in that category are Alexandra, Onkaparinga, Barossa, Gawler, Gouger and, to a lesser extent, Gumeracha.

If we reconsider the enlarged metropolitan area, I submit that representation of truly rural areas of this State has not greatly changed as a result of the Bill. However, I do not think that this is the major worry confronting people in the country; the major worry, of course, is that the number of metropolitan seats will be greatly increased from an original 13 (to which we might add the six seats to which I have just referred) to a total of 28 seats, which is a big jump in numbers.

It is understandable that fears should be expressed by country people, and it is proper that those fears should be echoed in this Council during this debate. I believe many people in country areas (and I have spoken to a number of them) accept the position as being an inevitable change. I believe, too, that there will be a great responsibility on the shoulders of all newly-elected members to consider all interests throughout the State when they consider legislation in Parliament in future. I think that if any further justification for the retention of the Legislative Council in future is needed, then that factor certainly looms large when this question is considered.

The person in the far-flung rural areas of the State must have his voice heard during Parliamentary debates, and he must be given proper and ample consideration, because if his voice is not heard he will not receive in his electorate the consideration in regard to public works and amenities that he should receive.

When we hear the political catch cry of "one vote one value" (and we heard it in this Council yesterday, the point made being

that this is what the Labor Party wants) let us remember what the people who live in the electorate of Frome would think of it. It would mean that there would be an electorate there so large that the member for the district certainly could not give adequate service to those people because of the vast area that would be involved if the boundaries of that seat were further enlarged—and, of course, they would have to be further enlarged if the number of electors were to be increased.

Coming nearer to home, and speaking as one of the members representing Central District No. 2 and reflecting the many opinions I have heard expressed throughout the suburbs comprising this large electorate, I say it is apparent that some change is absolutely necessary. It has been put to me by many people that the old situation simply could not continue. If we need to be reminded of the situation as it was and taking, admittedly, the most extreme case, we find (and I have taken the figures from the report of the electoral commission) that the present House of Assembly district of Enfield has 46,759 electors, while the electorate of Frome has 4,886. That is a tremendous variation that no-one would want to see continue.

It is interesting, for the purposes of comparison, to consider the two most extreme cases under the new proposals. Again taking figures from the electoral commission's report, I find that a new proposed seat of Price in the Port Adelaide area will have 16,164 electors, and the seat of Frome, which will have the lowest number, will have 8,576 electors.

There is a feeling throughout Central District No. 2 that it is best to keep the number of members of Parliament to a minimum. It is interesting in this regard (and I come now to the point raised by the Chief Secretary by interjection) that at the last election the Liberal and Country League went to the people with a plan to increase the House of Assembly from 39 to 45 members, and the Australian Labor Party went to the people with a policy of increasing the Assembly from 39 to 56 members. When the A.L.P. realized what a political catastrophe this was (perhaps it was the worst error in judgment in the history of the Party) it hastened soon after its electoral defeat to change its policy so as to reduce the number of members it suggested for the Assembly from 56 to 48.

The Hon. D. H. L. Banfield: It might have been an electoral defeat, but it was not a defeat by the people; 53 per cent wasn't bad.

The Hon. C. M. HILL: The A.L.P. does not have the numbers on the floor of the House, and that is what counts in politics. However, admitting that error in judgment to which I have referred, the A.L.P. immediately said, "We now favour a House of 48 members," and the Government was forced, because of the practical difficulties to which I referred, to compromise. In an endeavour to implement a change, a House of 47 members was agreed to.

I believe that throughout Central No. 2 District this figure is generally acceptable to most people. Through this Bill the new L.C.L. Government brings electoral justice to South Australia, and I am not implying that any former electoral injustice that existed was the work of any previous Government. The position simply developed. When boundaries were not changed over a long period and when the population explosion occurred in metropolitan Adelaide, the position confronting this Government was inevitable.

History has proved that it has been an extremely difficult situation to change. Governments in the past have tried to change it, but their endeavours have not been successful. I wonder at times whether electors fully appreciate the great difficulties confronting Governments, irrespective of the Party they represent, when they try to change the electoral system. However, the difficult position has existed, and the present Government is doing something about it. I hope honourable members will support the Bill, so that its whole purpose can be achieved. I firmly support the measure, believing that most South Australians acknowledge and appreciate the Government's and, in particular, the Premier's efforts in strongly supporting the need for a change and in playing a leading part in introducing that change.

The Hon. Sir NORMAN JUDE (Southern) moved:

That this debate be now adjourned.

The Council divided on the motion:

Ayes (14)—The Hons. M. B. Dawkins, R. C. DeGaris. R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude (teller), H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, 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 10 for the Ayes.

Motion thus carried; debate adjourned.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (COURTS)

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

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

That this Bill be now read a second time.

It is consequential on the Local Courts Act Amendment Bill, 1969, and is designed to amend the Workmen's Compensation Act so as to provide for all arbitrations under that Act to take place before an arbitrator who is a judge as defined in the Local and District Criminal Courts Act. The reason for the change is to be found in the progressively larger amounts involved in workmen's compensation matters which accordingly, it is felt, should now become the responsibility of a judge. The Bill also provides that the several duties and functions at present vested in a special magistrate (besides his duties and functions as an arbitrator) shall also be performed by a judge as defined in that Act. Clause 2 of the Bill provides for its commencement on a day to be fixed by proclamation. This will enable the Local Courts Act Amendment Bill and all associated Bills to become law on the same day.

Clause 3 inserts in section 3 of the principal Act the definitions of "judge" and "local court". These definitions are in line with the definitions in the Local Courts Act Amendment Bill. Clause 4 is a transitional provision whereby all proceedings commenced before an arbitrator or a special magistrate before this Bill becomes law and not finalized are to be continued and finalized as though this Bill were not enacted. Clauses 5, 6 and 7 are consequential on the principles underlying the Bill.

Clause 8 amends section 40 of the principal Act by providing that every matter which is to be settled by arbitration under the Act is to be settled, in accordance with rules of court, by a single arbitrator who shall be a judge. The clause also makes other consequential amendments to the section. Clauses 9 to 30 are consequential amendments. Paragraphs (*a*) to (*d*) of clause 31 are consequential amendments. Paragraph (*e*) of clause 31 inserts in section 112 a new subsection which confers a rule-making power by which certain duties and functions placed upon judges may be delegated to special magistrates.

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

ADJOURNMENT

At 4.33 p.m. the Council adjourned until Thursday, November 27, at 2.15 p.m.