LEGISLATIVE COUNCIL

Thursday, November 27, 1969.

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

ASSENT TO BILLS

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

Children's Protection Act Amendment,
Electoral Act Amendment (Postal Votes),
Petroleum (Submerged Lands) Act Amendment,
Prevention of Pollution of Waters by Oil Act Amendment,
Underground Waters Preservation.

QUESTIONS

GAUGE STANDARDIZATION

The Hon. A. F. KNEEBONE: I ask leave to make a short statement before asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. A. F. KNEEBONE: In this morning's newspaper it was announced that on January 2 the first freight train would run on the new standard gauge railway line from Sydney to Perth. The portion of this line between Broken Hill and Port Pirie is very important for South Australia, particularly in regard to the transport of concentrates. To enable these concentrates to be transported from Broken Hill to Port Pirie it is necessary for the sidings leading into the mining companies' properties to be standardized, too. Also, an arrangement will have to be completed about the shunting and assembling of ore trains for delivery to the South Australian Railways crews so that they can convey them to Port Pirie. Does this announcement mean that the mining companies' sidings have been converted and that ore trains, as distinct from freight trains running from Sydney to Perth, will commence running during the mineworks Christmas break? If so, what arrangements have been made about the shunting and assembling of ore trains at Broken Hill?

The Hon. C. M. HILL: As a fair amount of detail is involved in those questions, I think it would be proper for me to bring down a detailed reply for the honourable member, which I shall do.

The Hon. A. F. KNEEBONE: I seek leave to make a short statement before asking a further question about gauge standardization.

Leave granted.

The Hon. A. F. KNEEBONE: Also in this morning's paper the times at which the trains (which, I believe, will be known as the "Indian Pacific") will leave from Perth and Sydney are mentioned. I believe that the inaugural passenger service will be on February 23, which will cater for the Railways Commissioners and their guests, but the first normal passenger service will leave Perth on March 1 and Sydney on March 2. The trains will depart from Sydney at 3.15 p.m. on Mondays and Thursdays, arriving in Perth at 7 a.m. on Thursdays and Sundays. They will depart from Perth on Thursdays and Sundays at 9.30 p.m., arriving in Sydney at 4 p.m. on Sundays and Wednesdays. Can the Minister say whether the announced departure times from Perth and Sydney will result in co-ordination with the present arrival and departure times of South Australian connecting trains at Port Pirie and, consequently, with the Adelaide-Melbourne Overland times?

The Hon. C. M. HILL: Negotiations are still being carried out regarding the arrival and departure times referred to by the honourable member. This has not been a difficult matter to arrange from South Australia's point of view, because it was initially suggested that people on these trains would arrive at Port Pirie at, to say the least, inconvenient times. The whole matter is at present being carefully reviewed, and I will obtain the details of the final arrangements for the honourable member as soon as I can.

PORT PIRIE RAILWAY STATION

The Hon. G. J. GILFILLAN: Has the Minister of Roads and Transport a reply to my question of November 13 about the possibility of general beautification of the railway station and environs at Port Pirie?

The Hon. C. M. HILL: Arrangements have been made for some ornamental trees to be planted along the western boundary of the station yard at Port Pirie on the completion of standardization works. These will be protected by a man-proof fence also to be erected. The station platform and buildings thereon, as well as the main station building, are all modern structures of pleasing appearance.

MEAT PRICES

The Hon. M. B. DAWKINS: Has the Minister of Agriculture an answer to my question of November 6 about meat prices?

The Hon. C. R. STORY: The Prices Commissioner has reported that a further investigation into meat prices, with emphasis on the

retail price of pork, indicates that average retail margins have varied little in the past few weeks and are similar to what they were this time last year. There are a few city butchers who charge above average prices for meat, but due allowance must be made for such factors as quality and high rental areas. Although an instance of pork being offered at 78c a lb. has been mentioned, a survey of prices of 128 shops revealed that the weighted average price of pork sold by butchers is 61c a lb. This figure does not include pork sold through supermarkets, where average prices are usually lower.

During surveys of butchers' prices over recent years, it has been found that the gross profit margin on pork has, in the main, been neither the highest nor the lowest of the margins on the various types of meat. Competition is keen in the retail meat trade and butchers' profit margins are not considered to be excessive. There is no evidence that pork is being sold at excessively high average prices, thereby subsidizing other types of meat.

HEATHFIELD RAILWAY CROSSING

The Hon. D. H. L. BANFIELD: Has the Minister of Roads and Transport a reply to the question I asked on November 18 regarding the Heathfield railway crossing?

The Hon. C. M. HILL: The Railways Commissioner has proposed to construct a roadway alongside the railway line from the Madurta level crossing to those few houses that are served by the private crossing. At the moment I have asked the Railways Commissioner to defer the proposal.

The reason for the deferment is that consideration is being given to the purchase of adjacent land for public park purposes. However, it is proposed that some roadway entrance road to the houses be completed in the future, and that the private crossing then be closed.

GEPPS CROSS TECHNICAL SCHOOL

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Gepps Cross Boys Technical High School.

GIFT DUTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3282.)

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill, which falls mainly into three sections, all of which were discussed when this legislation was before the Council previously. As the Chief Secretary said during the second reading explanation, when Acts are consolidated or new Bills are introduced some problems often arise.

The Chief Secretary dealt fully with the three aspects of the Bill, which I have examined. I have also read through the Bill to the best of my ability, and have found nothing wrong with it. I only hope that the amendments, which have been suggested by many people, will rectify the problems that have existed in the past.

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

AUSTRALIAN BOY SCOUTS ASSOCIATION, SOUTH AUSTRALIAN BRANCH, BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3278.)

The Hon. D. H. L. BANFIELD (Central No. 1): I congratulate the Minister on his second reading explanation on such an important Bill as this, for it was most descriptive. I hope it is the forerunner of many more second reading explanations that give such a clear outline of legislation. I consider that much of this exceptionally lengthy explanation, although most enlightening, was unnecessary. However, I hope that in future we shall get with other Bills as good a second reading explanation as we had with this one and certainly better than we have been getting in the past. In fact, I think the contents of the Bill could have been explained adequately even if 90 per cent of the explanation had been cut out.

The Bill provides for the repeal of the 1940 Act and for the re-enactment of its provisions with some amendments, and it 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. I do not want to go over what the Minister said in regard to the benefit arising from this association, for it has been explained exceptionally well.

The Bill comes to us from another place, where a Select Committee looked into all aspects of it. Mr. McBryde, the Deputy Chief Commissioner, and Mr. H. M. Kemp, State

General Secretary, both representing the South Australian Branch of the Australian Boy Scouts Association, gave evidence, and the Select Committee, after considering their evidence, considered that the Bill was desirable and in the interests of scouting in South Australia. As a result, it recommended that the Bill be passed without amendment. I, too, recommend that, as I have no objection to it in any shape or form.

The Hon. R. A. GEDDES (Northern): I support the Bill. It is hardly necessary for me to remind this Council of the depths of aims that the boy scout movement has created for boys not only in South Australia but also throughout the British Commonwealth and in many other nations of the world. It was founded by Lord Baden-Powell as a result of the famous siege of Mafeking during the Boer War.

The boy scout movement has been an inspiration to many youths because of its teaching of independence and character-building attributes which have done so much to help youths as they grow older. I believe one of the aims of the boy scout movement has always been to teach boys to become leaders of the community and leaders in their society as they grow into manhood.

The need for this Bill has been explained by the Minister and also by the Hon. Mr. Banfield. It follows the granting by Her Majesty the Queen in 1967 of a Royal Charter incorporating the Australian Boy Scouts Association and declaring the South Australian association, along with the branches of the other Australian States, to be first branches of the Australian body. This is the crux of the reason for this Bill, which I support.

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

GEOGRAPHICAL NAMES BILL

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

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

That this Bill be now read a second time.

Its purpose is to establish a Geographical Names Board having authority to assign names to geographical features of South Australia. From the time of the first settlement in 1836 until 1916 there was no body in South Australia vested with authority to deal with the nomenclature of places and geographical features. Early explorers named geographical features encountered upon their journeys and, as trigonometrical and topographical surveys followed, these names were shown on published maps. However, no co-ordinating authority existed to examine nomenclature in order to avoid duplication and confusion in the assignation of names to places, and to record the sources and origins of place names.

In 1916, following a resolution of the House of Assembly "that in the opinion of this House the time has now arrived when the names of all towns and districts in South Australia which indicate a foreign enemy origin should be altered and that such places should be designated by names of British origin or South Australian native origin", a nomenclature committee of three members was established and given statutory powers by the Nomenclature Act of 1917. This Act was repealed in 1935. The committee had not been vested with general powers over nomenclature, but only with power to deal with the names of towns and districts whose names were of enemy origin. However, the committee has continued to operate under departmental arrangement in an advisory capacity to the Minister of Lands, who is vested with certain powers over nomenclature under the Crown Lands Act.

Notwithstanding the continued operation of a nomenclature committee in an advisory capacity, there is a definite need in this State for a representative independent authority having authority to act as an arbiter in determining place names and to exercise control over all aspects of nomenclature in the State. Since the foundation of this State, with a short-lived exception based on purely patriotic grounds, there has not been an authority with statutory powers capable of dealing with all aspects of nomenclature, and it is a matter of regret that no comprehensive official record has been made of place names used in this State, and that the origin of many names used by early explorers and surveyors is not known.

An important and immediate advantage arising from the enactment of the legislation would be that legally binding suburb names could be brought into force. This would prevent a confused situation arising in which land subdividers assign "estate" names to comparatively small areas, thus creating a multiplicity of names which can cause confusion in the minds of the public. An important feature of the Bill is that it provides an avenue for objection to names that the board proposes to

assign to geographical features. The right to object does not exist under the Crown Lands Act, and this provision will therefore ensure that public interest in nomenclature can be effectively expressed. The board is also empowered to seek assistance from outside experts in the performance of its powers and functions.

The provisions of the Bill are as follows: Clause 1 is merely formal, and clause 2 deals with interpretation. The only significant definition is that assigned to the word "place", which is defined as including any geographical or topographical feature, any region, area, locality, city, suburb, town, township, settlement, railway station, hospital, school, and any other place or building that is, or is likely to be, of public or historical interest. Clause 3 establishes the board. It is to consist of the Surveyor-General, the Chief Draftsman in the Lands Department, the Curator of Anthropology in the Museum Department, or his nominee, the State Librarian, or his nominee, and the Director of Planning, or his nominee, or the nominee of the Local Government Association.

Clause 4 deals with the procedure at meetings of the board. Clause 5 provides that the board may act notwithstanding any vacancy in its membership, and exempts its members from liability. Clause 6 provides for the appointment of a secretary to the board. Clause 7 provides that the board may, with the approval of the Minister, seek the assistance of outside persons in the exercise and discharge of its powers and duties.

Clause 8 provides that the suburbs of the metropolitan area are, subject to alteration under the Act, to have the names assigned to them on the map referred to in that clause. Clause 9 provides for the advertisement of proposed geographical names and the manner of objection thereto. Clause 10 provides that the Minister may publish notice of a proposed geographical name recommended by the board in the *Government Gazette*, whereupon the name recommended shall become the geographical name of the place mentioned in the notice. Clause 11 provides for the board to make historical investigations into the names of places.

Clause 12 requires the board to publish from time to time a gazetteer of geographical names. Clause 13 deals with delegation by the board. Clause 14 creates offences if the geographical name of a place is misrepresented. Clause 15 provides that names of certain specified kinds of place are not to be published as the names of those places without the approval of the board.

Clause 16 provides that the Act does not affect any legal liability existing under any instrument or agreement. Clause 17 provides that the Act is not to apply to the names of municipalities, districts or wards constituted under the Local Government Act, electoral districts, divisions or subdivisions, any road or street, or any other place or type or kind of place exempted by proclamation from the provisions of the Act.

Clause 18 requires the board to report annually on its activities. Clause 19 deals with appropriation. Clause 20 provides for the summary disposal of offences and provides that proceedings for offences are not to be commenced without the approval of the Minister. Clause 21 empowers the Governor to make regulations.

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

MENTAL HEALTH ACT AMENDMENT BILL

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

The Hon. R. C. DeGARIS (Minister of Health): I move:

That this Bill be now read a second time.

Its purpose is to provide a means of granting assistance to persons licensed to conduct psychiatric rehabilitation hostels whereby they will be able to obtain on favourable terms the finance they require for making necessary alterations and improvements to their premises in order to comply with the conditions subject to which they hold their licences.

Over the last 10 years, with the introduction of new drugs and new methods of treatment of psychiatric illnesses, there have been some dramatic changes in psychiatric hospitals in this State. The old psychiatric hospital was mainly oriented to the custodial aspects of patient care, but the present policy is directed strongly towards early recognition of the need for treatment—outpatient treatment as well as inpatient treatment where this is indicated.

Over the last 10 years there has been a spectacular drop in the number of patients in all hospitals of the Mental Health Services. In the year 1959-60 the daily average number of inpatients was 2,570 and in the year 1968-69 it had dropped to 1,991, whereas during the same period the population of the State increased by 197,000. This spectacular drop in the number of inpatients has become possible

only by the extension of services out of the hospital and into the community itself and by encouraging early treatment and giving every assistance to enable ex-patients to return to their homes and re-establish themselves within the community. It is in this area that the psychiatric rehabilitation hostels (which are all operated by private persons) have played such an important part.

Not all patients discharged from hospitals have homes to which they can go and generally there are a number of social reasons why some alternative accommodation must be found for them. Most of these patients are on social service benefits and have quite limited private means. They require sympathy and understanding and should be cared for by persons with a knowledge and interest in this field. Their living environment must be up to standard and it is not an easy task to find these requirements within the community at a cost that such patients can afford.

In order to fill this gap in our services there has been a deliberate policy whereby suitable persons are encouraged to provide accommodation in suitable premises. At present there are about 22 psychiatric rehabilitation hostels in the State accommodating about 400 ex-patients. In 1968, an amendment to the Mental Health Act provided for the registration and licensing of hostel managers and hostel premises. These hostels are required to comply with the requirements of the Central Board of Health and the local health authority, and it may be of some interest briefly to describe the general follow-up of patients accommodated in such premises.

One mental health visitor works full-time in the hostels. She does not spend equal time in each hostel, but concentrates on those with special problems, organizes groups of voluntary workers, and so on. There are 15 social workers and mental health visitors who visit the hostels to follow up patients for whom they have the after-care responsibility. They also keep themselves informed about patients by telephone inquiry. During a hostel visit, if a social worker learns of a problem affecting a patient who is not in his care, he will feed back the information to the colleague concerned.

The general policy of the Social Work Department is to provide a close follow-up of patients for the first three months after hostel placement, then gradually to reduce supervision to routine calls. The hostel manager will inform the social worker concerned in the event of any new problem that may arise. Some patients attend as day-patients at the psychiatric hospitals, the community mental health centre or the industrial sheltered workshops. Additional contact with these patients is thus maintained through these centres.

Another check is maintained through the voluntary workers who visit the hostels to entertain or instruct the patients. If the visitors perceive any special problem, they may discuss it with the social work staff. The community psychiatrist and representatives of the social work staff have a weekly meeting to discuss hostel matters. Vacancies, suitable candidates for placement and all manner of hostel problems are discussed. There is an annual inspection of hostel premises and living conditions for licensing purposes. This involves representatives of the Mental Health Services, the Central Board of Health, and the local health authority. On matters of environmental hygiene in the hostels, there is close and continued co-operation between the Mental Health Services staff and the local authority concerned.

There is no doubt that these psychiatric rehabilitation hostels are playing a significant role in the discharge and rehabilitation of patients, but some financial problems are involved. Many of the hostel owners must make alterations, etc., to premises to comply with all requirements and sometimes owners have insufficient equity or other security to borrow the necessary finance. In other cases they are unable to raise money through normal finance institutional channels and are consequently compelled to borrow at high interest rates. Nearly all the premises used as psychiatric rehabilitation hostels were formerly private homes, and alterations, etc., are sometimes both extensive and costly.

This Bill seeks to give some assistance by means of a guarantee by the Treasurer, thus enabling hostel operators to borrow money on favourable terms. There are certain safeguards in the Bill and a preliminary condition is that the Minister may require a report on the general circumstances in each case. This report would normally be sought from the Director of Mental Health Services and would deal with the matter from the point of view of the need, the comfort of patients and the general standards of accommodation required. The Treasurer may then consider the application from the holder of a licence to operate a hostel and the recommendation of the Minister. The borrowing proposal is examined and a guarantee may be given on such terms and conditions as may be imposed.

It may be mentioned that these rehabilitation hostels receive no direct financial assistance from either State or Commonwealth sources. The co-ordination of these hostels into a group serving exclusively ex-patients of our psychiatric hospitals is unique, and they are providing an excellent service, which even the ex-patient, whose sole income is the pension, can afford. If these hostels did not exist, many or most of the patients would be unable to find other accommodation within the community, and this could in turn lead to a deterioration in the patient's condition and a probable return to expensive inpatient hospital admission.

Clause 2 gives effect to the objects outlined by me by empowering the Treasurer, subject to certain safeguards, to guarantee the repayment of any loan made or proposed to be made to a licensee where the loan is or is to be made for the purpose of carrying out such works or the purchase of such property, with the Minister's approval, as would be necessary to comply with any condition imposed under section 87 of this Act.

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

AGED CITIZENS CLUBS (SUBSIDIES) 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 now be read a second time.

The Aged Citizens Clubs (Subsidies) Act, 1963, authorizes the State to subsidize the provision of clubs that are provided by local authorities, or by bodies sponsored by local authorities, and are to be used wholly by aged citizens. The maximum subsidy available under the State Act is $6,000. Under the authority of this Act some $130,000 has been approved for subsidy in respect of 32 clubs, 26 of which are located in city and metropolitan areas and six in country towns.

Some submissions have been made that the maximum subsidy of $6,000 set by the State Act should be increased, and these requests have received consideration by the Government. However, provision is made in recent Commonwealth legislation for the Commonwealth also to give financial help in the provision of senior citizens centres provided that the services proposed are "mainly" for aged citizens. Our present legislation restricts subsidies to clubs that are provided "wholly" for the use of aged persons and, in order to qualify for Commonwealth assistance, it is necessary that we expand the purposes of subsidies to include also centres where welfare services may be provided, and that the services and recreation facilities be declared as available "mainly" rather than "wholly" for aged persons. In these circumstances, the facilities would be available to other persons, such as invalid pensioners whose need was comparable with that of those currently eligible.

Under the Commonwealth's proposals, a three-way equal sharing of cost between Commonwealth, State and local authority is envisaged. Thus, without any increase in the maximum subsidy payable under the State Act, it will be practicable for a local authority contributing $6,000 to carry out a $18,000 project rather than a $12,000 project as at present.

This Bill makes only minor amendments to the State Act so that schemes may qualify for subsidy under both State and Commonwealth Acts. The purposes for which subsidies may be approved under the State Act are thus expanded by clauses 2 and 4 to cover centres as well as clubs, to provide welfare services in addition to facilities for mental and physical recreation, and finally to provide that a purpose may qualify for assistance if it is mainly for use by aged persons rather than wholly for such persons.

The provision of Commonwealth support for aged citizens clubs and centres is part of an overall programme contained in the States Grants (Home Care) Act, the States Grants (Paramedical Services) Act and the States Grants (Nursing Homes) Act of the Commonwealth, and, as the Chief Secretary and the Director-General of Medical Services will be responsible for co-ordinating all new and expanded services with those presently available, clauses 4 (*a*), 5 and 6 also amend the principal Act so as to place the responsibility of considering and approving applications for subsidy on the Minister instead of specifically on the Treasurer. Action will then be taken to declare by proclamation that the Chief Secretary is the Minister to whom the administration of the Act is committed.

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

HARBORS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Its purpose is to give effect to a scheme for the collection of a levy on grain shipped through the facilities in the course of erection

at Port Giles, the purpose of the levy being to assist in meeting part of the cost of the facilities.

In substance the Bill, which inserts a new section 132a in the principal Act, empowers the Minister to declare any facilities, which (*a*) have been provided primarily for the shipping of grain and which (*b*) if used by the growers will result in a higher net return than would be the case if the facilities were not so used, to declare the facilities to be "declared port facilities" and to impose a levy of not more than 2½c for each bushel of grain in respect of which the facilities are used, and also provides for an annual review of the amount of the levy imposed.

The Bill empowers the Minister to enter into arrangements with the Australian Wheat Board and the Australian Barley Board for the payment of the levy on behalf of the owner who delivered the grain. It also indemnifies the board against any claims arising out of the payment.

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

SUPERANNUATION BILL

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

LAND ACQUISITION BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3284.)

The Hon. H. K. KEMP (Southern): I support the Bill, which, we must appreciate, affects not only land acquisition in advance of the implementation of the Metropolitan Adelaide Transportation Study plan but also land acquisition in all forms and for all purposes carried out by the Government. For this reason, I have examined the Bill in detail. Honourable members must admit that the Bill cleans up what has been, for many people, worrying legislation. Land must necessarily be acquired whenever the State increases its activities, as it must in so many ways, and inevitably the acquisition of land involves the rights and privileges of members of the public and affects what has in many circumstances taken them a lifetime to secure.

The Bill sets out different methods of acquisition, which are as fair as they can be. I have encountered a few points in the Bill that I think should be remarked upon, if not questioned. Some parts of it will deeply affect some people. Clause 12 gives the right to object to an acquisition within 30 days after notice has been served that such an acquisition is intended. This is a fair provision. The authority can be requested not to proceed with an acquisition. Also, one can request that the boundaries of the land to be acquired be varied.

In many instances where a portion of land is acquired, as has occurred in the more closely-settled districts, the remaining portion is non-viable. This provision will cover all contingencies that arise in that respect.

Subclause (2) raises a new aspect, in that objections can be lodged if it is considered that the acquisition of land and the execution of an undertaking thereon would seriously impair an area of scenic beauty, would destroy or adversely affect a site that it was considered desirable to retain for the public, or where conditions could be created that would make it impossible for some of our wild life to survive. The clause also provides that objection can be lodged where acquisition would adversely prejudice any other public interest. These are indeed wide terms, which is fair, because it is impossible to foresee the circumstances in which objections may arise in many acquisitions of land that will occur in the future. It is subclause (3) that worries me, and I think this is worth considering in detail. It provides:

> The authority shall consider any request made to it under this section, and shall, within fourteen days after receipt of the request, serve notice in writing upon the person by whom the request was made, indicating whether it accedes to, or refuses, the request.

In other words, there is no appeal whatsoever: it is simply left to the authority to decide whether its need for this land is greater than any public interest otherwise.

I think this is a little wide. It can be said that provision has been made for objection to be lodged for any other public interest, but it is the authority, no matter how small, that decides whether its interest is more important than the public interest in general.

I know there is need in subjects of this nature to have a very hard attitude and to make it less difficult to deal with people who at times are being unnecessarily awkward; but this is a very great power that is being conferred on the authority in respect of what could be very small transactions indeed. However, I do not think it is worth while elaborating that point further.

One aspect of clause 24 worries me. When land has been acquired and materially its ownership lies with the court, the court may charge rent to a person remaining in possession

of that land. The circumstance I visualize is that a piece of land may have been acquired and the occupier of the house on that land is given the privilege of continuing in residence until alternative accommodation can be obtained or perhaps built, and this may take a long time. It seems rather tough in these circumstances for rent to be charged when a man is being tossed out of his own residence. Although it is discretionary in the court, I think this is a point that needs to be looked at.

The Hon. S. C. Bevan: Have they been paid compensation at this stage?

The Hon. H. K. KEMP: Not necessarily.

The Hon. C. M. Hill: Under this Act they would, but not under the old Act. That is one of the big changes.

The Hon. H. K. KEMP: I think so long as it is underlined that the court must administer this provision with mercy and discretion, that is sufficient.

In clause 25 (*i*) there is a phrase that I do not quite understand. This provides:

. . . where the land is, and but for acquisition would continue to be, devoted to a particular purpose, and there is no general demand or market for land devoted to that purpose, the compensation may, if reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

Possibly there is a circumstance giving rise to this provision that I cannot visualize, and I would appreciate a little further explanation at the appropriate time. I think it is quite fair that where a business is displaced, which otherwise would have carried on, the reinstatement should be made on the basis of the cost of moving that business, residence or whatever may be the case.

Although I have no criticism of clause 28, I draw attention to something that I know has worried some of my constituents, particularly in the Adelaide Hills. If an authority has acquired land and is carrying out work on it, it cannot now enter into an orchard, a garden, or a plantation attached to a residence and put in a stockpile or roadmaking materials or a series of huts and temporary accommodation. This has worried many people in whose immediate neighbourhood roadworks have been taking place. Subclause (5) specifies the reservation of 500 yards from the boundaries, and there can be no occupation of such close and intimate areas as laid down in paragraphs (*a*), (*b*) and (*c*) of that subclause. This is reassuring indeed to those people.

I think clause 30 is probably very severe and that this needs looking at. Although it is perhaps necessary, it gives power to the authority, by notice in writing, to require any person to deliver up for the inspection of the authority any specified document in his possession or power evidencing the interest of any person in land required for the purposes of an authorized undertaking or any other specified record, account, or document in his possession or power relating to any such land.

I assume this means that the authority may demand the record of what that land was purchased for, the purchase price, and possibly anything to do with the value of improvements made on it.

The Hon. C. M. Hill: Lease documents would come in this category, too.

The Hon. H. K. KEMP: Any failure to obey leads to a fine of $200. Is this fair? Apparently after a valuation has been made it has to be compared with the original cost of that land. If a piece of land is being acquired and a fair value has been put on it independently, why should a fine of $200 be involved if the Government is making a bad bargain? This is what it really amounts to.

I think this is really the last point of criticism I have in this very important Bill. Apart from those few points, I think the Government is to be commended and congratulated on the clean-up that has been made in regard to this difficult question of land acquisition. I support the Bill.

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for the attention they have given to this Bill, and I thank the last speaker particularly for complimenting the Government in its endeavour to bring in a measure that results, as honourable members know, from the Government's desire to have people whose properties must be acquired in the public interest adequately compensated under legislation that is the most up to date that it is possible for Parliament to consider.

Honourable members know that a special committee was set up for the sole purpose of investigating legislation throughout Australia on this question. The Government was determined that the best possible legislation should be available to the people of South Australia who are adversely affected from time to time when public authorities need to acquire property.

The Hon. Mr. Kemp made some comments concerning subclause (3). The clause deals with the right of objection by people

who have had notice served upon them. I think I am on common ground with the honourable member when he indicates that the right to object is a generous one, especially when a person can point out that acquisition would adversely affect a site of architectural, historical, or scientific interest, which might merit its retention in its existing form.

However, I point out that zoning regulations are gradually coming into effect, not only in metropolitan Adelaide but throughout the whole of South Australia. The regulations will take effect only after a long process of time in which an adequate period is given to people to object to them. Areas zoned in a certain way must further run the gauntlet of public scrutiny, and variations do occur with zoned areas so that properties of scenic beauty, or those with other special characteristics, might be considered under scrutiny before reaching the point of acquisition.

A further point involved in this matter is that it high-lights the need for all departments to make public as soon as possible their long-term planning arrangements so that the public can scrutinize and investigate those plans. For example, the Education Department must obtain properties for schools, and the Engineering and Water Supply Department must obtain properties from time to time for tanks and other installations. If their plans are made known, and are made available to the public for comment and scrutiny in their forward planning arrangements, then important aspects such as the retention of properties can be considered at an early stage.

I do not think there will be many cases in future where this matter will be of serious concern, because I think that ultimately we shall reach a stage in South Australia in departmental forward planning when the need to retain certain properties for architectural, historical, or scientific reasons will arise in the initial stages, and the public will be given adequate opportunity for its voice to be heard. This will mean that necessary variations can be made at an early stage in planning, and a department would then be able to consider the public need.

The honourable member also mentioned clause 24, and dealt with the question of a dispossessed owner having to pay rent. I point out that one of the great changes in this legislation compared with the old legislation (or as it is at this point of time, existing legislation on acquisition) is that the dispossessed owner, under the new proposals, will be able to receive at least part of, and indeed, the major part of, compensation due to him as soon as it is paid into court by the acquiring authority. Therefore, having received that settlement, I do not think it unreasonable that the dispossessed owner should be asked to pay a reasonable amount of rent if he already has his capital in hand by way of compensation.

The Hon. H. K. Kemp: That would be held by the court if there were any dispute over it.

The Hon. C. M. HILL: No, the new proposal is that the estimated value of compensation shall be paid into court and it is released to the dispossessed owner under this Bill, whereas under the old arrangement it had to be paid into court but the amount so paid into court was not available to the dispossessed owner. I am sure honourable members will agree that the new proposal is exceptionally fair.

I turn now to the point made by the honourable member regarding clause 25 (*i*) dealing with replacement of property, or compensation for replacement, on a basis of new construction. In considering the acquisition of a church under this Bill the acquiring authority must acknowledge that, for example, if the church building is being acquired in the public interest, and if the church wishes to continue (as it says in the Bill, *bona fide*) within the same parish, or near the previous site, it will replace the old construction with a new one.

The honourable member also thought it was rather harsh that some documents, or information, should be compulsorily taken from the dispossessed owner. I think it is only reasonable, if an owner claims that he has a valuation by a licensed valuer to the effect that his property is worth so much, that the acquiring authority should be able to peruse that document. It proves the owner's good faith when making his claim.

The Hon. H. K. Kemp: That is fair enough if it were the court, but it is the authority.

The Hon. C. M. HILL: I think it should be given the chance to ask that question, and I do not think the owner should object to providing it in the general period of negotiation. Another document that may be relevant is an unregistered lease, for example. It may well be that the interest being acquired is that of a lessee. A shopkeeper may come under this category when he does not own the freehold of his shop; in many cases the lease is not registered, and it is not satisfactory for the acquiring authority to continue negotiating

with that lessee simply taking the lessee's word that the details of the lease are "such and such" without having an opportunity to peruse the document.

The Hon. H. K. Kemp: They may become disputants in court.

The Hon. C. M. HILL: But all cases of that kind do not go into court. There is no need to hope that they will not go into court; if the dispossessed owner wishes to take the matter to court, then that is his right, and no-one can object to that. On the other hand, there are many times when these arrangements are concluded without court action and that, of course, is what is considered in the first instance.

If it is considered in the first instance, I think it is reasonable that the acquiring authority should see the document upon which the owner makes his representations. On the other hand, I have no doubt that the department at that stage of negotiations would be prepared to show the dispossessed owner any information it holds upon which it has based its valuation. I do not think that that section can act harshly against a dispossessed owner. Again, I thank honourable members for their attention to the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—"Notice where land is under the Real Property Act."

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

In subclause (2) to strike out "may" and insert "shall"; and to strike out "a" second occurring and insert "each".

The amendments to this clause have been requested by the Registrar-General of Deeds, because they will facilitate work in the Lands Titles Office.

Amendments carried.

The Hon. C. M. HILL moved to strike out subclause (3) and insert the following new subclause:

(3) The Authority shall, where it has determined not to proceed with the acquisition of land, or is presumed so to have determined under the provisions of this Act, forthwith make written application to the Registrar for withdrawal of a caveat entered pursuant to this section and the Registrar shall withdraw the caveat accordingly.

Amendment carried; clause as amended passed.

Clauses 15 and 16 passed.

Clause 17—"Modifications to instruments of title."

The Hon. C. M. HILL moved:

After "shall" second occurring to insert "withdraw any caveat entered pursuant to this Act and".

Amendment carried; clause as amended passed.

Remaining clauses (18 to 38) and title passed.

Bill read a third time and passed.

LOCAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3285.)

The Hon. C. D. ROWE (Midland): I have studied this Bill with much interest and I certainly agree that, with the increasing volume of work in the courts, it is necessary for the Legislature to do something to get over the difficulties with which we are at present confronted. At present, however, I am not quite certain that what is proposed is the right thing. I am rather inclined to the view that we are making too much of a mountain out of a molehill and that the difficulties could be overcome in a simpler and possibly cheaper way.

I have carefully studied the Minister's second reading explanation. I note that, whilst there has been a general increase in criminal cases, there has also been a great increase in civil cases coming before the courts. This applies to the Supreme Court, the local courts and the magistrates courts. In his explanation the Minister said:

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.

It must be obvious to anyone who thinks about it that, with the increasing number of motor vehicles on our roads, there must be an increasing number of motor vehicle accidents and sooner or later these matters will take up the time of the courts in being decided. The statistics given in the second reading explanation about the work load on the Adelaide Magistrates Courts are illuminating. I shall repeat them:

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.

So it appears that, even if we spend the $200,000-odd it is suggested will need to be spent to provide salaries for new judges and ancillary staff, to a large extent this will be compensated by the additional revenue that these courts will bring in. A recent report that the Attorney-General obtained from the summary magistrates indicates the work load that is undertaken by these magistrates at present. If that statement is correct, it is obvious that they are overloaded. The second reading explanation continues:

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.

I agree with this. I have always appreciated the work that the justices do and the jurisdiction they exercise at present in relation to the volume of work they do. We have little criticism of their work but, as a matter of principle, the responsibility for administering justice should be on a professional person with adequate and competent qualifications. Therefore, I approve of an alteration to the system that will enable more of these people to sit as judges in the various jurisdictions.

I also agree with the suggestion that some of the criminal and civil jurisdictions exercised exclusively by the Supreme Court at present should be vested in what will be known as the intermediate court. I also approve of the suggestion that criminal offences should be tried not only in Port Augusta, Adelaide and Mount Gambier, where they are tried at present, but also in other parts of the State. To this extent, I am in favour of the proposed amendments, but whether it is necessary to go to the extent suggested by the Bill I am not quite sure at the moment. If I remember correctly, the report that was read to the Council in reply to a question by the Hon. Mr. Banfield suggested that 10 additional judges would be necessary. That seems to be an unnecessarily large number. I think a report should be obtained from the Public Service Board on what the reasonable requirements are before any further appointments are made.

A matter that does not appear to be touched on by this Bill but that ought to be considered is what the Commonwealth Government will do as regards the set-up in South Australia. If the Commonwealth is to build its own courts, an arrangement should be made whereby the courts are built jointly by the State and the Commonwealth Governments, each sharing in the expense and use of the courts and their facilities. If the Commonwealth comes into this field, it will undoubtedly take some of the work load from the jurisdiction of our own courts and will lessen the necessity to increase the court facilities and the number of judges to the extent at present proposed.

Previous Commonwealth Attorneys-General have been interested in this scheme, but what has happened to it in recent years I do not know. I should like the Minister to give me some information on this aspect of the matter before we get into Committee, because this is something that needs to be canvassed before we give our approval to this Bill. I have looked at the main scheme of the integrated legislative programme set out in paragraphs (*a*) to (*h*) in the Minister's second reading explanation. I do not propose to canvass those now or to go through the various clauses of the Bill because I think we can get the required information more satisfactorily by testing it when we get into Committee.

Also, I am anxious to look more closely at the comments made in this matter by the Law Society. I note that the Law Society has been consulted about the preparation of this Bill and, as I understand it, it supports it entirely. On the other hand, criticisms have been made from responsible quarters about the terms and conditions of the Bill, and some of the present magistrates have expressed dissatisfaction with them. The Minister has indicated to me that I can avail myself of the services of the Solicitor-General to discuss with him various aspects of this Bill. I had hoped to do this earlier this afternoon, but I have been engaged in the Chamber and have not been able to do so. However, I want to take advantage of that opportunity to inform myself of those aspects before I say anything further about this legislation. I compliment the Government and the Attorney-General on tackling this problem, which needs attention. I sincerely hope that the efforts made in this connection will prove to be the best that can be made.

The Hon. D. H. L. Banfield: The best that money can buy.

The Hon. C. D. ROWE: Yes. It is certainly true that there is much complaint today about the delay in both civil and criminal cases. That must be avoided. I believe that these delays have got beyond what can be called reasonable, so it is our responsibility to do something about this matter. I

hope that our deliberations on this Bill will enable that object to be achieved. I support the Bill.

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

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3287.)

The Hon. Sir NORMAN JUDE (Southern): Originally, I did not intend to say much about this Bill—

The Hon. A. J. Shard: It has all been said.

The Hon. Sir NORMAN JUDE: —as so many honourable members have made so many worthy contributions to the debate. However, I will apply myself to a few aspects. First, I refer to the electoral commission. I have noticed that most speakers, not only here but in another place, have congratulated that commission and approved in general its findings, but I have also noticed that nobody has sympathized with it. Surely if ever there was a case for sympathy, there was one for the electoral commission. I now refer to its report, on page 14 of which the following appears under the signature of the members of the commission:

We are left with a further difficulty as regards section 8 (8) (*b*). The adjustments which this subsection directs us to make are characterized as being "consequential", which we would understand to mean being automatically governed by the application of the "predominant" criterion in relation to proposed Assembly district boundaries, and by the repositioning of adjacent Legislative Council boundaries. But the subsection also imposes limits on these consequential adjustments, namely, that they are to be made "without substantially altering" the present Legislative Council boundaries. The argument was advanced that the substantial alteration which was to be avoided was one in which the alteration would result in a substantially larger or smaller number of electors than previously being included in the Legislative Council district whose boundaries were being altered. We think, as above stated, that section 8 (8) (*b*) is unmistakably geographical. It deals with boundaries not electors. It follows that the only way in which we can give effect to section 8 (8) (*b*) is by paying heed to it when we fix the relevant Assembly district boundaries. This view is strengthened by section 9 (1) (*b*) if the words "other defined areas" occurring in that subsection are construed as being wide enough to include Legislative Council districts.

Sir, you and the majority of members in this Council who have had considerable experience would realize immediately that the commission is there drawing attention to the difficulty with which it was confronted, having given its first report on the metropolitan boundaries. I have read that paragraph and I suggest that the commission, having said this, found it was forced to argue itself into a tenable position so that it could do what it felt wise regarding what was, to say the least, a dubious or ambiguous construction.

The basic problem also resides in various Acts or decisions dealing with Commonwealth and State boundaries, not in their areas but in their prescribed boundaries. This is particularly anomalous in relation to whole Assembly districts being considered in relation to Legislative Council districts. I say emphatically that, when confronted with this virtual impasse, the commission would have been wise to inform the Government of its dilemma and to suggest the introduction of what might be termed a "one-day Bill" so that the problem could have been simplified. It is obvious that this problem has occurred before in relation to changes in boundaries of whole Assembly and Legislative Council districts. If the commission so desired, this problem could have been resolved within one or two days in both Chambers of this Parliament.

It may be suggested by some honourable members or even people outside the Parliament that I am criticizing the commission. However, I need not apologize for that, as mine is constructive criticism. Many Governments appoint Royal Commissions which, after months or even years of labour and detailed consideration, produce an excellent report that is promptly pigeon-holed because the Government of the day does not like it. That is rather humiliating for a commission, and is far worse than any constructive criticism that might be levelled at the commission by members of this Council.

Recently we experienced a spate of misleading propaganda outside Parliament, and this forces me to pin some of these suggestions right where they belong: in a docket of misconceived and misleading statements. One could be pardoned, in the light of some of these types of statement, in occasionally getting one's Bills mixed up. At present a Bill on abortion is before this Council. I can only suggest that this Bill now before us is another one so pregnant with ill possibilities for the future of the country people in this State that it should be terminated forthwith.

The Hon. D. H. L. Banfield: Are you in favour of termination of pregnancy?

The Hon. Sir NORMAN JUDE: I am certain that some honourable members are sympathetic with abortion where rape is involved. This Bill involves the rape of the country districts by allowing a preponderance of urban influence to stand over them for many years to come.

The Hon. D. H. L. Banfield: You passed the original Bill setting up the commission for that very purpose.

The Hon. Sir NORMAN JUDE: I suggest that insufficient account has been taken of the indecent haste with which this Bill passed through another place. Also, I read in the press this morning that in a period of days (it could have been 16 days, or something like that) 12 members including one Opposition member had spoken on the Bill here. What are the actual facts? There are 15 possible speakers of the Liberal Party and four from the Labor Party in this Council. If honourable members look at the figures they will find that 25 per cent (only one in four) of the A.L.P. members in this Council have spoken on the Bill, while over 75 per cent of the L.C.L. members have spoken on and applied themselves to the Bill.

The Hon. D. H. L. Banfield: It shows that the Labor members are not delaying the Bill like your people are.

The Hon. A. J. Shard: We are completely in favour of it.

The Hon. Sir NORMAN JUDE: That is probably the reason why so many people are speaking on it. We realize that you are not speaking as individuals but as directed by your Party.

The Hon. A. J. Shard: At least we accept the umpire's decision, which is more than you can say.

The Hon. D. H. L. Banfield: We believe in arbitration.

The Hon. Sir NORMAN JUDE: Let us consider some of the basic facts behind this attitude of members. Why was this matter not debated at length in another place?

The Hon. A. J. Shard: Because they all agreed to it.

The Hon. Sir NORMAN JUDE: The honourable member can speak again later on. Three Labor members have still to speak, but they are not game to do so. Why was the debate not continued in another place, nor opportunity taken by the A.L.P. members in this Chamber to speak on the Bill? Obviously, 90 per cent of the members of either Party in another place were reasonably satisfied that they had secure seats and, therefore, were not going to raise a hue and cry about the Bill while they were sitting pretty.

The Hon. D. H. L. Banfield: There must be many worried members in this Council then.

The Hon. Sir NORMAN JUDE: The fact remains that the Labor Party has objected and raised a hue and cry about the time taken to deal with the Bill in this Council, because every day that elapses means there is a better chance of the people in the country areas learning the truth about the Bill: that they have been sold out to the metropolitan area. That is why members wanted the debate closed down and the matter finalized: they do not want the rural people to realize that, while their own members (and I do not refer to a particular Party because I am not dealing with this matter on Party lines) may seem secure, the fact remains that in the metropolitan area some 12 or so seats will be handed directly to the Opposition. Of course, as the Minister said yesterday, they are tickled pink about it and do not want the debate delayed. They want the alteration forthwith. I would at least like to have given them credit for having the guts to get up and express their views, but, with the exception of the Leader, they are apparently not prepared to do this.

The Hon. D. H. L. Banfield: You adjourn the debate too soon.

The Hon. Sir NORMAN JUDE: I have referred to this debate's receiving the consideration that it certainly demands. People are trying to push the measure through, because in many cases they are personally happy with it. A further statement has been made outside this place that members of the L.C.P. are frightened—

The Hon. A. J. Shard: I thought it was the L.C.L.

The Hon. Sir NORMAN JUDE: It is the Liberal and Country Party. Perhaps some people do not know their alphabet. I happen to be talking about Parties in the Council, not about organizations outside.

The Hon. A. J. Shard: It's L.C.L. when it suits you, and L.C.P. when it suits you.

The Hon. Sir NORMAN JUDE: If it suits me, all right.

The Hon. C. R. Story: Just play a normal, steady game; don't let them upset you.

The Hon. Sir NORMAN JUDE: I suggest that much more time should elapse before this Bill is decided on. I invite members of the Australian Labor Party to go into the

country and tell people the merits of having another 12 members from the metropolitan area.

The Hon. D. H. L. Banfield: We did that prior to the last election.

The Hon. Sir NORMAN JUDE: Let us see an A.L.P. member go to the Southern District and advocate the abolition of the Legislative Council!

The Hon. S. C. Bevan: What about Millicent? That's in Southern.

The Hon. Sir NORMAN JUDE: I was referring to rural areas. Whyalla is in Northern, but one would not call it a rural area.

The Hon. D. H. L. Banfield: What would you call Millicent?

The Hon. Sir NORMAN JUDE: Not entirely a rural area.

The Hon. D. H. L. Banfield: What about the surrounding districts?

The Hon. Sir NORMAN JUDE: What about the surrounding population? I congratulate the Minister of Local Government on his excellent contribution yesterday. He pointed out that the Government of the day is involved in considerable risk regarding this matter.

The Hon. Sir Arthur Rymill: That is an understatement, too.

The Hon. Sir NORMAN JUDE: He dealt with the essential part of the Bill regarding another place and, with measured consideration, he did not go into the details of the problems concerning his own seat, partially I suppose because it is in the metropolitan area also. I was delighted to hear the Chief Secretary the other day give the lie direct in answer to a question about how most members exercised their voting rights in this place. Regardless of what anyone inside or outside this place may say, I am not told by anyone in this place how to vote concerning my district.

I am glad that the Chief Secretary nailed this sort of rubbish where it belongs—on the outside of a garbage bin. In closing, I point out that there are a few problems regarding the nomenclature contained in the Bill, and there are one or two matters to which the Hon. Mr. Rowe drew attention this afternoon. For the moment, I intend to confine my support to voting for the second reading, certainly committing myself no further.

The Hon. S. C. BEVAN (Central No. 1): I have been goaded into speaking to this Bill by statements made this afternoon by the Hon. Sir Norman and previously made by other honourable members, including the Chief Secretary. Although there has only been one Labor Party speaker in this debate, I frankly did not intend to speak, because we previously had a Bill in this Chamber that contained the terms of reference for a commission to examine this matter. That Bill was passed, it having been agreed by honourable members that umpires should consider the matter as set out in the terms of reference. Although that Bill did not meet the requirements of the Labor Party, we were prepared to accept the umpires' decision.

The Hon. Sir Arthur Rymill: While saying it is wrong.

The Hon. S. C. BEVAN: Perhaps this afternoon I will goad the three or four members left to speak on this issue into following suit and into letting this Bill pass. The measure has been delayed in the Council. Yesterday afternoon, with this and many other Bills on the Notice Paper, we adjourned at 4.30. We are prepared to discuss the measure fully, as was pointed out on television last evening. The purpose of this Council is to consider these matters fully, but we are apparently doing this when we have only one speech a day on a Bill!

The Hon. R. C. DeGaris: What's the hurry?

The Hon. S. C. BEVAN: Let us get the measure off our plate. When it comes to other legislation that the Chief Secretary wants us to consider and when there is a time factor to be considered in respect of another place, the Council is quite prepared to debate matters without delay. However, we are apparently prepared to delay this Bill. Redistribution was one of the principal matters put to the people prior to the last election. It was canvassed by both Parties throughout country districts, views being expressed on it by the present Premier and by members of this place. What happened regarding Millicent? No-one can, by any stretch of the imagination, say that Millicent is a metropolitan district.

The Hon. C. M. Hill: There's an industrial vote in Millicent, and you know it.

The Hon. S. C. BEVAN: When the original election in that district was declared null and void and another election held, this matter was the principal one put to the electors, and it involves country people particularly. What was the result of the second election held in Millicent?

The Hon. D. H. L. Banfield: We romped in!

The Hon. S. C. BEVAN: It is a hypocritical statement to make that country people are unaware of these circumstances and of their

ramifications. Reference has been made in this Council to one vote one value, which is the policy of the Labor Party. I make no apology for saying that I agree with that policy. Why should my vote not be worth as much as the vote of any other resident of South Australia?

The Hon. Sir Arthur Rymill: You agree with it because it suits you.

The Hon. S. C. BEVAN: The Labor Party believes there should be an equitable system of voting, and that every person's vote should have the same value.

The Hon. Sir Arthur Rymill: Because it suits you.

The Hon. R. C. DeGaris: What happens in Queensland?

The Hon. S. C. BEVAN: The Hon. Sir Arthur Rymill is saying that if we had one vote one value in this State the Liberal and Country Party would have no chance of forming a Government.

The Hon. Sir Arthur Rymill: That is not what I am saying. I said it is because it suits you, and you know it.

The Hon. R. C. DeGaris: How about voting by a cross?

The Hon. S. C. BEVAN: Such a method applied in South Australia at one time. It has been said that primary industry is the backbone of the exports of this State, and I do not dispute that. However, the metropolitan area plays just as important a part in this as does the country. As we all know, the banks play a very important part in primary industry because, from time to time, the primary producer has to borrow money from the banks, and the money in the banks comes primarily from the depositors in the metropolitan area.

The Hon. Sir Arthur Rymill: Are you certain of that? I think you might be guessing.

The Hon. S. C. BEVAN: I am not. I realize that Sir Arthur Rymill holds a certain position in one of the banks, but I think we would find that the majority of the money held in deposits by the banks comes from the metropolitan area and surrounding districts. The population is centred primarily on the metropolitan area, and those people depend on the country for primary products. However, in this way the metropolitan area also assists primary industry. Also, farm machinery, motor vehicles and most other requirements of country districts come from the metropolitan area. The point I make is that one section is dependent on the other. Therefore, it is impossible to say (although it has been said over and over again not only in this debate but in other debates) that the country people carry this State. We know that is not so.

The gerrymander has been referred to, and one honourable member said that it was voted in by Labor. Of course, that is contrary to fact, for the principle behind the present distribution was introduced by Sir Richard Butler when he was Premier, and it was said then that this would ensure a Liberal Government in this State for 20 years. That is when the gerrymander started. Those words have been proved only too true over the years. Therefore, when an honourable member says here that the Labor Party was the Party that voted in the gerrymander in South Australia, he is either absolutely ignorant of the facts or he is making one of the most hypocritical statements of all time.

The Hon. R. C. DeGaris: The principle you refer to is the principle of two country seats to one city seat?

The Hon. S. C. BEVAN: Yes.

The Hon. D. H. L. Banfield: Government by the minority.

The Hon. S. C. BEVAN: It was said at the time that this would ensure a Liberal Government for 20 years, yet we have had the statement in this Council that the Labor Party voted in the gerrymander.

The Hon. R. C. DeGaris: That is true.

The Hon. S. C. BEVAN: It is not.

The Hon. R. C. DeGaris: You didn't oppose it.

The Hon. S. C. BEVAN: I ask the Minister to read *Hansard* and see whether or not the Labor Party members in the other House opposed it. An earlier Bill setting out the terms of reference of the electoral commission was debated in this Chamber, and I said then that honourable members opposite were affected by a fear psychology. It is being said now that while the commission was investigating electoral boundaries it should have adjusted, or arranged for a redistribution of, Legislative Council boundaries. If my memory serves me correctly, I understand that at that time the Premier undertook to introduce legislation later to deal with Legislative Council boundaries. Apparently, honourable members opposite were prepared to accept that assurance, because the Bill went through this Council. The same statement was made then as is being made now.

There is no doubt in my mind that the main and only matter aggravating members opposite is that, under redistribution and under the

present boundaries of the Legislative Council, some of them will lose their seats. That is a personal aspect, and not in the best interests of the State. I think the Hon. Mr. Rowe made that plain in his statements; I think he came out into the open in relation to his district. The Hon. Mr. Dawkins has made a similar statement, and has shown the same fear; that is, that if there is not a redistribution of Legislative Council boundaries he will lose his seat. The Hon. Sir Norman Jude has expressed exactly the same fear this afternoon.

The Hon. Sir Norman Jude: I certainly have not!

The Hon. S. C. BEVAN: That is the fear in the minds of honourable members opposite—that they will lose their seats, and under the existing boundaries I believe that will be true at the next elections, at least in relation to one district. Also, it will not be long before it will be true in relation to two districts. That is why the Hon. Mr. Potter, when the redistribution Bill was before the Council, suggested a redistribution of Legislative Council boundaries and advocated four districts, each with six members. He knew what he was doing, and so did other honourable members. His proposal meant that the number of members in this Council would have been increased by four. There would be 24 members instead of 20; four districts instead of five; six members representing Central District No. 1, and 18 honourable members representing the Liberal and Country Party in this Council for all time, or while the suggested boundaries remained. That is what honourable members wanted, and it is what they still want today.

The Hon. R. C. DeGaris: You don't show much faith in yourself.

The Hon. S. C. BEVAN: It is the other way round: honourable members opposite have not any faith in themselves.

The Hon. A. J. Shard: Use a common roll and we will show you!

The Hon. S. C. BEVAN: It has been forcibly brought out, because of development in districts that were once purely and simply country districts, that members in the Midland and Southern Districts fear that they have not the confidence of the people who have come to live in the newly-developed areas. Those honourable members know that most of those people will not support them at an election, and they are afraid that because of the numbers they will be defeated at the next election.

The Hon. R. C. DeGaris: Sir Norman Jude, too?

The Hon. A. J. Shard: No, he will not be affected.

The Hon. S. C. BEVAN: He has explained rather forcibly this afternoon that he is one member who could lose his seat, too, and he made no bones about it. He said (speaking to members of my Party) that we should go out to the country and tell the country people what the proposed boundaries mean. He challenged us to do that, and said we were not game to do it. Every member of the Labor Party campaigned in country districts at the last election and propounded—

The Hon. R. C. DeGaris: What was the result of the country vote?

The Hon. A. J. Shard: On a deliberate lie by your Leader in another place we lost two country seats.

The PRESIDENT: Order! The use of the word "liar" is completely out of order, and is contrary to Standing Orders.

The Hon. A. J. Shard: If you want a brawl, throw this out!

The Hon. S. C. BEVAN: I was referring to the challenge by the Hon. Sir Norman Jude suggesting that members of the Labor Party should go out into the country and tell the country people about the redistribution. We told them this at the last election.

The Hon. A. J. Shard: We went out suggesting 56 seats; we have only 47 seats now.

The Hon. S. C. BEVAN: We did not lose the last election in the country districts; in fact, we did not lose the election, because the Liberal Party did not win it.

The Hon. C. M. Hill: You lost it in the Murray River areas.

The Hon. A. J. Shard: On a false statement by the Premier on Chowilla.

The PRESIDENT: Order!

The Hon. C. M. Hill: When you go to the country next time the people will tell you what they think.

The Hon. A. J. Shard: We will go to the country on Chowilla, and we will walk it in!

The PRESIDENT: Order!

The Hon. A. J. Shard: You will never put it over the country people.

The Hon. C. M. Hill: You attempted to put it over.

The PRESIDENT: Order!

The Hon. S. C. BEVAN: Members of the Labor Party at no time attempted "to put it over" any of the country people, contrary to statements made by some honourable members opposite. Now that the Hon. Mr. Hill has raised this matter, I will say that, in one

district, it was not only said by word of mouth but it was also contained in a pamphlet that if a Liberal Government were returned it would build Chowilla. It was said, "We will go it alone", knowing perfectly well it was impossible to do it. Those statements were made by the present Premier in the country districts in this State, and I challenge the Hon. Mr. Hill to deny that.

The Hon. C. M. Hill: That was our view at that time.

The Hon. D. H. L. Banfield: Of course it was.

The Hon. A. J. Shard: You never had any intention of doing it.

The Hon. C. M. Hill: But we now know that we can get more water from another source, and we believe that in the best interests of the State we should—

Members interjecting:

The PRESIDENT: I warn honourable members that this exchange of views is completely out of order. There is nothing in this Bill concerning the Chowilla dam; it is a Constitution Bill.

The Hon. S. C. BEVAN: I was not the one to raise the question, Sir.

The Hon. A. J. Shard: And I didn't start it.

The Hon. S. C. BEVAN: I was merely answering a statement that the Labor Party at no time attempted to go out amongst the country people. I did not intend to speak on this Bill, because I was prepared to accept the umpires' decision. I hope what I have said will goad those honourable members who have not spoken in this debate to get up and speak.

The Hon. Sir ARTHUR RYMILL 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, 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 10 for the Ayes.

Motion thus carried; debate adjourned.

Later:

The Hon. A. F. KNEEBONE (Central No. 1): I did not intend to speak on this Bill today but, as a result of what has been said this afternoon, I think I should. Also, it might encourage honourable members opposite to state their views on it.

The Hon. M. B. Dawkins: They all have.

The Hon. A. F. KNEEBONE: If that were so, this Bill would now be in Committee.

The Hon. M. B. Dawkins: Well, only one or two are left.

The Hon. A. F. KNEEBONE: I take it for granted that all members opposite have not spoken. I was amused to hear the Chief Secretary say on television recently that consideration in depth was being given to this Bill, which was why it had been adjourned from day to day. We are now in the position that this Council has been considering the Bill for 17 sitting days but has got no further than where we now stand. Even the Government's greatest supporter could not swallow what the Chief Secretary said.

It was stated in the *Advertiser* that no-one could believe members opposite had not studied the commission's report and the Bill in depth and come to a decision on the matter before now. I am sure they have all studied the report in depth, because of the scramble that ensued when the report was issued. A leader in this afternoon's *News* states that this Council will be doing itself a service if it finalizes the Bill. There is also a cartoon illustrating the point made by my colleague, the Hon. Mr. Bevan, regarding members worrying more about their own seats than the consideration of the Bill. Although I cannot see any resemblance in that cartoon to any honourable members of this Council, I can see their attitude depicted therein. It appears to me that the Government, through its members in this Council, is hell bent on ensuring that it is defeated at the next election.

I agree with what the Hon. Mr. Hill (Minister of Local Government) has said: that unless there is a big swing to the Government, it will be defeated at the next election. The Government will need to get a big swing towards it to enable it to win, irrespective of whether an election takes place tomorrow or some time in the future. I point out to the Minister that the Party in Government at the moment has not won any of the last three elections.

The Hon. M. B. Dawkins: It won one in 1966 fairly well.

The Hon. A. F. KNEEBONE: It did not win an election. It did not even get a majority of seats. In 1962 the Government did not get a majority of members; in fact, it got less

than the Labor Party did, so it has not won an election in the last three. Also, it will not win the next one either.

The Hon. D. H. L. Banfield: Or any of the next three.

The Hon. A. F. KNEEBONE: That is correct. It seems that the Government is hell bent on getting itself defeated, especially when one considers its actions regarding taxes, the administration of the Prices Act (in relation to which, although legislation has been introduced, almost nothing has been left under control), and so on. One must also remember the Chowilla issue and the situation regarding an ombudsman. The Premier has said in that respect that, irrespective of what Parliament says, he will not take any notice of it. The actions of this Council in drawing out the debate on this Bill for as long as possible must be considered. The Government has acted like a person who has to undergo an operation or make a distasteful choice: it is putting off the evil day for as long as possible.

The Hon. A. J. Shard: And will eventually poison itself.

The Hon. A. F. KNEEBONE: Yes. Some young people to whom I spoke in another State were interested in our constitutional situation. They heard that 26 members represent the country area and only 13 represent the metropolitan area, knowing that nearly 70 per cent of the people live in the metropolitan area. This, they considered, was a strange set-up. One person with whom I did not agree started talking about other strange forms of constitution; he suggested (and I am surprised that the Government has not suggested this also in an effort to keep itself in office) that a person should be given a voting quota according to the income tax he pays. The Government seems to say, "Look at all the acres of land; all those acres of land will not be represented. Look at the sheep and the cattle; they will not be represented."

The Hon. R. C. DeGaris: Do you believe that 13 members can represent all the people in South Australia outside the metropolitan area?

The Hon. A. F. KNEEBONE: The Minister held his views for a long time; he believed it until he was forced into the situation of having to accept something like the Bill before us.

The Hon. R. C. DeGaris: Do you think that 13 members can represent all the people in South Australia outside the metropolitan area?

The Hon. A. F. KNEEBONE: You have more than 13 members in that area under this Bill.

The Hon. R. C. DeGaris: You haven't in your proposals.

The Hon. A. F. KNEEBONE: What made you change your mind? You believed, before the commission was set up, that 13 members could represent 70 per cent of the people in this State, and that 26 members were needed to represent only 30 per cent of the people. What made you change your mind?

The Hon. R. C. DeGaris: We did not change our mind.

The PRESIDENT: Order! The honourable member should address the Chair.

The Hon. A. F. KNEEBONE: I accept your direction, Sir. I therefore ask the Minister through you, Sir, what made him change his mind?

The Hon. R. C. DeGaris: I have not changed my mind at all.

The Hon. A. F. KNEEBONE: That is very interesting. The Minister says he has not changed his mind. Apparently, therefore, he does not support the Bill before the Council but wants to return to the old system with 13 members representing the metropolitan area and 26 members representing the country areas.

The Hon. R. C. DeGaris: Your interpretation is as strange as that of the Hon. Mr. Bevan.

The Hon. A. F. KNEEBONE: No, I am only listening to the Minister's interjections. I know he is out of order, but I am still listening to him, although he does not agree with me. Government members in this Council have no valid excuse now why this Bill should not be further debated today and completed. Only a couple of them remain to speak, and surely those members have enough sense to understand the matters contained in the commission's report. If they do not speak on the Bill, they do not deserve to be in this Chamber.

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, L. R. Hart, C. M. Hill, Sir Norman Jude, 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.

PETROLEUM ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3274.)

The Hon. S. C. BEVAN (Central No. 1): This Bill corrects anomalies in the principal Act. It results from conferences held between the producing company and the Minister in connection with clarifying the legislation. Clause 2 amends section 35 of the principal Act, with which must be considered section 34. This latter section provides that the holder of a petroleum production licence must pay in advance 10c an acre in respect of the area comprised in the production licence. Delhi-Santos, the producing company, holds some production licences and is therefore paying in advance 10c an acre in respect of the whole of its areas. Section 35 of the principal Act prescribes that a royalty of 10 per cent of the value at the well-head shall be paid. Section 35 (1) provides:

Subject to subsection (2) of this section, a licensee who holds a petroleum production licence shall pay to the Minister a royalty of 10 per centum of the value at the well-head of all petroleum recovered from the land comprised in the licence.

Clause 2 strikes out section 35 (3) of the principal Act, which provides:

Any annual fee paid to the Minister under section 34 of this Act shall be set off against the amount of royalty payable during the year in respect of which the fee was paid.

This means that the licence fee paid applies to one area. However, this was not intended when the 1967 legislation was dealt with. At that time it was intended that, where the areas were contiguous, the licence fee should be treated as being in respect of one area, and the licence fee paid in respect of contiguous areas would be offset against the amount of royalty paid. I understand that the Solicitor-General has pointed out that the actual effect of the legislation is not what was intended; its effect has been different from what the Mines Department and the producing company thought it was. This Bill therefore makes the position clear; it implements what was intended when the 1967 legislation was enacted.

The other amendments that this Bill makes to the principal Act are not so far-reaching. Clause 3 deals with notification of progress in respect of the schedule of work submitted under the terms of the lease. A report must be made to the Minister from time to time. In connection with this clause, what I said before is relevant: one single report will be sent to the Minister on the whole of the work in contiguous areas instead of a report for each area being necessary. In this way, too, the Bill clarifies the position. Clause 4 amends section 42 of the principal Act, which refers to dealings in leases. When a person or company wishes to buy an interest in a licence held by another company, the conditions of such a transaction must first be submitted to the Minister for his consent. At the moment, accompanying an application for the consent of the Minister, a sum of $20 is required. Clause 4 increases it to $100, which seems to be a steep rise. I draw honourable members' attention to the fact that, under the Petroleum (Submerged Lands) Act, in the case of the Minister's consent being required a sum of $100 is payable for the transfer services. I have no objection to section 42 of the principal Act being amended, although I doubt whether at a conference between the parties the proposed increase from $20 to $100 would be agreed to. This clause brings the principal Act into conformity with the Petroleum (Submerged Lands) Act, and I support it.

Paragraph (*b*) of the clause deals with the same matter. On conditions, the Minister may require a bond. The amendment allows the Minister to stipulate the required terms and conditions of a bond. The Minister may require a bond in the circumstances of a transfer, and this amendment allows him to stipulate the terms and conditions on which such a bond shall be made. I do not object to that amendment or to any of the proposed amendments in this Bill. I support the second reading.

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

SAVINGS BANK OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3275.)

The Hon. A. J. SHARD (Leader of the Opposition): I support this Bill which, although short, is important for those people who may derive some benefit from the Savings Bank of South Australia. The purpose of the Bill is 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 been found in recent years that it has been handicapped compared with savings banks that are associated with trading

banks and are, therefore, able to offer facilities not available at the Savings Bank of South Australia. I think it is a step in the right direction.

People who patronize the Savings Bank in ordinary transfer and banking business should have the right to get personal loans when they need money—for instance, for repairing their houses. When money is not readily available to them, they should be able to borrow it from the Savings Bank. As houses get old, their owners often get pushed into a corner when ready money is needed. If they have been dealing with the Savings Bank or the State Bank, they should be able to borrow money there.

I wonder why the maximum amount that a person can borrow is $1,500. If he wants to repair his house or do anything like that, at today's costs $1,500 will not go very far. No matter how well a person looks after his home, after 40 years or so $1,500 does not go very far in paying for the repairs needed. I can speak with personal knowledge of that. For the past two years or so, I have been trying to get my house up to standard so that it will last me for the rest of my days. I can say quite confidently that $1,500 would not have covered my expenses in that direction. I visit the houses of many people in my district and observe the problems that confront them in respect of their homes. The last man who carried out renovations for me told me that they would last for 40 years. I replied, "I shall not be worrying about that." Although $1,500 will not go very far, it is a step in the right direction. Clause 2 (4) provides:

Every loan referred to in subsection (1) of this section shall be granted subject to the condition that it is repayable—(*a*) upon demand; or (*b*) within a period not exceeding three years.

If somebody borrows $1,500 to be repaid on demand and that situation eventuates, how does he fare? A person who borrows money and finds that within a short period thereafter it is demanded by the bank may be in difficulty. With those remarks, I support the Bill.

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

CRIMINAL INJURIES COMPENSATION BILL

Adjourned debate on second reading.

(Continued from November 25. Page 3215.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I have had a communication from the Law Society about this matter, which has given me concern, on the question of the underlying principle of the Bill or of what might be said to be some of the factors underlying the way in which the Bill is drafted. I make it clear that that is a criticism not of the Parliamentary Draftsman but rather of the nature of his instructions. Certainly, principles have become involved that possibly could give lawyers some concern. The intention of the Bill is undoubtedly good, and I have no hesitation in supporting that. The Law Society states:

This Bill involves a departure from a fundamental concept of our administration of justice, namely, that criminal proceedings should be concerned solely with the guilt and punishment of persons charged with crime and that civil proceedings should be concerned solely with the protection of individual rights and compensation for the infringement of rights.

It goes on to say that the present provisions to the contrary are for the most part either minor in character or are little used in practice. This is a reference to section 299 of the Criminal Law Consolidation Act. In the society's view, they do not provide a reason for extending an anomalous principle to injuries to the person. The communication I have had from the society goes on to say that the society adheres to its views that the principle underlying the Bill is undesirable and that alternative means should be sought to enable compensation to be provided for the victims of crime.

When I spoke before I said something to this effect but in rather different terms, and I made a suggestion, I think, that the implications of the Bill should have no effect on civil causes and would be better spelt out in actual words. I would recommend this to the Minister. I would like to see this because I believe that if any doubt exists in a Bill it should be cleared up in Parliament and not in the courts of law at the expense of people.

I have no doubt that it is the Government's intention that the ordinary civil processes should not be interfered with by this Bill, the purpose of which is to ensure that people in certain circumstances appropriate to the Bill receive some compensation from the Government itself if necessary. This is most laudable, of course. I hope that the Government will be sympathetic to my request to make sure that what it intends is spelt out in the Bill so that there will be no doubt about it.

This is as far as I can go at present. I think the Solicitor-General does not altogether agree with the views of the Law Society. In these circumstances, where leading lawyers disagree, it seems to me imperative that the draftsmanship of the legislation should be cleared up as

much as possible so that we are certain we are saying what we mean to say. I should therefore very much like to see the Government introduce an amendment which says, in effect, that, except in so far as compensation may be received from the Crown (which would be recoverable, anyhow, from the person liable for the compensation), a person's civil rights shall not be affected by this Bill. This amendment is technical. I ask that the Government consider this matter, which I hope will be delayed until next Tuesday. I hope the Leader will not ask for a division on this question.

The Hon. A. J. Shard: We are easy to get on with.

The Hon. Sir ARTHUR RYMILL: The Leader is easy to get on with when it does not matter very much. Certain things are rushed through too quickly in Parliament, particularly in another place. I like to have time to consider all the implications and aspects of Bills. Neither the press nor anyone else will tell me my own job. They are not capable of understanding sufficiently the duties of members of Parliament. It is a pity that they do not try to put themselves in the position of a member of Parliament so that they can see exactly what his duties to the public are.

I suggest that the first duty of a member of Parliament to the public is fully and carefully to consider the whole of any Bill and all the surrounding implications. This is not a matter on which we should make a hasty decision, as has been advocated today: it is a matter for careful deliberation and much intensive thought, and no-one will disturb me in this approach to the question, whatever he says. No-one will disturb me in my duty of giving the fullest consideration to any matter, particularly when it relates to the rights of the public. I ask the Minister to consider my representations.

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for their consideration of this Bill, and I particularly thank the Hon. Sir Arthur Rymill for the detailed manner in which he has investigated this matter. Considerable discussions, by way of submissions, have occurred between the Government and the Law Society on this matter. A matter of principle in this Bill on which the Law Society does not agree is still unresolved. It is proper, as the Hon. Sir Arthur Rymill has suggested, that an amendment be placed on file providing that a person's civil rights shall not be affected by this Bill. Because of the considerable interest displayed in the principles involved in this Bill by members of the Law Society, I think it would be proper that the society's submissions and my reply to them should be incorporated in *Hansard*. I therefore ask permission to have them incorporated in *Hansard* without my reading them.

Leave granted.

LAW SOCIETY OF S.A. INC. MEMORANDUM re CRIMINAL INJURIES COMPENSATION BILL:

This Bill involves a departure from a fundamental concept of our administration of justice, namely, that criminal proceedings should be concerned solely with the guilt and punishment of persons charged with crime and that civil proceedings should be concerned solely with the protection of individual rights and compensation for the infringement of rights. Hitherto there have been only isolated instances in our law of a blurring between the two ideas—for example, exemplary damages for certain torts and the compensation provisions on summary proceedings for assault. The proposals embodied in the Bill, because they fail to observe the distinction mentioned above, are open to certain serious objections.

1. The notion that the conviction of an accused person may lead to an order for compensation will, in the view of the council, tend to undermine the due administration of criminal justice. The only question which a criminal court should be called upon to decide is whether the charge against the accused person has been proved beyond reasonable doubt. At present the court can remind itself, and the jury is frequently told by the judge in the summing up, that the verdict can have no effect for good or ill on the financial position of the victim of the alleged crime. If the court entertains a doubt about the guilt of an accused person, a verdict of not guilty can be returned without any concern that the unfortunate victim is in any way prejudiced by that verdict. If this Bill is passed, a verdict of not guilty will have the effect in most instances of depriving the victim of the possibility of obtaining compensation out of the Treasury for injuries suffered. It is true that the victim may still obtain compensation from the Treasury if the court is satisfied that he has in fact sustained injury by reason of an offence committed by some person, but this would be the less usual case. There is a real danger that juries and other tribunals might be influenced, probably unconsciously, by the effect which the verdict might have upon the position of the victim. Great sympathy is often excited in a criminal trial for the victim of the alleged crime, especially where serious injuries have been suffered. Great care is required to ensure that this sympathy does not prejudice the fair trial of the accused person. The council holds strongly to the view that the intermingling of compensatory considerations with the considerations proper to the administration of the criminal law might considerably increase the danger of the occurrence of miscarriages of justice. It would surely be an embarrassment to a tribunal charged with

the responsibility of determining the guilt of an accused person.

2. Intrusion of considerations of compensation into a criminal trial present great difficulties of procedure which may well result in injustice. The proceedings are conducted, generally, not by the victim but by the police or the Crown law authorities. The Crown authorities would find themselves in the position of being required to present, as part of the Crown case, evidence as to the quantum of damages sustained by the victim. The victim would not have control of his or her own case for compensation. The issues in the criminal trial would be confused, and perhaps prejudiced in some cases, by the intrusion of considerations relevant only to the extent of the victim's injuries and the proper amount of compensation. It is not clear at what stage the accused person would be aware that a claim for compensation would be made. No procedure is prescribed and it appears that an accused person might have to be prepared not only to defend himself upon the charge but also to meet the claim for compensation. It does not appear that he would have any rights to particulars of the amount claimed, to have the victim medically examined or to have discovery of documents. It is not difficult to envisage other procedural problems.

3. The Bill requires "the court by which he was tried" to deal with the question of compensation. The trial may take place before a judge sitting alone (as in the case of a plea of guilty), a judge and jury (in the case of a trial of an indictable offence), or a magistrate or justices of the peace. These tribunals vary very considerably in their capacity to assess compensation and to appreciate the relationship between the civil remedies open to a victim and the compensation which the court would be empowered to award in the criminal proceedings. It is not at all clear whether "the court by which he was tried" means in the case of an indictable offence the judge alone or the judge sitting with the jury.

4. The principles upon which compensation would be awarded are not elaborated. It is not clear whether the principles applicable to assessment of damages in civil proceedings, subject to clause 4 (2), would apply or, if not, what other principles could be applied. The powers of an appellate court in relation to the order for compensation are not clear.

5. What is the position where a victim seeks and obtains compensation in the criminal proceedings and subsequently sues for damages in civil proceedings? Clause 4 (3) provides:

> "This section shall be construed as being in addition to, and not in derogation of, the provisions of any other Act",

but there is no provision regarding actions for damages at common law. Is the compensation awarded in the criminal proceedings to be taken into account by the civil court and, if so, to what extent?

6. Provisions of the Bill would apply even in cases where the convicted person is insured against the damages caused, and even compulsorily insured under the provisions of the Motor Vehicles Act. It is difficult to see why an accused person who is so insured should nevertheless be ordered to pay compensation out of his own pocket.

7. Clause 7 (6) directs attention to "the financial affairs of the person convicted of an offence". It is not clear whether this phrase includes any rights which he may have to be indemnified by an insurer against legal liability for the damage. If the convicted person is insured against the damage, there appears to be no reason why the Treasurer should meet the claims.

8. The provisions of the Bill apply only "where a person is convicted of an offence". Attention has already been drawn to the danger of this in relation to disputed questions of criminal guilt, but it also has dangers in connection with the exercise of the court's discretion as to whether to dismiss a charge without proceeding to a conviction under the provisions of the Offenders Probation Act. It is conceivable that the circumstance that such a course would deprive the victim of the advantage of an order for compensation might influence a court in deciding whether to proceed to a conviction. This introduces an undesirable and extraneous consideration into the question whether a conviction should be recorded.

Conclusion: No doubt some of the defects in the Bill outlined above could be remedied by amendment and it is hoped that, if the Bill is to proceed, attention will be given to those matters. In this society's view, however, the principle underlying the Bill is wrong in that it involves a dangerous and confusing blurring of the distinction between criminal and civil proceedings. It should be added that the society is entirely in favour of the social principle involved in compensation to victims of violent crime out of public funds. It is thought that the object sought to be obtained by the Bill could be attained by providing for such compensation where the following conditions have been satisfied:

1. A person has recovered a judgment for damages for tort.
2. The tort, in the opinion of the court giving judgment, amounted to a crime.
3. The Solicitor-General is satisfied of the matters set out in clause 7 of the present Bill.

It is recognized that the victim would be put to the difficulty and expense of bringing a civil action for damages. It is impossible to see, however, how this can be avoided without serious damage to the structure and operation of our system of justice.

THE HON. C. M. HILL (MINISTER OF ROADS AND TRANSPORT) SUBMITTED THE FOLLOWING REPLY TO THE LAW SOCIETY'S MEMORANDUM:

1. The Law Society claims:

> This Bill involves a departure from a fundamental concept of our administration of justice, namely, that criminal proceedings should be concerned solely with the guilt and punishment of persons charged with crime and that civil proceedings should be concerned solely with the protection of individual rights and compensation for the infringement of rights.

That statement is inaccurate. Under section 299 of the Criminal Law Consolidation Act

the court is empowered, in criminal proceedings, to order that a convicted person pay compensation for loss of property to any person aggrieved by the commission of the crime. This provision has existed for many years, and the Law Society has never raised any objection to it. The present Bill merely extends this principle by applying it to all criminal offences and by extending it to cover personal injury. (At present it covers only loss of property.) Under the law as it stands an injured person can, for example, claim compensation under section 299 for loss of income arising from personal injury. It is anomalous that he cannot also claim compensation for the actual pain and suffering of the injury. The Bill seeks to remedy this anomaly and it does so not by the creation of any fundamental new principle but by the extension of a principle that is already recognized under our law.

2. In addition to section 299 of the Criminal Law Consolidation Act, there are several other provisions of that Act enabling a court to award damages in criminal proceedings that would, apart from the statutory provision, have to be recovered by separate civil action. These are: section 46 (3) (Court may order a person convicted of assault or battery to pay compensation for personal injury to an aggrieved person); section 297 (5) (Court may order compensation to be paid to wife and children of man killed in apprehending the offender who is being tried by the court); section 201 (Court may, in course of criminal proceedings, order the restitution of stolen property.)

There are several provisions of this nature in the Police Offences Act: section 42 (Court may order convicted person to pay compensation for damage or destruction of any fixture); section 43 (Court may order compensation for wilful damage of property in criminal proceedings); section 45 (Court may order compensation where convicted person has unlawfully used vehicle, etc.); section 46 (Court may order compensation where a boat has been interfered with); section 48 (Court may order convicted person who has affixed bill, poster or placard in contravention of this section to restore conditions, or pay for restoration of the condition of the building, wall, etc., to which it was affixed); section 57 (Court may order convicted person to remove rubbish deposited on land in contravention of the section, or to pay for its removal); section 62 (Court may order convicted person to pay compensation where he has made a false report to the police and thereby involved the police in unnecessary trouble); section 62a (Court may similarly award compensation to police where the convicted person has by any other means falsely represented that there is a matter requiring their investigation).

The Road Traffic Act acknowledges a similar principle; section 44 (Court in convicting a person of using or interfering with a motor vehicle without the consent of the owner may order the convicted person to pay compensation to the owner); section 106 (3) (Court may order a person who is convicted of causing damage to a road, etc., to pay compensation to the appropriate authority).

The Road Maintenance (Contribution) Act, 1963, contains a similar provision in section 12. The court may order a convicted person to pay any moneys that would normally be recovered civilly to the Commissioner of Highways.

The Local Government Act, in sections 779 and 783, enables a court before which a person is convicted of damaging council property or depositing rubbish on streets or roads to order the convicted person to pay compensation. The Industrial Code (s. 90 (4)) provides that an employer convicted of the wrongful dismissal of an employee may be ordered by the convicting court to compensate the employee. In the Registration of Dogs Act, a convicted person may be ordered by the court by which he was tried to pay compensation for personal injury to a person bitten by his dog.

3. The Law Society suggests that the Bill will undermine the present principle that the verdict of a jury can have no effect for good or ill on the financial position of the victim of an alleged crime. It fears that a jury will be tempted to return a verdict of "guilty" in order that a person who has suffered injury may be provided with an avenue of compensation. That suggestion proceeds from a defective appreciation of the provisions of the Bill. It is true that the Bill provides that an order for compensation may be made against a convicted person but it also provides that a certificate of compensation may be granted on acquittal, and that even where no person has been brought to trial at all a certificate may be granted upon the application of an aggrieved person.

The Society says:

> A verdict of not guilty would have the effect in most instances of depriving the victim of the possibility of obtaining compensation from the Treasurer for injury suffered.

This is not correct; indeed, the society itself appears to acknowledge this. It says:

> It is true that the victim may still obtain compensation from the Treasurer if the court is satisfied that he has in fact sustained injury by reason of an offence committed by some person, but this would be the less usual case.

The society here acknowledges that compensation may be obtained upon an acquittal but suggests that it would be less usual in these circumstances. It makes, however, no attempt to justify its latter statement. There is in fact no reason at all for a jury to suppose that a verdict either of guilty or of not guilty will affect in any way the likelihood of compensation being made from the Treasury to an injured person. Indeed, the Bill is expressly formulated in such a way as to make it quite clear that an application for compensation is equally possible upon a conviction, an acquittal or even where no-one has been brought to trial.

4. The society alleges that:

> Intrusion of considerations of compensation into a criminal trial presents great difficulties of procedure which may result in injustice.

It is difficult to discover any foundation for this statement. Section 299, to which I have

referred, does not create the procedural difficulties that the society fears will occur nor, as far as I am aware, has legislation in similar terms to the present Bill, which exists in New South Wales, created procedural difficulties. The society suggests that:

> The Crown authorities would find themselves in a position of being required to present, as part of the Crown case, evidence as to the extent of damage sustained by the victim.

If indeed that were so, it would undoubtedly be an intolerable situation. However, it is quite clear from the legislation that the application for compensation is not made until the conviction or acquittal has been recorded. There is no justification, therefore, for the society's fear that the question of criminal guilt or innocence will be confused with considerations of compensation. The society complains that no procedure is prescribed in the Bill. That is true, but there is no question that the power exists under the Supreme Court Act and under other appropriate Acts to make suitable rules of court relating to applications under the proposed legislation.

5. The society complains that it is not clear, in the case of a trial before a judge and jury, whether compensation is also to be assessed by a jury. The Bill is in this respect *in pari materia* with section 299 of the Criminal Law Consolidation Act. It has never been doubted, in proceedings under that section, that compensation is to be assessed by the judge sitting alone, and there seems no reason to suppose that a different attitude would be taken by the court in relation to proceedings under the proposed legislation. The society complains that the issues of compensation may be tried by a Supreme Court judge, a magistrate or justices of the peace. It is said that these tribunals vary considerably in their capacity to assess compensation. It is very unlikely that an offence that had occasioned injury of any gravity would be tried otherwise than by a judge or a magistrate. There seems, in any case, to be no reason to suppose that a tribunal that is capable of determining difficult matters of criminal guilt and innocence and imposing punishment should not also be capable of determining the proper amount of compensation to be awarded under the Act to a person who has suffered personal injury. In any case these tribunals are required to make similar determinations of compensation under the Acts referred to in paragraph 2.

6. The society complains that the principles upon which compensation would be awarded are not elaborated. There seems really no reason why they should be. The court is merely required to fix adequate compensation subject to the limit of $1,000 mentioned in clause 4 (2) and no doubt will proceed upon the same principles as have been evolved in fixing similar compensation in civil proceedings.

7. The society expresses doubt as to the legal position where a victim seeks compensation under the Bill and subsequently sues for damages in civil proceedings. There seems no reason for this doubt. The Bill clearly envisages in clause 8 that a claimant under the Bill is not deprived of any civil remedy by reason of the fact that he is compensated under the Bill. There seems no doubt that in subsequent civil proceedings the amount of compensation that he had received in pursuance of the legislation would be taken into account. Such matters normally are taken into account in assessing the actual subsisting loss to a plaintiff at the time of the action.

8. The society complains that the provisions of the Bill would apply:

> Even in cases where the convicted person is insured against the damages caused, and even if compulsorily insured under the provisions of the Motor Vehicles Act.

It says that it is difficult to see why an accused person who is insured should nevertheless be ordered to pay compensation out of his own pocket. But this is the normal form in which an action is taken. If a motorist causes injury by reason of his negligence, the court orders him to pay damages. Of course, if he is insured the insurance company is bound to indemnify him against the judgment of the court. There seems no reason why the Bill should not operate in this same manner. An order will be made against the convicted person and, if he is insured, his insurance company will be bound to indemnify him against the judgment debt.

9. The society adverts to the fact that the Solicitor-General is to assess the financial position of the person convicted of the offence. It asserts that, if the convicted person is insured against the damage, there appears to be no reason why the Treasurer should meet the claim. That is, of course, obvious and it seems unquestionable that in these circumstances the Treasurer would not in fact meet the claim but that it would be satisfied out of the moneys to which the convicted person was entitled as an indemnity of his liability under the contract of insurance.

10. The society complains, lastly, by way of emphasis, that the provisions of the Bill apply only where a person is convicted of an offence. This is of course quite untrue, as has been mentioned earlier, and I need not traverse again the matters to which reference has already been made.

11. The society suggests, by way of conclusion, that an injured person should seek compensation by separate civil proceedings. The objection that the Government sees in this is that it will involve the expense of commencing separate proceedings and the necessity of proving matters that have already been previously established in criminal proceedings. The Government has considered a number of different methods of providing compensation for criminal injuries but has found none more suitable than that proposed in the Bill. It has the advantage of cheapness and expedition and provides at the same time necessary judicial safeguards. The Government is not prepared to accept the society's proposal, which would involve an injured person in unnecessary delay and expense and would not cover the situation where an assailant had not been brought to justice at all.

LAW SOCIETY'S FURTHER MEMORANDUM re CRIMINAL INJURIES COMPENSATION BILL:

1. It has been suggested that this Society's claim that "this Bill involves a departure from a fundamental concept of our administration of justice; namely, that criminal proceedings

should be concerned solely with the guilt and punishment of persons charged with crime and that civil proceedings should be concerned solely with the protection of individual rights and compensation for the infringement of rights", is inaccurate by virtue of the existence of Section 299 of the Criminal Law Consolidation Act and of other statutory provisions which enable courts in criminal and quasi criminal proceedings to award compensation. The society does not agree. The council of the society gave consideration to the effect of such provisions. The provisions are for the most part either minor in character or are little used in practice. In the society's view, their existence does not provide a reason for extending an anomalous principle to injuries to the person. The society's reasons for this attitude are contained in the earlier memorandum and need not be reiterated.

2. It has been suggested that the society's claim that the Bill will undermine the principle that the verdict of a jury can have no effect for good or ill on the financial position of the victim of the alleged crime, ignores the provisions in the Bill enabling compensation to be awarded on acquittal or the dismissal of a complaint or information. There is no foundation in this criticism. The society's memorandum clearly recognizes that compensation may be awarded in such cases but points out that the certificate for compensation can be granted only if the court is satisfied that the injured person has in fact sustained injury by reason of an offence committed by some person. The society has pointed out that "this would be the less usual case." The society adheres to this view. It is well aware of this fact; namely, that in most criminal trials arising out of injury to the person the issue is not whether the accused person was or was not involved in the incident (that is, an issue of identity) but whether what he did or omitted to do amounted to a crime. In the more usual case, an acquittal would involve a determination by the court that no offence had been proved to be committed.

3. It is not possible in the time available to traverse in detail all the criticisms which have been made of the society's memorandum. It is sufficient to say that the society adheres to its views that the principle underlying the Bill is undesirable and that alternative means should be sought to enable compensation to be provided for the victims of crime.

The Hon. C. M. HILL: The best procedure that can be adopted now is to go into Committee but, before clause 8 is reached, I will ask that progress be reported. Before the matter is further discussed next Tuesday, the foreshadowed amendment will be fully investigated.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. C. M. HILL (Minister of Local Government): The Hon. Mr. Potter has foreshadowed an amendment to this clause. So that we can deal with all the amendments next Tuesday, I ask that progress be reported.

Progress reported; Committee to sit again.

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 19. Page 3079.)

The Hon. A. M. WHYTE (Northern): This short Bill extends the powers provided for in the principal Act. I thank the Leader of the Opposition for allowing me an adjournment yesterday, and I ask him what is the true intention of the Bill. In his second reading explanation, the Leader said that it arose from certain incidents at Port Augusta. These were not quoted factually. There are always two sides to every story and, as much seems to hinge on this, perhaps I can add a little of what I have been told, because, if we are to introduce legislation to a point where we spell out every word of it to every incident, we shall undoubtedly have some trouble in enforcing it.

Unless people are prepared to accept and consider this important matter of discrimination, there will always be some pitfalls. One has to be cautious in what one says about this law for fear that one can be accused of discrimination. I make it clear that I am opposed to any type of discrimination, and that is why I am surprised that this amending Bill becomes necessary. The law is working quite well and people are becoming accustomed to its implications.

I think the Port Augusta incident could have been engineered, in that the people involved were not all local. The Leader said that a well-dressed and well-behaved Aboriginal man and woman were refused a drink in the lounge of a hotel, but he did not say that the well-dressed Aboriginal man was a well-known Adelaide Aboriginal who was accompanied by a white man, described to me as a "university type", and that that they were also accompanied by three Aborigines, one of whom had previously caused some disturbance in the hotel. The implications of this amendment are seen in clause 5, which repeals section 4 of the principal Act. That section provides:

A person shall not refuse or fail on demand to supply a service to a person by reason only of his race or country of origin or the colour of his skin.

I believe that is a good law. We now intend to repeal that and, amongst other things, we say in new section 4 (2):

For the purposes of proceedings for an offence that is a contravention of subsection (1) of this section a refusal or failure by a person to supply the goods or services demanded pursuant to that subsection—

and this is the important part—

on the same terms and under the same conditions as those goods or services are usually supplied by him to any other person shall be deemed to be a refusal to supply those goods or services.

I am concerned about these words. Perhaps the Leader can throw some light on them when he replies. We must be careful about this matter, because it must work both ways. If we restrict a trader to the point where he cannot conduct a business in the manner he deems most suitable, we are discriminating against him. Proprietors of establishments other than hotels, such as frock shops and hairdressing salons, encourage a certain type of clientele, and some charge more and perhaps provide a better service. This is the prerogative of those conducting the business.

In the instance with which the Bill deals, the proprietor had upgraded a hotel from a fairly low standard and, as the second reading explanation has shown, he did not intend to discriminate. He offered to serve these people, but he had had trouble keeping his toilets up to a required standard because of the low hygiene standard of some people who had used them. He has every right to conduct his business without a law being passed that infringes his right to conduct the business in a suitable manner. I have read passages of the law on discrimination in other countries, and the United States of America and Great Britain have a much greater problem than has Australia.

I think the first legislation on discrimination in America was passed in 1945. That country and England have established a board, which mediates in complaints between people who claim to have been discriminated against and the proprietor. The case is submitted to the Attorney-General if the board considers that a prosecution should be launched. This is worth while, because strict laws can be an irritant rather than a balm, and they may not solve every problem. In the instance we are discussing, the board would hear complaints from both sides and try to advise people on a better manner of approach. This would go a long way towards solving many of our discrimination problems. If we prosecute at every opportunity and make laws that restrict a man so much that he does not know which way to move for fear of being prosecuted, these laws will not be conducive to improving his manner, and we will have greater friction. The words to which I have referred in the Bill could have that effect. I do not say that I will vote against the Bill; most of it seems to be all right and perhaps when the Bill reaches the Committee stage the wording may be improved, or the Leader may have explained these words. At present, I do not consider them necessary.

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

ADJOURNMENT

At 5.30 p.m. the Council adjourned until Tuesday, December 4, at 2.15 p.m.