LEGISLATIVE COUNCIL

Tuesday, December 2, 1969.

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

QUESTIONS

GAUGE STANDARDIZATION

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

Leave granted.

The Hon. A. F. KNEEBONE: I was interested at the weekend to read in the newspaper about the final joining of the standard gauge East-West line at Broken Hill and was intrigued to compare the statement made by the Prime Minister in October, prior to the Commonwealth election, that

> We shall build the Port Pirie to Adelaide railway line at an estimated cost of $50,000,000 over two years,

with his statement at Broken Hill that that work would extend over three years. I know there was a report from the Railways Commissioner about the desirability of branch lines being standardized and other facilities being made available, and some years ago his estimate of the time necessary to carry out all that South Australia desired was five years. Can the Minister tell me whether the Prime Minister (Mr. Gorton) has a prior knowledge of what the consultants' report will be and, if so, does the jump from two years to three years mean that South Australia will get more standardization than was thought of by the Prime Minister in October? If so, does the Minister have any prior knowledge of what the report will be?

The Hon. C. M. HILL: I have no prior information about the feasibility study at present being carried out by Maunsell and Partners and I do not think the Prime Minister has any knowledge of that information, either. Speaking from memory, I think the report of Maunsell and Partners is due in about February, and of course both the Commonwealth and the State are looking forward to that report with great interest.

The Hon. A. F. Kneebone: Why did the Prime Minister change from two to three years?

The Hon. C. M. HILL: He mentioned three years at Broken Hill and apparently, according to the honourable member, there was some report made prior to the last Commonwealth election in which he mentioned the period of two years. I think in each case it was a rough estimate on the Prime Minister's part.

PORT NOARLUNGA DOCTOR

The Hon. S. C. BEVAN: Last week I drew this Council's attention to a telecast relating to a group of doctors, I think known as the Onkaparinga Medical Group, and asked the Minister of Health whether he would inquire into the allegations made. Has he a reply?

The Hon. R. C. DeGARIS: Further to the question regarding the recent medical situation in the Port Noarlunga and Christies Beach area, I have received the following information:

Both the medical practitioner concerned and representatives of the medical group concerned (the Onkaparinga Medical Group) have had discussions with the South Australian Branch of the Australian Medical Association concerning the medical and ethical issues involved. It is understood that a writ has now been issued on behalf of the Onkaparinga Medical Group against the television station concerned in the programme outlining certain aspects of the medical situation at the Port Noarlunga and Christies Beach area and, in view of this recent action, I have no alternative except to regard the current matter as being *sub judice.*

KIMBA WATER SUPPLY

The Hon. A. M. WHYTE: I seek leave to make a short explanation prior to asking a question of the Minister representing the Acting Minister of Works.

Leave granted.

The Hon. A. M. WHYTE: Recently I mentioned in this Council that the carting of water to the township of Kimba had already commenced once again. Since that time I have heard on the grapevine that unless the stockpile of water can be so increased that the present tanker drivers can have a Christmas break, the department intends to station an inspector in Kimba to police the water restrictions. Everyone would like these tanker drivers to spend Christmas with their families: no-one would wish to deny them this. Would it be possible for some additional assistance to be given in the way of carting water? Perhaps another tanker could be provided or, if Government tankers were not available, perhaps private contractors could assist in stockpiling a sufficient quantity of water, rather than there being some "S.S." man persecuting old people who have valiantly struggled over the years to maintain a garden. I consider it would be

absolutely wrong for these people to be denied the right to keep those gardens going. Will the Minister take up this matter with his colleague?

The Hon. C. R. STORY: I will make representations to the Acting Minister of Works on behalf of the honourable member, whose explanation, I am sure, will lend some force to the argument.

SUPERANNUATION BILL

Second reading.

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

That this Bill be now read a second time.

Basically, it is a consolidating Bill. The original Superannuation Act has, since its enactment in 1926, been amended some 19 times and, as a result, it has become a somewhat complex measure and difficult to follow. Accordingly, it appeared to the Government that a consolidation was indicated. In addition, certain significant changes that have been made to the superannuation scheme, may be summarized as follows:

(*a*) Previously entitlement to contribute for units was reassessed each time a contributor's salary was raised and over the years this has involved the Superannuation Board and the departments in an enormous amount of clerical work. To enable this work to be done mechanically this Bill provides that the entitlement of a contributor to contribute for units will be reassessed annually on his "entitlement day". Contributors have been divided into two groups depending on which half of the year their birthday falls, and an entitlement day for each group has been fixed at October 31, for those whose birthday falls in the first half of the year and at April 30 for those whose birthday falls in the second half of the year. The adoption of this system will result in a considerable saving in administration costs.

(*b*) The maximum pension that can be contributed for has been raised from about 50 per cent of salary to about 60 per cent of salary to accord with scales of pension by way of superannuation generally applicable elsewhere in similar circumstances.

(*c*) The provision that a contributor could not receive an invalidity pension in respect of invalidity occurring during his first three years of contributions has been removed and invalidity cover now commences immediately.

(*d*) Pensions in respect of orphan children have been increased to $12 a fortnight and this increase has been applied to orphan children receiving pension at the commencement of this Act.

(*e*) A new class of pensioner children has been created, that of a student child, being a child up to 20 years of age in full-time attendance at an educational institution approved by the board. Previously pensions paid in respect of children ceased on the child attaining the age of 16 years.

(*f*) The age at which a contributor can commence to contribute has been raised to 20 years unless the proposed contributor is a married male but a discretion has been given to the board to admit contributors under that age.

(*g*) The provisions relating to reduced contributions for the first 14 units for a person joining the fund after age 45 have not been continued in this measure although this will not affect the rights of persons who are already contributing at this reduced rate.

In addition, other changes of somewhat less significance have been made on the recommendation of the board in the light of its experience with the scheme.

In some detail, the Bill is as follows: Clauses 1, 2 and 3 are formal. Clause 4 sets out the definitions used in the Act that generally follow the corresponding provision of the repealed Act. Clause 5 repeals the Acts referred to in the First Schedule and makes appropriate transitional provisions.

Clause 6 re-enacts a corresponding provision of the repealed Act dealing with entry into the fund of certain employees of public authorities. Clauses 7 to 24 substantially re-enact the corresponding provisions of the repealed Act. Clause 25 provides for existing contributors to continue to contribute to the fund at the rates they were contributing to the fund before the commencement of this Act and also repeats a provision of the repealed Act requiring full payment for units for which contributions are commenced within 12 months of retirement.

Clause 26 is a new provision and is generally self-explanatory; in effect, it prevents an employee from receiving benefits from more than one superannuation scheme which the Government is obliged to support. Clause 27 sets out the rights of an employee to contribute to the fund. Clause 28 sets out the scale of units appropriate to the salary of an employee; subclause (2) provides for a general election by an employee and subclause (4) continues in force general elections current under the repealed Act on the commencement of this Act.

Clause 29 gives superannuation cover to a contributor to the extent of his increased entitlement by virtue of this Act between the commencement of this Act and his first entitlement day, provided that the contributor has elected to contribute for the additional units that he is entitled to on that entitlement day. Clause 30 provides for payments for units to be commenced on the payment day next following an entitlement day and also gives cover to the extent of those units between the entitlement day and the day on which payments are actually commenced.

Clause 31 is similar in effect to clause 29 but covers the period between one entitlement day and the next entitlement day and has the effect of ensuring that a contributor who has elected to take all his units does not lose the benefit of a salary increase during that period. Clause 32 makes a similar provision for new entrants.

Clause 33 provides that all increases in entitlement during the year immediately preceding retirement must be paid up fully before they can be reflected as additional pension. Clause 34 sets a minimum contribution for 10 units.

Clause 35 permits contributors who have not made a general election pursuant to clause 28 (2) to make an election after each entitlement day. Clause 36 provides that where an election is not made the contributor will be deemed to have elected not to contribute for the units in respect of which he had the right to elect. Appropriate provision is made to cover elections not made through inadvertence. Clause 37 sets out the conditions under which a contributor may be entitled to contribute for "neglected units" (that is, units which were not taken up when they should have been).

Clause 38 provides for variation of contributions on reduction of salary. Clause 39 covers contributions while a contributor is temporarily transferred, and clause 40 covers contributions by persons absent on military service. Clause 41 permits the surrender of units in excess of 10 units in cases of hardship. Clause 42 permits a female contributor to surrender all her units upon marriage. Clauses 43 and 44 provide for the table of contributions.

Clauses 45 to 50 provide for reserve units of pension and substantially follow the corresponding provisions of the repealed Act except that a reserve unit of pension cannot now be surrendered until it has been contributed for over a period of five years and that where an election is made to convert reserve units to active units any interest attributable to those reserve units remains in the fund. The board feels that this procedure is justified; it follows practices in other States and also avoids considerable accounting and administrative difficulties. Clause 51 relates to contributions by the Government.

Clause 52 provides for contributions to be paid while a contributor is on leave and at subclause (2) provides for the board to remove a contributor from the fund if the contributor has not paid contributions for six months. This will avoid a situation where the board is liable to provide cover for a contributor who has not made any payments for a considerable period but who may, strictly speaking, still be an employee.

Clause 53 provides for methods of payment of contributions. Clauses 54 to 86 provide for the payment of pensions and substantially follow the corresponding provisions of the repealed Act. Clause 87 deals with a problem that has given the board some concern—where an invalid pensioner obtains employment outside the Government service at a rate of salary greater than three-quarters of the salary he was paid before he became a pensioner. In this case that employment will be treated as employment within the service until the pensioner ceases to be so employed or attains his age of retirement.

Clause 88 provides that certain additional amounts of pension payable under the repealed Act will be regarded as pension for the purposes of this Act. Clauses 89 to 96 continue in operation the system of voluntary savings accounts. Clauses 97 to 100 continue the system of pension supplements payable under the repealed Act. Clause 100 grants a 2 per cent supplement for pension first payable between July 1, 1966, and July 1, 1967. Clauses 101 to 103 continue in operation the retirement benefits account established under the repealed Act. Clauses 104 to 114 make a

number of miscellaneous provisions, including the power to make regulations, which are generally self-explanatory.

The Hon. A. F. KNEEBONE (Central No. 1): I support the second reading of this Bill, which deals with one of the most difficult financial problems of our times—the vulnerability of people on fixed incomes such as those living on pensions or superannuation. Direct and indirect taxation, spiralling prices and inflation hit these people to a far greater extent than those who are still employed. Periodic wage and salary increases, although usually inadequate to match these other elements in the economy, do at least go some of the way. However, people on superannuation benefits get little relief unless some formula can be arrived at to supply an actuarial answer to the problem.

Superannuation is a difficult matter for the lay mind, and this Bill is a fairly technical one. As it reaches this Chamber, it is an improvement on what it was when first introduced in another place. The inclusion of several amendments moved by the Opposition and either accepted by the Government or carried by a majority of members has corrected all but one objection that the Opposition has to the Bill, which removes a provision in the present Act that was included by the Labor Government in 1965. I refer to the provision for a reduced rate of contribution for the first 14 units of pension of a contributor who first becomes an employee after attaining the age of 45 years. The relevant section of the current Act is section 75c (17) (*b*). When introducing the amendment in November, 1965, the then Premier (the late Frank Walsh) said:

> To meet the relatively isolated cases of new entrants aged over 45 years of age where contribution rates even on a 30 per cent basis are heavy through the short period of contributions before retirement, specially reduced rates are provided for a pension of $14 a week, which is the amount presently free of "means test" for a Commonwealth age pension for man and wife.

Since this amendment was introduced in 1965, about 100 people have taken advantage of these benefits. In view of what was accepted in 1965 to be relatively isolated areas, I do not think 100 cases to be entirely insignificant, and I believe the provision should continue. From a rather cursory glance at the debate in 1965, I have failed to find any objection to that amendment from present Government members, who were, as we know, in Opposition then; yet the Government is now intent on taking out the provision. I cannot understand why.

The Hon. D. H. L. Banfield: It has changed its mind.

The Hon. A. F. KNEEBONE: I have had distributed to honourable members an amendment designed to reinsert that provision in this Bill. When the Bill reaches Committee, I shall move that amendment. I understand that this Bill should not be delayed as upon its passing it is intended to introduce computerized administration (if that is the correct phrase) into superannuation matters. This will enable the position of the fund in relation to present and future claims upon it to be quickly assessed.

Such future computer studies may well result in a move to liberalize the pensions of some of those people now feeling the pinch, brought about by inflationary and other burdens. I sincerely hope this will prove to be the case. I do not propose to delay the passage of the Bill, which makes some small concessions. Therefore, with the qualification I have already indicated, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 42 passed.

Clause 43—"Amount of contributions."

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

After "43" to insert "(1)"; and to insert the following new subclause:

(2) The contributions for the first fourteen units of pension of a contributor who first becomes an employee after attaining the age of forty-five years shall be reduced in accordance with the following table:

Determining Age	Fraction of Reduction
46 years	1/30
47 years	1/15
48 years	1/10
49 years	2/15
50 years or over	1/6

and in that table—

"Determining Age" means the age of the contributor on the anniversary of his birth next following the last day of the month immediately preceding the month in which his first payment day occurs:

"Fraction of Reduction" means the fraction by which his contributions (other than his contributions payable pursuant to section 22 of this Act) for his first fourteen units of pension shall be reduced.

This provision is already contained in the Act that is proposed to be repealed. It has operated for the benefit of a limited number of people

since 1965 and, if it benefits any people at all, I can see no reason why the Government should want to delete it. I therefore ask the Committee to accept the amendment.

The Hon. R. C. DeGARIS: As I have not had an opportunity to examine the amendment, I ask that progress be reported.

Progress reported; Committee to sit again.

CRIMINAL INJURIES COMPENSATION BILL

In Committee.

(Continued from November 27. Page 3363.)

Clause 3—"Interpretation."

The Hon. F. J. POTTER: I move:

To strike out the definition of "the Solicitor-General" and insert the following definition: "'the Master' means the Master or a Deputy Master of the Supreme Court".

As it now stands, the Bill designates the Solicitor-General as the person who shall furnish the Treasurer with a certificate regarding the amount to be paid to an applicant under clause 4. It is an amount that, in the opinion of the Solicitor-General, the applicant would be likely to receive as compensation for injury.

It seems to me that the most appropriate person to conduct this small investigation and issue the necessary certificate would be the Master of the Supreme Court, or the Deputy Master. He is a judicial officer doing that kind of investigation fairly constantly and, secondly, as an officer of the court he has all the necessary powers to make inquiries and call witnesses. Indeed, if it is left to the Solictor-General to conduct these inquiries then he would have to be given further powers under clause 8 to enable him to do so.

The Hon. C. M. HILL (Minister of Local Government): The Bill provides that where a court has ordered compensation, or has granted a certificate of compensation, the Solicitor-General is to make an inquiry to ascertain what prospects the injured person has of recovering the amount of that compensation otherwise than by payment out of the Treasury. This may involve an investigation into the financial affairs of a convicted person. The Hon. Mr. Potter considers that this is a judicial inquiry and that it would therefore be made more appropriately by the Master. The amendment is acceptable to the Government.

Amendment carried; clause as amended passed.

Clauses 4 to 7 passed.

Clause 8—"Inquiry by Solicitor-General."

The Hon. F. J. POTTER: I move:

In subclause (1) to strike out "Solicitor-General" and insert "Master"; in subclause (2) to strike out "Solicitor-General" first occurring and insert "Master"; to strike out "Solicitor-General" second occurring and insert "Master"; to strike out subclauses (3), (4), (5) and (6) and insert the following new subclause:

(3) The Master shall make such inquiry as may be necessary for the purposes of this section;

and in subclause (7) to strike out "Solicitor-General" and insert "Master".

These amendments are all consequential upon the amendments previously accepted by the Committee.

Amendments carried; clause as amended passed.

New clause 8a—"Proceedings under this Act do not debar civil remedies."

The Hon. C. M. HILL moved to insert the following new clause:

8a. Any proceedings relating to the recovery of compensation under this Act shall not prejudice or debar any right or claim to recover compensation or damages otherwise than in pursuance of this Act but, where compensation has been recovered under this Act by any person in respect of injury sustained by him, the amount of that compensation shall be taken into account in assessing the compensation or damages to be awarded in respect of the injury in any other proceedings.

New clause inserted.

Clauses 9 and 10 passed.

Clause 11—"Summary procedure."

The Hon. F. J. POTTER: This clause is now unnecessary, in view of the insertion of "Master" for "Solicitor-General" in clause 8. I oppose this clause.

The CHAIRMAN: The honourable member need only vote against the clause.

Clause negatived.

Title passed.

Bill read a third time and passed.

Later, the House of Assembly intimated that it had agreed to the Legislative Council's amendments.

GIFT DUTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3340.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, the purpose of which, as the Chief Secretary said when he introduced it, is to solve some problems that arose following the passing of the Gift Duty Act last session. As all honourable members will recall, that Act dealt with new

matter: except in a minor and insignificant way, we had not imposed gift duty in this State until then. Not only did we then for the first time bring within our tax-gathering structure the taxing of gifts but also we branched out, as no other State, or the Commonwealth, had until then, and extended our concept of what was a gift in certain circumstances to some of the activities of controlled companies.

This attempt to move into a field where we were blazing the trail caused considerable difficulties both in the administration of the Act at Government level and in the interpretation of the Act at private level. We were told at the time that these moves, and particularly the move into the field of the activities of controlled companies, would be watched keenly by other States, and we were given to understand that it would be only a short time before they would follow suit. So far, there has been no attempt by any other State or the Commonwealth to go as far as we have in this State. Perhaps some of the difficulties that have arisen from the operation of this measure have become notorious, and this Bill will go a long way to solving some of them. It may be that in the near future some of our sister States will be prepared to move into this field,

I need not say much about this Bill at present, because it is largely a Committee Bill as it deals with a series of matters connected with the principal Act, all of which are not necessarily related to each other. However, I commend the Government for carefully investigating the difficulties that have arisen in connection with the Act and for its careful consideration of the ample representations made to it by the Law Society and the accountants of this city. Indeed, not so very long ago a symposium was held for one whole day; it was sponsored by the Society of Accountants and the Law Society in this State.

A whole day was set aside for discussion of some of the difficulties being encountered in the interpretation of some of the sections of this Act, and particularly those dealing with controlled companies. I think that day's work was very useful, because it enabled a frank enchange of views. Some considerable publicity was given to some of the leading speakers, and I think that as a result an effort was made by representatives of both bodies to make a recommendation to the Government.

I think it can be said that in this Bill the Government has largely recognized the force of the arguments presented. I say "largely" because, despite the fact that in this Bill the Government has made many amendments to the Act, I think some of the provisions are still not yet clear enough. In Committee I intend to move certain amendments which I stress will not affect in any way the principle of the levying of gift duty, which will not affect any of the concepts behind the Bill, and which will not allow the escape of the payment of duty in any way by anybody liable for such payment under the terms of the original legislation but which will clarify one or two of the fairly difficult provisions, particularly as they relate to the controlled companies.

The idea of a controlled company or a family company or investment company is nothing new: it has been going on for 50 years or more, and it is certainly a method for ordering the financial affairs of a family that we can say it is quite commonplace in this State. This method is not only used by people of considerable means: I know from my own experience that it is used also by people of comparatively moderate means. Consequently, I think anything we can do to clarify the circumstances in which people are deemed to make or not make gifts will be most useful.

The provisions of this Bill do not relate only to control companies. One or two other important matters involved, particularly the re-enactment of section 18, gravely affect the primary producers of this State, who, because of the absence of ready liquidity, have adopted the practice of making gifts in a particular way. I think section 18 as re-enacted still does not completely solve the difficulties involved in the gift of a farm property by means of delayed forgiveness of instalments due on a mortgage. I imagine that country members will have quite a bit to say in Committee about the provisions of this section, to which I intend moving an amendment. I would not be surprised if there was some expression of opinion that section 18 should be struck out altogether. However, we will deal with that matter when the time comes.

The other matters of some minor importance that will be covered by my amendments are administrative matters concerning when additional duty is payable and certain penalty matters in connection with the imposition of duty. I do not know that there is much more I need say about the Bill at this stage, because

I would prefer to keep to the Committee stage what I have to say on the individual amendments I intend to move.

The Government is to be congratulated on making a prompt move within a period of 12 months to clear up the difficulties that arose. Those difficulties have caused considerable delays in the assessments already lodged pursuant to the Act, and they have caused inconsistent opinions to be given, both by private advisers and by Government advisers. I think this is something to be avoided at all costs in this or any other kind of taxing legislation. Where we are pioneering, we ought above all things to set down as clearly as we can what is the law that we wish to enact. I know taxation law is probably the one field in which it is difficult to be crystal clear. However, although it is difficult I believe that we still should strive to do it, and that is what I intend to attempt when we reach Committee.

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

GEOGRAPHICAL NAMES BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3342.)

The Hon. D. H. L. BANFIELD (Central No. 1): I support the Bill. I think that when it becomes law it will obviate much of the confusion which exists at present and which we have experienced in the past with regard to geographical names. On one occasion I lived in a suburb that I called Colonel Light Gardens, which I considered to be the correct name. However, when my neighbour wanted to establish good relations and on certain other occasions he called it Reade Park. I never really knew who was right and who was wrong. Had this matter been cleared up earlier, I would have known which suburb I lived in.

I do not know what the real estate people will think of this legislation. I understand that, although they are not prepared to publicly oppose it, they do not enthusiastically support it.

The Hon. C. M. Hill: They are always very co-operative.

The Hon. D. H. L. BANFIELD: I understand that they are worried about this matter. We know that the addition of a fancy name often means an additional $200 or $300 on the price of a block of land. This will not be available to those people in the future. On the other hand, I think the post office people are quite happy about this legislation because in the future they will not find it so difficult to deliver postal articles.

Of course, the use of the post code has assisted in this respect. I understand that the post code system is now being used by more than 80 per cent of the people of this State and that the usage of the post code in South Australia is higher than in any other State. This has assisted considerably in getting people to adopt the correct name for their suburb. As a result, the public will accept this legislation without complaint. I understand that the principles of the Bill have been generally accepted.

Clause 9 gives the right of appeal to a person the name of whose suburb has been altered. Where a breach of any provision in the Bill is committed, a penalty of $100 can be imposed. I do not know whether the real estate boys will think this is a good provision as it will make it difficult to put a fancy name on a place and make a few hundred dollars more.

The Hon. C. M. Hill: You seem to be making many references to the real estate boys.

The Hon. D. H. L. BANFIELD: They are the ones who have caused trouble in the past.

The Hon. C. M. Hill: I suppose you'll accuse them of introducing the Bill next.

The Hon. D. H. L. BANFIELD: The Minister knows very well that this confusion has arisen in the past only because of the real estate boys.

The Hon. C. M. Hill: It is nice for you to call them "boys".

The Hon. D. H. L. BANFIELD: Well, they are young at heart, as they woo the public very well. One does not woo anyone as one gets older, so they must be boys at heart. Late as it is, this Bill is worth while, and I have much pleasure in supporting it.

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

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3344.)

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill, the purpose of which is to provide a means of granting assistance to persons licensed to conduct psychiatric rehabilitation hospitals 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.

I appreciate that the Government has introduced this Bill to assist those people who have conducted such hostels and homes in the past. These establishments were not up to the required high standard prior to their having to be licensed and being subject to the local board of health and the local government body. These hostels are doing a particularly good job, and I am pleased that the Government appreciates what they have done to help those unfortunate people who require their assistance.

Such rehabilitation hostels have greatly assisted to reduce the numbers of patients within the mental institutions of this State. Some years ago, prior to their existence, a person discharged from a mental institution had nowhere to go. Unfortunately, many such persons had no home and some were not privileged to receive the care, love and attention they needed. These hostels have done much to ease this position, and I compliment them on the work they have done.

The inmates of these institutions have been greatly helped also by mental health visitors, who have taken much interest in them over the years; the efforts of these visitors have been greatly appreciated, and they deserve the thanks of the community at large.

I pay a tribute also to everyone connected with the mental health field, including Dr. Dibden, the Director of Mental Health. Having visited disabled persons homes (indeed, I visited one only yesterday), I realize that the boards of management, nurses and all concerned must be dedicated to their work, because these jobs are not as congenial as are some occupations. These people remain in their positions because of their humane nature and their desire to help persons less fortunate than themselves.

I also pay a tribute to the members of the auxiliaries of these places who raise money, escort inmates on tours and entertain them. They do a magnificent job. I hope the Government has gone far enough to assist people who want to continue working at hospitals for the benefit of the inmates. As this is a financial Bill, it cannot be amended. However, I have no doubt that if in future the hostels need help the Government may be able to assist.

The Hon. R. C. DeGaris: I think it would be more likely that the Commonwealth Government would assist.

The Hon. A. J. SHARD: So long as they receive help; that is all that matters. I often wonder just how hostels can make ends meet. If my understanding is correct, they do not take more than the ordinary pension.

The Hon. R. C. DeGaris: That is right; it is $12.80.

The Hon. A. J. SHARD: I wonder just how they can make ends meet on that. However, they must be able to do so. This Bill, which is based on an admirable principle, has my complete support; it is a step in the right direction; and I hope it meets the needs of the hostels.

The Hon. V. G. SPRINGETT (Southern): When people heard of a person visiting the outpatients department of a hospital in the past it was always taken for granted that the patient was suffering from a general medical or surgical condition, but today that is not necessarily the case. Changes have occurred that have given rise to outpatient care of mentally ill patients. The change that has come about has assisted in this approach towards mental health. It has been helped in no small measure by the tremendous range of new drugs which are available today but which were not available a few years ago.

I am sure some honourable members saw on television a few days ago a news documentary demonstrating the dramatic possible effects of certain drugs. Naturally, these experiments indicate the extreme extent to which these drugs can be made to work. The same could be said not only of the powerful drugs that were shown but also of those more simple drugs that also produce rather startling effects. Used with care and within a certain range, their effect is dramatic and wonderfully helpful.

Society is becoming more compassionate and is accepting with more tolerance the care that is required by the mentally sick. Before a person can be re-established in the community after being in a psychiatric hospital, he needs to be accepted by the community and be given a chance to work. If suitable work is not available, retrogression of the mental condition often occurs. Equally, if the domestic surroundings in which the person has to live after he leaves hospital are unsuitable, both from the physical viewpoint and from the viewpoint of human relations, retrogression occurs.

In this connection I should like to quote the following passage from the 1967 volume of *Hansard*, page 2318:

One of the patient's problems is that he cannot face normal society. When the day comes for his release, if there is no half-way house he leaves the security of the institution and goes out into the world to be bewildered by traffic and the hurly-burly of rushing people. He may not be able to stand this and, before he knows where he is, he is back in the hospital again. That is one of his biggest problems, and the half-way house helps to solve this problem.

The Hon. A. J. Shard: Whom are you quoting?

The Hon. V. G. SPRINGETT: I am quoting from my own speech. Not only do these hostels meet the patients' physical needs but their fees are within the patients' financial capacity. Regular visits by representatives of Mental Health Services will ensure that the standards are maintained. It is so much easier to exploit a convalescent psychiatric patient than it is to exploit a general medical or surgical patient. Because of their type of illness, psychiatric patients are subject to influences that other types of patient are not subject to. In his second reading explanation the Minister said:

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.

Generally speaking, the days of prolonged hospitalization for any cause no longer apply, but there are exceptions. This Bill demonstrates that, in some measure, in modern society we are all our brothers' keepers. I support the Bill.

The Hon. R. C. DeGARIS (Minister of Health): I thank honourable members for their acceptance of this Bill. I, too, should like to pay my tribute to the proprietors of psychiatric hostels in South Australia for the work they are doing. At present 400 or more psychiatric patients are accommodated in these hostels. I think I am correct in saying that, out of their pension of $16, they pay $12.80 for accommodation at these hostels. The Government realized that it should assist these hostels. It was found that the patients were capable of returning to a place in society but had no accommodation to go to.

The Government considered this question from several angles and decided that one of the difficulties being faced by the hostels was that of meeting capital requirements for alterations and purchase of properties to accommodate this type of patient. There were several ways in which the Government could assist. It found that the capital cost to the hostel was increased because second mortgages had to be taken out and that, consequently, money had to be raised at very high rates of interest. The Government thought that the provisions of this Bill would assist people who establish these hostels to raise money at a reasonable interest rate. If the hostels cannot continue on the present financial basis, I firmly believe that it is up to the Commonwealth Government to increase the payment for invalidity.

In this whole rehabilitation programme it is important that these people go back into the community and be encouraged to run their own affairs. It is important that they be reinstated in the community as individuals who themselves cater for their own accommodation and financial needs. As the Hon. Mr. Shard knows, during the conference of Ministers of Health in 1967 a charter was adopted between the Commonwealth and State Governments in regard to the future care and treatment of psychiatric patients. Most of this charter has been fulfilled, although there is a little way to go before it is fully implemented in the whole of Australia. I am very pleased with the way in which these hostels have been established and with the work they are doing in the community. I trust that this Bill will go some way toward overcoming the difficulties that the hostel proprietors have been facing.

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

AGED CITIZENS CLUBS (SUBSIDIES) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3344.)

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill. Its purpose is to enable aged citizens clubs to secure a further subsidy towards the cost of their buildings from the Commonwealth Government. For several years the State Government and the local council have each provided up to $6,000 towards the cost of club buildings. I have always believed that this sum was insufficient. I once attempted to increase the State Government subsidy; I had the verdict my way one week, but the next week it was upset. I think that someone who had to handle the State's finances took exception to what I did, and the figure reverted to $6,000.

The Hon. R. C. DeGaris: Are you giving away Cabinet secrets?

The Hon. A. J. SHARD: No. I have always thought that $12,000 was insufficient to build an aged citizens club. When a club was built under the financial conditions that have operated up to the present, it was often found that it was too small by the time it was opened. Consequently, in the long run, money was wasted. This Bill gives an added incentive to councils and the State Government. The local council, the State Government, and the Commonwealth Government will each give $6,000, making a total of $18,000. I wonder whether $18,000 is sufficient to build a club worthy of the size needed in the various districts? I have visited many clubs of this type, where people getting on in years take part in discussions and social activities, and this must be a most welcome break in their week. I have noticed people coming from a church near my house on, of all days of the week, a Monday, and the look of happiness and contentment on each face speaks volumes for the worth of that club. One provision in the Act previously was that an elderly citizens club had to be wholly for the use of those citizens in order to qualify for a subsidy, but I know of elderly citizens who conduct meetings in football clubrooms in the district. I think possibly this Bill will assist those elderly citizens because they will be able to get facilities to make them more comfortable, and this will be beneficial to them. This amendment is a step in the right direction.

One has always been a little apt to criticize the Commonwealth Government, and not give it credit very often. This Bill is essential to ensure that aged people are cared for in a better manner. Although the sum involved is not a large amount, at least it is a foundation on which it will be possible to build in future. I hope that the citizens who need this money and who are providing these facilities will appreciate and enjoy for many years the comfort and benefits that these clubs will give them. I support the Bill.

The Hon. V. G. SPRINGETT (Southern): I also support the Bill. The aged citizens club has become an institution in most districts today. There is an increase in the expectation of life for all people, and yet it is ironic that, although we expect to live longer, society as a whole, particularly in industry, is making it more and more difficult for even a middle-aged person, let alone an older person, to secure and to keep employment.

There is no question that aged people can be kept active, and if they can be kept active they can be kept useful. Their ability, vis-a-vis younger folk, is considerable, in spite of a natural slowing down of their physical processes. I have seen in various parts of the world not only recreation clubs where older people play games and generally amuse themselves but I have also seen useful sessions where these older people have engaged in suitable work for one or two afternoons a week, doing small jobs within their capacity and not tiring to them. I think more consideration should be given not necessarily to amusement and pleasure but to helping them carry out work of which they are capable to the extent of their physical limitations.

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

HARBORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3345.)

The Hon. A. F. KNEEBONE (Central No. 1): I support the second reading. This is another Bill resulting from a request made by people interested in the grain-growing industry. Most people engaged in that industry on lower Yorke Peninsula have for some years been pressing for the establishment of a grain port at Port Giles. The members for that district have enthusiastically supported them in their efforts.

Approaches were made to the Playford Government on this matter, and subsequently to the Labor Government. The Public Works Committee heard evidence on the matter from the Marine and Harbors Department, the Wheat Board, the Barley Board, the Agriculture Department, and from the people most interested in the establishment of the facility—those growing grain in that area. When it was found that the port would not be an economic proposition (at least for some years) it was proposed that a surcharge of so much a bushel be made on all grain put through the facility. That suggestion was endorsed by meetings held for the purpose in the district and, indeed, it is unlikely that the port would have been established at the time unless that had been so.

The Bill was amended in another place to provide that in September of each year the Minister should review charges after having regard to a report made by the Auditor-General concerning the amount of grain shipped from the port in respect of which the charge was to be made as well as having regard to the

amount of revenue derived from the use of port facilities in respect of the shipment of all other goods, including grain, in respect of which the charge was not payable, and to the total expenses incurred in earning that revenue. The intention of this amendment is a good one, and it improves the original Bill. It means that the graingrower may look forward to a possible reduction of charges, and even to the elimination of the extra charge on each bushel. I therefore support the second reading.

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

LOCAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3350.)

The Hon. L. R. HART (Midland): I wish to address myself briefly to this Bill. As there has been considerable criticism by members of the Opposition, I have gone to some trouble to discover what the amendments set out to achieve. As a layman, one hesitates to criticize any proposition put forward by so eminent an authority as the Law Society of South Australia. The establishment of a three-tier system of courts was first suggested in 1964, so we have had some time to examine the implications of that suggestion. I have read the report of most of the debates in another place on this matter (something I rarely do; in fact, it is something that honourable members of this Council rarely do) and it appears to have been suggested that the magistrates are opposed to this legislation. No doubt, some of them are, but possibly those who oppose it are the more vocal ones. However, we must realize that perhaps some of this criticism comes from vested interests.

One problem facing the magistrates is that they come under the Public Service Act. That is one of their bones of contention. If some method could be devised of removing them from that Act, some of them would be happier than they are at present; but much of the criticism of the suggested amendments arises because they are not fully understood, and the criticism is based on rather ill-informed opinions. We appreciate there have been delays and serious congestion in the Supreme Court. We can understand the implications of this congestion in the Supreme Court if we read the first paragraph of the memorandum submitted by the Law Society of South Australia. Under the heading "Relief of the Supreme Court" it reads as follows:

The Supreme Court lists are seriously congested and the congestion must increase with the growth of the community. This leads to delay and injustice. One consequence of the congestion is that the operation of the interim damages legislation, in which South Australia was a pioneer, has been largely frustrated. There does not appear to be any practical possibility of increasing the size of the Supreme Court to the degree necessary to keep pace with the increased volume of litigation, civil and criminal.

We must take cognizance of the last sentence of that paragraph, that there does not seem to be any practical way of increasing the size of the Supreme Court to cater for the present situation. We would do well to pause and consider the situation in New South Wales, where there is a backlag of several years in the hearing of cases, and particularly those relating to claims in respect of motor vehicle accidents. Those delays are so lengthy that many cases are settled out of court, the person making the claim being prepared to settle out of court rather than wait for his case to be heard, with the consequent charges he would incur and the possibility of losing the case. Often, that is to the advantage of the insurance companies.

We do not want cases settled out of court here for that reason, because that would not be justice. The magistrates have complained of being overworked. No doubt, there is some justification for that complaint, because they have done a good job in difficult circumstances. Some weeks ago an article in the *Advertiser* drew attention to the embarrassing shortage of magistrates. It began:

The shortage of special magistrates in South Australia may yet embarrass the Government unless it can resolve the position in a manner acceptable to the magistrates.

It was suggested there that any improvement in the situation must be acceptable to the magistrates. Therefore, the present position is that any suggestions for improving the situation that are not acceptable to the magistrates are open to criticism by them.

It was recognized that the Government was faced with having to do something to relieve the congestion and at the same time improve the status of the courts. Most other States have in some form or other a system somewhat similar to what is suggested here. The reconstruction of their court system has met with varying degrees of success, but in South Australia we are in a position to benefit from the experience of the other States. By this legislation, we are setting out not to reconstruct completely our court system but rather

to rearrange the present procedures. We can do it piecemeal and make arrangements as and when the need arises. That does not necessarily mean that we shall be involved in a huge capital outlay in the initial stages of this rearrangement. Over a period of time we can rearrange our present system at perhaps no greater cost than the cost of increasing the personnel engaged under the present system. We must relieve the congestion in the Supreme Court, and that we shall certainly do by this legislation.

It is suggested also that by relieving the work of the Supreme Court we shall throw a heavier load on to the magistrates. That is not necessarily so, because it is intended to establish a system of lay justices who will be able to take over some of the work now performed by the magistrates. One of the main criticisms of the Opposition has been the cost of this proposed system. It is hard to understand that attitude of the Labor Party, because it has never been very concerned with the increased costs of implementing its own policies; but any system we implement will incur some increased costs.

I do not think we can oppose this legislation on cost alone: we must also consider cost in relation to the benefits to be derived from the new system. We also recognize there is some degree of decentralization in this legislation, because there are suggestions that further district courts will be set up in South Australia. Anything we can do to decentralize the system should receive our full support. Therefore, taken all in all, this Bill recognizes the present difficulties and sets out to remedy them. This improvement is being made in the light of the experiences gained in other States. I do not think we can continue supporting the present system if that system is not proving adequate, and without doubt the present system is not proving adequate.

Therefore, I believe we should take some recognition of the recommendations that have been made by the Law Society of South Australia. As a layman, I am not in a position adequately to criticize the suggestions the Law Society has put before us. I have had a close look at the legislation, and I support the second reading.

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for the attention they have given this Bill, which is the parent Bill of similar measures on the Notice Paper. The Hon. Mr. Kemp asked some questions. In reply, I point out to him that a close examination has been made of the present system over the past 18 months and its defects have been isolated. This Bill is designed to correct those defects.

Searching inquiries have been made into the whole measure. The Solicitor-General, who, we know, is very interested in this Bill, has spent 20 years in practice. Magistrates, practitioners and judges were fully consulted before this Bill was brought into the Chamber. The point has been made that the legal fraternity is not unanimous in its approval of this scheme. Of course the legal community is not unanimous about this legislation. No legislation has been or could be drafted of which this could be said with absolute truth.

A substantial majority of the legal people, however, approve the measure. The Solicitor-General informs me that he has not had one adverse comment from the members of his profession and that all (save one formal change) of the changes suggested by the Law Society when this Bill was submitted to it have been incorporated.

In answer to some statements made by the Hon. Mr. Shard, who opposed the Bill, I point out that the best legal brains we could muster in this State have worked on this Bill or have been consulted about it. If they cannot produce a simple, cheap and workable solution, it would seem that no-one can.

This Bill does not establish a three-tier system. In effect, we already have one. It simply extends the existing jurisdiction along the lines that exist in Great Britain, the United States of America, Queensland, New South Wales, Victoria and Western Australia. It makes use of existing administrative organizations and establishes its system on the existing courts, with some slight additions.

I cannot stress too strongly that something must be done now about our present court system. What is proposed is designed to cope with the problems facing the State with the minimum expense practicable, with the minimum administrative changes practicable, with the minimum building and the minimum variation in the law. If this legislation is not passed, we shall need immediately three more Supreme Court judges, about 10 more magistrates (or perhaps an even greater number), the same building programme, at least, as we envisage being necessary with this proposal, and probably more buildings; and we shall incur increased administrative costs.

The Government feels strongly that it cannot do just nothing in this important matter. If it does nothing, the administration of justice in this State will well-nigh collapse or grind to a halt. Accordingly, I urge members to support this Bill through the Committee stage.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Arrangement of Act."

The Hon. C. M. HILL (Minister of Local Government): I move to insert the following new subclause:

(*a*1) by striking out the item—

Part XII—Special equitable jurisdiction of Local Court of Adelaide.

and inserting in lieu thereof the item—

Part XII—Special equitable jurisdiction of local courts.;.

This amendment and the others to follow are of a formal nature. The present amendment is consequential on new clause 64a proposed to be inserted, and both amendments are consequential on the policy to which the Bill gives effect.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8—"Appointment to judicial office."

The Hon. D. H. L. BANFIELD: This clause provides that a person appointed to judicial office or acting judicial office under this Act shall, except as otherwise provided, retire from such office on attaining the age of 70 years. I understand that at present the retiring age of 70 years is restricted to Supreme Court judges. The judges of the Industrial Commission and the commissioners retire at 65, and this is also the retiring age for the Auditor-General, the Chairman of the Public Service Board and many other high officials. Can the Minister explain why persons appointed to judicial office under this Act are not expected to retire at 65 years of age, as are judges of the Industrial Commission?

The Hon. F. J. POTTER: I think this provision is designed to bring judges in this State into line with the judiciary in other States. A person appointed a judge in the Commonwealth sphere is appointed for life. In the other States, the appointment to the Supreme Court, as in this State, is to the age of 70, and it is proposed under this Bill that the retiring age of judges will be 70. The status of the judges under this Bill will be about on an equal plane (although perhaps their salaries may not be equal) with that of the President and Deputy President of the Industrial Court and the Licensing Court Judge. I have no objection to the retiring age being 70 years, for I think it is to some extent an added incentive for people to apply for appointment to these offices. However, I think some attention will have to be given to judges in other courts so that they do not remain in an anomalous position.

The other thing I would like to see (and I hope the Government will give some attention to this) is a retiring age of 70 but an option to the individual to retire at 65 if he so wishes. Not every person wants to go on working to 70 years of age. Perhaps when a person is 50 he might think it wonderful that he has a job for another 20 years but, if illness supervenes or other circumstances arise, that person might very well wish that he could retire at 65.

I would like to see opportunity given not only to these judges but also to the judges of the Supreme Court to retire at 65 if they so wished. This would correspond to the position in the Public Service, where the retiring age is 65 with the option to retire at 60. I do not think there would be any problem about superannuation, because there is no problem elsewhere in the Public Service in this respect. Although I cannot amend the Bill, I hope the Government will bear this suggestion in mind for a future occasion.

The Hon. C. M. HILL: These appointments will be made from the legal profession, and the gentlemen concerned do not become public servants. In many instances they will be elevated to high office fairly late in life, and it is thought appropriate that they should be given every opportunity to display their talents in such high offices for a reasonable length of time.

It was thought reasonable that they should continue up to the same age limit as the Supreme Court judges. It would seem a pity that a professional man who was appointed

fairly late in life had to curtail his service simply because of a compulsory age limit of 65. Probably he would be able to serve exceptionally well in his new capacity for this extra period of five years.

The point raised by the Hon. Mr. Banfield can be looked into, and I undertake to do that. In fact, I will refer it to the Attorney-General so that a general investigation can be made into that matter. Also, I assure the Hon. Mr. Potter that I will look into the interesting point he made that perhaps judges ought to be given the option to retire at 65 if they so wished.

Clause passed.

Clauses 9 to 35 passed.

Clause 36—"Appeal to Full Court."

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

In paragraph (*b*) to strike out "word 'Supreme' " and insert "passage 'appeal to the Supreme Court' "; and to strike out "word 'Full' " and insert "passage, 'subject to the rules of court made under section 28 of this Act and under section 72 of the Supreme Court Act, 1935-1969, appeal to the Full Court' ".

The amendments proposed to clauses 36, 37 and 38 are to simplify appeal procedures and were suggested, in substance, by the Supreme Court judges after they had studied in detail the Bill in its final form. A person intending to appeal under the Local Courts Act as it stands at present is required, among other things, after giving notice of intention to appeal, to apply to a Supreme Court judge for an order calling on the other side to show cause why the judgment or order appealed from should not be set aside or varied, or why a new trial should not be ordered. On the appeal, the appellate court, instead of allowing the appeal or dismissing the appeal, "makes the order absolute" or "discharges the order". That procedure was continued from similar procedures adopted in England in earlier days, and has enabled the Supreme Court to exercise what may have been once a necessary supervision over the proposed grounds of appeal.

The procedure has not been adopted for justices appeals or for appeals from single Supreme Court judges. It is an anachronism, and today produces unnecessary expense and delay. The Supreme Court has ample power to deal with unjustified appeals. Accordingly, at the suggestion of the Supreme Court judges, the order to show cause procedure is being eliminated and power is to be conferred on the two courts involved (the Supreme Court and a local court) to prescribe a simplified machinery for appeals. The amendments to clause 36 confer the power to prescribe new appeal procedures by rules of court.

Amendments carried; clause as amended passed.

Clause 37—"Appellant to obtain order to show cause."

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

To strike out clause 37 and insert the following clause:

Sections 60, 61 and 62 of the principal Act are repealed.

This amendment repeals sections 60, 61 and 62 of the principal Act; those sections being the main provisions at present governing the order to show cause, and consequential cross-appeal, procedures. They are no longer necessary if the direct appeal procedures come into force.

Amendment carried; clause passed.

Clause 38—"Powers of Full Court on hearing of appeal."

The Hon. C. M. HILL: I move to insert the following new paragraph:

(*a*1) by striking out paragraph (*f*) of subsection (1) and inserting in lieu thereof the following paragraph:—

(*f*) amend the grounds of appeal or of any cross-appeal;.

This amendment and the following one are simply consequential. Section 63 (1) (*f*), which lays down the powers of the appeal court at the hearing, refers to the order to show cause and notice of intention to cross-appeal. Those references have been varied to refer to "grounds of appeal" and "of any cross-appeal". Section 63 (2) gives the appeal court power to dismiss the appeal in whole or in part where, although the judgment appealed from was technically wrong, no miscarriage of justice has occurred. Internal references to discharging the order and to making the order absolute are inappropriate and have been varied so that the references are to dismissing the appeal and allowing the appeal.

Amendment carried.

The Hon. C. M. HILL moved:

To strike out paragraphs (*c*) and (*d*) and insert:

(*c*) By striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) If the Full Court is of opinion that, although any ruling, direction, judgment, determination or order objected to may not have been strictly according to law, yet substantial justice has been done between the parties, the Full Court shall discharge the order with or without costs,

and if the Full Court is of opinion that, although there has been a substantial wrong or miscarriage of justice, such wrong or miscarriage affects part only of the matter in controversy, the Full Court may allow the appeal with regard to such part, and dismiss it as to the other part, with or without costs.

Amendment carried; clause as amended passed.

Clauses 39 and 40 passed.

Clause 41—"Vexatious proceedings."

The Hon. F. J. POTTER: I move:

In new section 71a. (*b*) before "that" first occurring to insert "(i)"; and after "relates" to insert:

"or

(ii) That the debt the subject matter of the claim had not been paid or satisfied prior to such action being brought."

One vexatious proceeding that causes no end of trouble is where a claim is brought against a person who has already paid the sum involved. I have previously had the experience of people coming along to me with a summons and saying, "But I've already paid it, and here's the receipt." I regret to say that much of this trouble arises from certain slipshod methods of debt-collecting agencies.

The Hon. C. M. HILL: I support the amendments.

Amendments carried; clause as amended passed.

Clauses 42 to 62 passed.

Clause 63—"Proceedings on ejectment where land is under Real Property Act."

The Hon. A. J. SHARD: I oppose this clause, which is not in the best interests of the community.

The Committee divided on the clause:

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

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

Majority of 8 for the Ayes.

Clause thus passed.

[*Sitting suspended from 5.55 p.m. to 7.45 p.m.*]

Clause 64 passed.

New clause 64a—"Amendment of heading to Part XII of principal Act."

The Hon. C. M. HILL: I move to insert the following new clause:

64a. The heading to Part XII of the principal Act is amended by striking out the passage "Local Court of Adelaide" and inserting in lieu thereof the passage "Local Courts".

This clause makes a formal amendment to the heading of Part XII of the principal Act. It brings the heading into conformity with the contents of that Part.

New clause inserted.

Remaining clauses (65 to 90) passed.

Title.

The Hon. H. K. KEMP: I should like to reiterate that this tremendously important Bill should not go through without an understanding on the part of the people of South Australia about its great importance. Because it will completely change the administration of justice in this State, it must not be put through as quickly as a string of sausages. I use that term advisedly.

From the explanations given by the Solicitor-General, I believe that it is a clean and good Bill, but the people must understand that this legislation will implement a really deep redesigning of the administration of justice in this State. I had hoped that the people of South Australia would understand what was going forward, but that aim has not been achieved. So many superficial and unimportant matters are going forward at present that this Bill has no news value, yet it is basically important to every person who may be hauled before the courts of justice in South Australia in the coming years.

This Bill redesigns the whole of the judicial system and it should not go forward without very close examination. My first proposition was that the Bill should be reviewed by a committee of inquiry. Because it is at present very difficult for the judicial system to clear the court lists every month, the system must be completely readjusted. It is fundamental not only that justice should be done but that the people of South Australia should see that it is done. We must not allow this Bill to go through just like this: we must see that its importance is properly emphasized.

Title passed.

Bill reported with amendments. Committee's report adopted.

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

That this Bill be now read a third time.

The Hon. D. H. L. BANFIELD (Central No. 1): I oppose the third reading. This Bill will result in a cost of $250,000 a year

and will not achieve the object that it sets out to achieve. In my opinion, it is an experiment, because there is no similar measure in existence in any of the other States. The system of appointing special magistrates in this State is unique. It is said that a special magistrate here must be a member of the legal profession, although that is not required by existing legislation. That position does not exist in any other State except Tasmania: in all the mainland States except South Australia, magistrates are drawn mainly from clerks of court who have passed a prescribed examination, or from solicitors. That system encourages clerks of court to study in order to attain the position of magistrate, and I believe the appointment of this type of person must be beneficial to a court.

Tasmania does not have intermediate judicial officers or courts. In Western Australia, intermediate courts are presided over by one magistrate who graduated to his position from that of clerk of a court. We complain in this State that we cannot get sufficient magistrates, but capable officers, with experience in court work, are not given the opportunity to graduate to the position of magistrate because here we have to follow the lead of, or instructions given by, the Law Society of South Australia and appoint magistrates from members of the legal profession.

The Hon. C. R. Story: Are you opposed to the Law Society's making recommendations?

The Hon. D. H. L. BANFIELD: No, but I am opposed to the Bill.

The Hon. C. M. Hill: This proposal did not originate with the Law Society.

The Hon. D. H. L. BANFIELD: I did not say that it did, but I believe that we should appoint clerks of court as magistrates instead of insisting that they be appointed from the legal profession. The three States with intermediate courts (New South Wales, Victoria and Queensland) do not require magistrates to be legally qualified practitioners, and their systems appear to work satisfactorily.

The Hon. H. K. Kemp: They have to wait a long time for cases to be heard.

The Hon. D. H. L. BANFIELD: We have to wait a fair time here, too, and still we cannot get magistrates because we do not grant opportunities to clerks of court who would be qualified to take the position, and who would probably make better magistrates than some of the legal practitioners who have been appointed to the position. In his second reading explanation the Minister said that we are proud of our professionally qualified magistrates; I understand that other States are equally proud of their magistrates, yet they are appointed from clerks of court.

The Hon. C. M. Hill: Those three States do have intermediate courts, though.

The Hon. D. H. L. BANFIELD: I am aware of that, but what I am saying is that magistrates are not appointed there from legally qualified men.

The Hon. M. B. Dawkins: Do you favour unqualified men being appointed?

The Hon. D. H. L. BANFIELD: I am pointing out that we complain that we cannot get magistrates to fill positions in the courts. With regard to the three stated objects of this Bill, first, it may speed up the administration of justice, but only slightly; secondly, it will probably increase costs to litigants, and certainly to the taxpayer; and, thirdly, it may attract to the office of judge more senior legal men, but it will not attract them to accept the position of magistrate.

All these difficulties could be overcome by rejecting this Bill and adopting the system of appointing magistrates that exists in the other States. A five-tier system as envisaged by this Bill—Supreme Court judges, intermediate court judges, special magistrates, special justices, and justices, would be unique to South Australia.

In reply to a question I asked earlier, the Minister said that the cost would be $211,000 annually, but it is more likely that that is a conservative figure. The Minister went on to say:

A sum of $100,000 has been provided in the Loan Estimates this year on the line "Public Buildings—Police and Courthouse Buildings—Intermediate Courts." Other accommodation will be provided as required in future.

How far will that sum of $100,000 go? On the very day that the Minister gave that figure a newspaper report (quoting the Acting Minister of Works, the Hon. D. N. Brookman), stated:

A proposal for the construction at Ceduna of a police station, courthouse and Government offices had been referred to the Public Works Committee. Mr. Brookman said that the proposal was to provide accommodation for officers of the Fisheries and Fauna Conservation, Agriculture, and Public Health Departments as well as the police station and courthouse. The estimated cost was $230,000.

Here is a sum of $230,000 to be spent on one building, while all that is provided in the Loan

Estimates is $100,000, so it appears that we will not get very far with the sum of $250,000 a year.

This is an expensive experiment, and it is one that we will be stuck with for all time. I suggest that this is not the right and proper time to experiment with something which will cost $250,000 annually and which does not exist in any other State.

The Council divided on the third reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Third reading thus carried.

Bill passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ABORTION)

Adjourned debate on second reading.

(Continued from November 25. Page 3215.)

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for their research into this measure and particularly for the manner in which they have maintained an extremely high standard of debate. It is obvious that those who are particularly interested in the matter have made their research in great detail. There has been an absence of interjection during the debate. I think all the points that have been raised and the amendments that have been placed on file can and, indeed, should be discussed in detail in Committee.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Medical termination of pregnancy."

The Hon. C. D. ROWE: I move:

In new section 82a (1) (*a*) after "practitioner" to insert "(one of whom is registered by the Medical Board of South Australia as a specialist in obstetrics and gynaecology)".

The Bill as it stands simply says that two legally qualified medical practitioners can arrive at a decision in this matter. I point out that these medical practitioners could be practising together in partnership and they might have no particular knowledge regarding the desirability or otherwise of an abortion. I indicated earlier that I opposed this Bill, and I continue to do so. I think if we stipulated that one of the practitioners had to be registered as a specialist in obstetrics and gynaecology it would tend to make it more certain that this operation was performed only in appropriate circumstances. The reason for my amendment must be obvious.

The Hon. C. M. HILL (Minister of Local Government): I oppose the amendment. There are 28 specialists in obstetrics and gynaecology registered in South Australia and, of these, 24 live in Adelaide, two live in Mount Gambier, one lives in Whyalla and one lives in New Guinea. If this amendment was carried, it would inflict hardship on people who live some distance away from any of these specialists.

The Government always places great importance on the question of hardship that might be created to country people by legislation that passes through Parliament, and this is one instance in which hardship could be imposed.

The Hon. V. G. SPRINGETT: I support what the Minister has said regarding the hardship that could be caused because of the distances involved. However, I oppose the amendment for other reasons. Although one might get the impression that such an operation as this is a common procedure, that is not so. This operation, when it is performed, is performed by many qualified doctors who perform surgery in this State, and in my opinion there is no greater need for an operation such as this to be done by a gynaecologist or obstetrician only than there is for certain other surgery to be performed exclusively by a specialist. It depends entirely on the ability and skill of the doctor performing the operation. Having discussed this matter with the Parliamentary Draftsman, I may seek to move an amendment, if necessary, at a later stage, possibly by having this clause recommitted.

The Hon. H. K. KEMP: I think the intention here is wholly admirable: to make it difficult for people in South Australia to set up the abortion factories that have been established in Britain under its Act, of which this measure is in many ways a copy. Although I do not know whether this amendment goes far enough, I strongly support it. With the distribution of specialists as detailed by the Minister, I do not think any great hardship would be involved in this provision.

There is a tendency on the part of the sponsors of this Bill to dismiss abortion as being unimportant, but many of us believe that it unalterably involves the destruction of human life and that the provisions of this Bill must be tied in every possible way. After all, the whole basis of our community and, indeed, our civilization is respect for human life. I strongly support the amendment.

The Hon. G. J. GILFILLAN: Like other members, I was rather concerned at the speed with which we dealt with the second reading of this Bill, without speaking to the principles involved in it. In general, I support what the Hon. Mr. Rowe seeks to do, and I will reserve my final vote until the third reading. I have some sympathy for the point made by the Minister and agree that the amendment may create some hardship in the case of genuine people living in remote areas.

I note that the Hon. Mr. Rowe proposes merely that a gynaecologist shall be consulted, not that he shall actually perform the operation. The amendment will cause hardship to the woman who has to journey to a centre where there is a gynaecologist in order that her own medical practitioner may obtain the necessary consent. No protection is afforded through a gynaecologist's actually performing the operation. On balance, although I am not in favour of the Bill as a whole and support the principle of the Hon. Mr. Rowe's amendment on file, I am disposed to support the Minister in this case.

The Hon. A. M. WHYTE: I am in accord with the amendment. Termination of a pregnancy is seldom critical. If it were a critical case, I believe any good medical practitioner would not hesitate to operate in order to save a life. However, on the evidence presented, an emergency rarely arises. With the present means of communication, a medical practitioner can consult a gynaecologist just as easily as he can consult another practitioner. In addition, let us not overlook the fact that a group of medical practitioners might easily be persuaded to give their consent to an operation without having given the matter much consideration. I believe this amendment is most essential.

The Hon. F. J. POTTER: I cannot support the amendment. I find it a little unusual to hear it suggested that this problem is particularly concerned with the practice of gynaecology and obstetrics. If we are going to have restrictions, it seems to me to be far more important that one of the consultants be a psychiatrist rather than someone whose whole training is geared actively to preserving the life of a viable child.

The Hon. R. C. DeGaris: How do you define a gynaecologist?

The Hon. F. J. POTTER: Exactly! I understand that this is one of the real problems that have arisen in administering the Act in England, where carrying out this particular operation was committed to the gynaecologists. Strong views were advanced on the matter by a select group of English gynaecologists, who saw some threat to the proper carrying out of duties connected with their branch of the profession, to the extent that it was extremely difficult in any way to get them to consent in proper cases. Indeed, I understand there were many instances in which leading psychiatrists were at odds on the matter with leading gynaecologists, and I think this conflict has to be avoided at all costs.

I agree with what the Hon. Mr. Springett said during the second reading debate: this matter is, if anything, concerned with social medicine rather than with gynaecology and obstetrics. The Hon. Mr. Kemp said he did not want to see abortion factories here. The position in England resulted in a mushroom growth of pseudo-gynaecologists over a short period of time; a man can be a general practitioner one day and then call himself a gynaecologist the next day.

The Hon. S. C. Bevan: Pursuant to the Bill he has to be registered as such by the medical board.

The Hon. F. J. POTTER: Perhaps that will get over the difficulty in South Australia. I do not know how they qualify. It is a question purely of satisfying the medical board when one wishes to practise as a gynaecologist. I suggest it is much better to leave the Bill as originally drafted.

The Hon. D. H. L. BANFIELD: I also oppose the amendment. At present only 28 gynaecologists are registered in South Australia, some of whom will not be available for the purposes mentioned in the Bill. Some of those 28 gynaecologists are required for other purposes, such as by the repatriation hospitals, which leaves only a small number who can serve the State in this capacity. Those are the only gynaecologists in the State except one in New Guinea. Of course, some have retired from practice.

Why must the country woman be placed at a disadvantage when compared to the city woman?

Why must she be involved in the added expenditure of having to come to the city to consult a gynaecologist? Of course, she does not have to come to the city for more serious operations. Of course, too, the gynaecologists will not go out to the patient in the country. If they did, much more expense would be involved.

The Hon. A. M. Whyte: They must only be consulted.

The Hon. D. H. L. BANFIELD: The honourable member suggests that they have only to be consulted. It is obvious that a consultation can take place only if the woman is interviewed; it cannot be done over the telephone or by telegram. It is ridiculous even to think of that.

The Hon. A. M. Whyte: The Bill says that they must be "of the opinion".

The Hon. D. H. L. BANFIELD: A doctor can form an opinion only after interviewing the patient. It is absurd that general practitioners in the country can perform far more serious operations than this, yet we are trying to restrict them so that a patient must consult a gynaecologist in this respect. Some doctors will possibly wish to specialize in abortion. However, in the meantime the general practitioner should be allowed to perform an operation after two doctors are of opinion that the operation should be performed. Also, if a woman must come to the city to consult a gynaecologist she will, of course, have the operation performed in the city, as a result of which our metropolitan hospitals will be cluttered up. This is ridiculous when hospitals in the country could relieve the strain being placed on them.

It is obvious that some of the people who are opposed to this Bill are anxious to ensure that our hospitals are cluttered up so that they can use that as an argument against abortion in the future. In the interests of the women concerned, I consider that two practitioners are qualified to come to a decision. I therefore oppose the amendment.

The Hon. H. K. KEMP: The honourable member said that two practitioners can make up their minds. However, they must decide on a matter involving the destruction of a human life. No matter how kindly one looks at abortion or how modern is one's outlook, fundamentally the destruction of a human life is involved. For this reason, it should be made completely impossible for two practitioners who are in daily contact to make this decision lightly. That would mean the beginning of abortion factories.

If a completely outside medical opinion could be obtained, many of the fears that exist today would be allayed. We must include the safeguard in the Bill that two practitioners working together, no matter how qualified they might be, cannot without reference to an outside authority decide to destroy a human life.

The Hon. V. G. SPRINGETT: The only way in which a doctor comes to an opinion medically is knowing all the facts and circumstances of the case, and, where necessary, conducting a full examination of the person involved; this applies to all doctors. When a patient comes to me for advice, I have to take the necessary steps in order to form an opinion.

If a person lived, say, some distance from Mount Gambier and equidistant from Whyalla and Adelaide, it could be taken to mean that the only source from which the opinion of a gynaecologist could be obtained is New Guinea, which is of course a long long way away.

I agree with other honourable members that every safeguard possible should be included in the Bill. When I took the oath as a doctor I knew that a medical board had considerable control over my professional standards and activities and that, if I did not come up to those standards, it could take the necessary action and get rid of me. No-one knows the patient better than his general practitioner.

It could be said that such a doctor would be more easily influenced emotionally. However, that is not my experience. Whether he should form one of the two necessary opinions is another matter. I ask honourable members to be clear in their minds that they are not making it more difficult for an abortion to be performed by making it possible for only a few people to perform it.

It appears as though some doctors are to be given the status of legal abortionists while others who are not being accepted are being put into the category of doctors not fit to perform an abortion. If done at all (and it is done rarely, in proportion to all other operations), this operation should be performed after considerable thought and consultation by the doctors concerned and should not be done in a lighthearted manner. Doctors who are accepted as being honourable practitioners in their other fields of work should be enabled to perform this operation. Surely there is no reason to think that a man is going to be less honourable, less just, and less true to his professional standards in this type of operation than in any other.

The Hon. A. M. WHYTE: New section 82a (1) (*a*) provides:

If the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where two legally qualified medical practitioners are of the opinion, formed in good faith . . .

I point out that it does not say that the patient has to be examined by two medical practitioners. I want to put the record straight in connection with country doctors. They very often consult with leading city specialists before performing an operation. I would not like to see metropolitan hospitals cluttered up with country patients who have come to Adelaide for an abortion. As the Bill stands, I cannot see that the patient has to be examined by two medical practitioners.

The Hon. F. J. Potter: Their opinion must be formed in good faith!

The Hon. A. M. WHYTE: That does not stop a country practitioner from telephoning one of his mates in Adelaide.

The Hon. D. H. L. Banfield: That is not what it means, and you know it.

The Hon. A. M. WHYTE: Because country doctors readily confer with Adelaide specialists before making a major diagnosis or performing certain types of operation, there is no reason why they should not contact a gynaecologist.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Kemp appears to be very perturbed about the taking of life and the care of life. In this regard he is giving no care and no thought to the person who will be undergoing an abortion. The honourable member referred to the possibility of setting up abortion factories, but this is not very likely to happen. During the second reading debate I said that a pregnant woman did not lightly decide to have an abortion and that it was only after much soul searching that she would finally decide to have it. If she has to consult a gynaecologist, in addition to a general practitioner, it will cause further delay.

In another respect the Hon. Mr. Kemp is not giving any consideration to the patient. Any delay beyond the twelfth week can be dangerous; in Sweden there is a high mortality rate at this stage—64 deaths in every 100,000. Consequently, once a decision is taken, any further delay reacts dangerously against the patient. I oppose the amendment.

The Hon. C. R. STORY (Minister of Agriculture): I, too, oppose the amendment. A general practitioner and another are perfectly capable of making up their minds whether an abortion should be carried out. A gynaecologist is skilled in a specialized type of work. A particular abortion may be a perfectly straightforward case, but this amendment provides that the patient must obtain the opinion of a specialist—a practitioner doing a specialized type of work.

The basic question may be whether it is in the best interests of the patient to have an abortion. In this case it may be much better if the general practitioner consults a psychiatrist or a psychologist. To limit the provision so that a gynaecologist's opinion must be obtained only places the burden on the general practitioner and the patient who, if she lives in any country district other than Whyalla or Mount Gambier, will have to travel several hundred miles if she wants to see a gynaecologist.

The Hon. C. M. HILL: I wish to refute an accusation made by the Hon. Mr. Kemp when he spoke a little time ago. He said that someone (either the Attorney-General or I) dismissed abortion "as being unimportant". I assure the honourable member that that is not so. The words he has used are poorly chosen and, unless he can substantiate claims of this kind, he should choose his words more carefully. This subject reeks with the deepest of human feelings; it is brimful of emotion and a delicate subject to us all. If the honourable member starts with accusations of this kind he is starting on a very low level.

The Hon. H. K. KEMP: I am at a loss to understand the Minister's attack on me personally, but I am very glad that he has made it, because, if this is the level at which the Minister wants this debate conducted, we will have great pleasure in dealing with it. Many honourable members feel strongly about this Bill and about the manner in which it has been debated elsewhere.

It is just as well to bring the issues to the surface immediately. Many people are promoting this Bill as an extension of methods of contraception. This is absolutely unacceptable. To make abortion simpler in this sense is absolutely irreconcilable with the whole of our religion and with the whole of our concept of law. I find absolutely unacceptable the statement that human life begins at the moment of conception.

Human life very definitely is committed to a lengthy existence at the moment that the blastocoele takes on the differentiation of cells in its first development. This is a very early

stage indeed. It is not six weeks, not 12 weeks—it is within a few days of the amalgamation of the ovum and the sperm. From that point on we inevitably come against the fact that there is destruction of human life. It cannot be accepted as anything else. This cannot be accepted lightly by any conscientious person.

I have no doubt that at times people think they have plenty of reason for seeking an abortion, but the inescapable fact is that from that point onwards destruction of life is involved, with all its associated dangers, if the principle of human life and its inviolability is accepted.

On the other hand, the United Kingdom legislation, upon which this Bill is based and which the legal people who have examined it say is a parallel to this Bill in its weaknesses and in its strength, has given rise to what are called "abortion factories". Because of that, the proportion of abortions has risen to such an extent that about 1,000 lives a week are being thrown away. That is inescapable truth also.

With all the safeguards that the medical profession can give in Britain (and I think it is the place where the ethics of the medical profession arose and were laid down for what was once the whole of the British Empire) this is what can happen. The Minister must accept that at every stage. I will try to tighten up the provisions in this Bill, even though I may not be able to have it completely knocked out.

The Hon. L. R. HART: I think the whole purpose of the Bill is to codify present practice. No-one has any objection, perhaps, to codifying present practice, but in attempting to codify we appear to give greater extensions to present practice, and this is, I think, the main worry of most honourable members. I think this amendment should be considered not in isolation but in conjunction with new section 82a (2) and (3).

I think the main purpose behind the argument contained in most speeches has been that people should be deterred rather than prevented from seeking an abortion. I think it is in that spirit that we should examine the amendments. It has been suggested that two medical practitioners could act in collusion; no doubt that may be possible (and I emphasize "may"), but I think it must be recognized that the Government would make regulations requiring that the opinion of the two medical practitioners should be certificated. I think that would be a reasonable deterrent. If this amendment is accepted, I believe we must look at other amendments on file in a different light. This might lead to our supporting the deletion of new section 82a (2).

I think one of the reasons advanced for this amendment is that it will deter people coming to South Australia to obtain an abortion. It has been said that we will see set up in this State a number of abortion factories. I believe we are agreed that we do not want to see that happen.

I am not entirely happy with new section 82a (2) as it now stands, and I believe it should be eliminated or amended. If this amendment is accepted, I would be more inclined to agree to the striking out of this new subsection. Country people have certain problems that must be considered. This has been partly answered by the Hon. Mr. Whyte, who said that country people obtain the opinion of a specialist in connection with many serious operations at present, even though some of those consultations are by telephone. I do not agree that abortion is something that should be discussed over the telephone.

The other problem is that many people seeking an abortion would not have a family doctor. If a person has a family doctor and conversed with him, most of our problems would be solved, but many people in this predicament have never been seen by the medical practitioner before. That comment would apply to both medical practitioners who would be called upon to consult together in these cases. However, I believe they would have to act with some caution because of other requirements of the Bill. On balance, at this stage I oppose the amendment, as it stands, but later I will probably support some of the other amendments that I believe will do what we want to do.

The Hon. M. B. DAWKINS: For various reasons, I was not able to speak during the second reading debate, but I indicate at this stage that, in general terms, I will support the amendment to be moved with the object of going some way towards codifying present practice. I am not in favour of the Bill in general, and I certainly will not support it unless it can be limited to a codification of present practice.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Kemp referred to "inescapable facts". The inescapable facts are that unless a woman is allowed to have an abortion under proper conditions she will have a backyard abortion, and

that could lead to her being murdered. I believe this Bill will reduce this danger. I think we must have more concern for a mother at that stage than for the possibility of a baby being born at some future stage. There is still argument amongst the medical profession about when life begins, and we will never be able to reach agreement on this. However, we know that the mother is alive and that there is every possibility that she will remain alive if given proper treatment under proper medical supervision. Again, we do not know that that person will remain alive if she is given treatment at the hands of a backyard abortionist; only last September a person was killed by a backyard operator. That is the type of thing that this Bill will stamp out if it is left as it is; my main concern is that a person will continue living, and not the possibility of another person living in future. I will not argue about when a life begins or ends (the medical profession cannot say, so I certainly cannot) but I know that the mother is alive and we should be looking after her interests. We shall not do that if we send her to a backyard abortionist, which we shall do if too many controls are imposed.

The Hon. F. J. POTTER: The Hon. Mr. Dawkins said we should go no further than codifying present practice. We do not know much about the present position, but we do know that in a limited way abortion is permissible. The present practice does not require an obstetrician or a gynaecologist to be consulted. Have we forgotten the great importance of making a timely decision? After all, there are only 12 weeks within which an operation should be performed. Any medical practitioner will say that an abortion should be performed within the first three or four weeks. We have only 26 gynaecologists in this State, all of whom are very busy with their normal practices.

If a woman, particularly from a remote country place, has to be referred to a gynaecologist, much time must necessarily elapse. Perhaps a week or two after becoming pregnant a woman first consults her general practitioner. It may be another three weeks before she can get an appointment with a gynaecologist, another two weeks before he makes up his mind, and another two weeks before he gets around to doing the operation. Too many obstacles are being set up. This matter should be tackled quickly from the start.

The Hon. M. B. DAWKINS: Not too many honourable members favour abortion on demand, as some other people do, but I am told on what I believe to be reliable authority that, unless abortion is available on demand, there will be no reduction in illegal abortions. That has been the experience in the United Kingdom, as shown on page 850 of the 1966 *British Medical Journal*. The Hon. Mr. Banfield implied that we would be getting rid of at least some backyard abortionists, but that would scarcely be so in the light of experience gained elsewhere. The only answer is abortion on demand, to which I am completely opposed, as would be most honourable members.

The Hon. A. M. WHYTE: If, after a woman has sought the opinion of two legally qualified medical practitioners, it is decided that her pregnancy should be terminated, I see no tie-up between that woman, who is being treated by a medical practitioner, and the woman who is likely to obtain a backyard abortion.

The Hon. D. H. L. Banfield: She will obtain that only when she cannot get permission from a doctor.

The Hon. A. M. WHYTE: No; I see no tie-up there. If the medical men are prepared to accept the termination of a pregnancy, it does not matter whether it is a gynaecologist and a general practitioner or two general practitioners. I cannot see that has any connection with the person who has avoided going to see them in the first place.

The Hon. D. H. L. Banfield: Many women go to general practitioners now and get knocked back, so they go to the backyard operator. Surely they will continue to do so.

The Hon. A. M. WHYTE: Surely the legislation will not stop those women going to the backyard abortionist. The medical practitioner will say, "There is no reason for your having an abortion."

The Hon. D. H. L. Banfield: The only reason why general practitioners knock her back now is that it is illegal.

The Hon. A. M. WHYTE: This Bill will not have an effect on the backyard operations.

The Hon. D. H. L. Banfield: It will reduce the number.

The Hon. A. M. WHYTE: That has not been proved elsewhere, and we are not writing into the legislation anything to reduce the number of backyard abortions.

The Hon. C. D. ROWE: It has been suggested there may be doubts about who is or who is not a specialist in obstetrics or gynaecology. I draw attention to some evidence given by Mr. George Taylor Gibson before the Select Committee, as follows:

You are a gynaecologist in private practice in Adelaide?—That is right.

What are your qualifications?—I am a Fellow of the Royal College of Obstetricians and Gynaecologists, and I am here specifically because I am the senior counsellor of this State on the Australian council of the college, which is an autonomous council for Australia.

So it is not difficult to establish who is a specialist in obstetrics or gynaecology: a body is already set up to determine that. If it becomes necessary for more people to become members of that college, people will qualify to do this work just as they qualify for other positions. It has also been suggested that perhaps a psychologist would be a better person than an obstetrician or a gynaecologist in these cases. I have nothing like the confidence in psychologists that I have in the medical profession. I do not think this is an impossible situation. I am informed from reliable sources that very seldom is there an emergency in which an immediate operation is required, and that within a reasonable time it would be possible for a gynaecologist or an obstetrician to be consulted.

In raising these matters, I do not wish to start the ball rolling again. Nevertheless, I have sat patiently while listening to what has been said and, as the mover of the amendment, I thought I was entitled to put these facts to the Committee.

The Committee divided on the amendment:

Ayes (5)—The Hons. Jessie Cooper, M. B. Dawkins, H. K. Kemp, C. D. Rowe (teller), and A. M. Whyte.

Noes (14)—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, A. F. Kneebone, F. J. Potter, Sir Arthur Rymill, A. J. Shard, V. G. Springett, and C. R. Story.

Majority of 9 for the Noes.

Amendment thus negatived.

The Hon. C. M. HILL: As several honourable members have mentioned that they wish to look more closely into certain matters, I ask that progress be reported.

Progress reported; Committee to sit again.

UNFAIR ADVERTISING BILL

Adjourned debate on second reading.

(Continued from November 26. Page 3273.)

The Hon. C. D. ROWE (Midland): Representations made to me regarding this Bill are to the effect that it will prove rather a clog to the machinery that presently exists by way of private arrangement for the control of unfair advertising. It seems to me that in some respects this Bill attempts to control some undesirable practices that undoubtedly are going on. However, I doubt very much whether, in the terms in which it is put before us, it will achieve that object.

Since the Bill has been before us I have made a point of looking carefully at the advertisements I see in the various newspapers to discover whether there is any obvious untruth in them, and I have found that very often the first impression one gets by reading an advertisement is something entirely different from what the advertisement, on a detailed examination of it, actually says. I am afraid that most of us are casual in our reading: we look at the general impression created by an advertisement without seeing what it actually says. As a result, people go ahead and purchase domestic household appliances, motor cars and even real estate from firms that perhaps are not so reputable as others, only to discover afterwards that the whole truth has not been told.

Although there is a responsibility on a person to see that he uses ordinary intelligence and the ordinary abilities that he has in making his business dealings, I believe that he needs to be protected from improper practices. However, I am between two minds as to whether it is a good thing to have this legislation placed on the Statute Book. I am particularly concerned regarding clause 3, which deals with the prohibition of misleading advertising. This clause states:

Subject to subsection (2) of this section, a person shall not . . . publish, disseminate, circulate or place before the public . . . an advertisement of any sort relating to such goods or services or to the extension of credit for any transaction relating to such goods and services, which advertisement contains any assertion, representation or statement that is inaccurate, untrue, deceptive or misleading and which such person knew or might, on reasonable investigation, have ascertained to be inaccurate, untrue, deceptive or misleading.

How one could apply that in a practical way and obtain a conviction under those circumstances seems to be doubtful. I am one of those people who believe that the law should

be obeyed and that it should be possible to ensure, if action is taken, that some success will be achieved. In the first instance, one would have to prove that an advertisement contained an assertion, representation or statement which was inaccurate, untrue, deceptive or misleading, and, secondly, which the person knew or might, on reasonable investigation, have ascertained to be inaccurate, untrue, deceptive or misleading.

I have examined various advertisements in the press and I have tried to consider them in relation to the description set out in this clause. I found that it would be difficult to secure a prosecution pursuant to this clause as it at present stands on many of the advertisements that could be placed in the doubtful category.

While it might be argued that this Bill might not do much harm if it were placed on the Statute Book, I do not think, by the same token, that it will do much good. It will merely mean that people who are drafting advertisements will have the Act (if this Bill becomes law) in front of them and they will draft advertisements in such a manner that they will achieve their objective without committing a breach of the Act.

The Hon. A. F. Kneebone: Similar action could be taken under the Goods (Trade Description) Act.

The Hon. C. D. ROWE: I have not examined that Act in relation to this matter, but I believe it contains an appropriate avenue for relief. One gets to the situation that people are expected to have some degree of responsibility and to use their talents and responsibility to inquire into transactions and to ensure that they are not treated unfairly.

Having spoken to some advertising agency people regarding this matter, it appears that in many cases they are setting up their own organizations to ensure that some sort of standard is obtained between the people who are doing the majority of advertising in Australia. They have adopted amongst themselves a code of ethics regarding advertising. I am satisfied from the information that has been given to me that more is being achieved by these people establishing a code of advertising between themselves than would be the case by having an Act of this kind on the Statute Book.

I have made considerable notes regarding this code of ethics, which, unfortunately, I do not have with me at the moment. If I could obtain them I would be able to make a less unsatisfactory contribution to the debate. Under these circumstances I beg the indulgence of the Council in asking that I be permitted to continue my remarks later.

Leave granted; debate adjourned.

Later:

The Hon. C. D. ROWE: I am indebted to the Council for giving me the opportunity to obtain my notes. I have been in touch with Mr. John Bowden, the Secretary of the Australian Association of National Advertisers, an Australia-wide body whose members are involved in 85 per cent of the total annual expenditure on advertising. When we realize that annual expenditure for this purpose is $200,000,000 we realize how much commercial enterprise is involved. The Association of Australian National Advertisers has 450 members. The retail advertisers do not belong to the association but, notwithstanding that, the association is involved in 85 per cent of the total expenditure on advertising in Australia.

The view of that organization is that, basically, it opposes Government regulation if it thinks that its objective can be achieved in a voluntary manner. The organization considers that action it has taken over the last five years has resulted in its achieving a high code of ethics in advertising. Five years ago the association established what is known as the Australian Code of Advertising Standards. I should mention that organizations subscribing to this code are the Australian Association of National Advertisers, the Australian Association of Advertising Associations, the Australian Council of Retailers, and the Federation of Commercial Radio Stations. The code established by these bodies, which is a fairly comprehensive list, condemns all malpractices to which the Bill refers, so that these people say that they already look after the matters complained of in the Bill.

All members subscribing to any one of the associations I have mentioned must abide by the code. If an infringement occurs, the offender is dealt with by the organization concerned; that is, by the organization representing the media concerned, whether it is newspaper, radio, television, or whatever other organization is involved. People who have spoken to me about this Bill say that this code of ethics that has been established over the last five years is an effective piece of machinery capable of doing the job that the Bill sets out to do. However, it is admitted that firms engaged in television servicing and service industries are not members of any of the

organizations I have mentioned, so I think it must be admitted that there is an area of advertising, and also an area where services are provided, that are not covered by these organizations and therefore not subject to the code.

The point made to me is that if an attempt is made to control something by legislation, then there is no purpose in people trying to abide by a voluntary code or by any voluntary regulations; I agree with that kind of reasoning. If it is possible to get people to abide by a certain code voluntarily, then I believe that method will meet with more success than an attempt to place something on the Statute Book and then be forced to prosecute people when they breach the provisions of the Act.

My approach would be to contact the organizations concerned where breaches occur that are held to be not in the interests of the consumer and endeavour to persuade the offenders on a voluntary basis to abide by what is a reasonable code. This, apparently, has been achieved by the four associations I have mentioned, and between them, as I have said, they represent 85 per cent of advertising in Australia today. I think that this is a growing tendency. I noticed the other day that some action was taken amongst traders to do away with the unsatisfactory prices at which many goods are advertised today, where a price is shown as so-and-so, but the discount is a certain amount, and the final result is a net figure. An attempt is being made to ensure that the actual price is clearly set out. That is desirable, and I think it would achieve more satisfactory results than the legislation before us.

It is the kind of control exercised by professional bodies; the medical profession has its own code of ethics and its own medical board that deals with breaches committed by members of the profession. The legal profession has the Law Society of South Australia which, in some measure, has attempted to control and discipline its members for unprofessional or improper conduct. With regard to the Australian Association of National Advertisers, we are told that it has its own code of ethics built up over the last five years, and that it has operated successfully. What we have to look at is whether by placing this Bill on the Statute Book we are doing away with much goodwill and co-operation that has been built up over a period on a voluntary basis, and which in some areas is working satisfactorily, or whether we should pass a Bill that may prove to be a certain amount of window dressing but which may not achieve the desired object.

Those are the two alternative considerations before me at present, and until I hear more debate on this measure I am not prepared to indicate whether I will support the Bill. However, I know that people involved in advertising, particularly on a national basis, are concerned about the Bill, not because it will upset their business affairs but because they doubt whether it will achieve its desired objective.

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

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3364.)

The Hon. H. K. KEMP (Southern): This Bill is of far more significance than appears on the surface to be the case, and it must not be taken lightly. The circumstances that drew it into existence have already been dealt with fairly well by the Hon. Mr. Whyte. We are aware of the tensions between people who feel they have to overcome the disadvantages with which they have been faced for many years as compared with the rights of the people to whom they look for service. If one looks at the progress that has been made regarding Aboriginal people since the Act first came into existence, it must be admitted, even by the most biased persons, that the majority of Aborigines have been accepted in the community. There must and inevitably will be incidents of awkwardness in this matter.

The Hon. A. J. Shard: It is inevitable.

The Hon. H. K. KEMP: That is true, and I am glad to hear the honourable member say that.

The Hon. A. J. Shard: That applies to all colours and to all sections.

The Hon. H. K. KEMP: That is true. It will apply not only to people of different coloured skin but also to people of all kinds from different origins. Honourable members must realize that discrimination has occurred for many years in relation to newly arrived British migrants. Their difficulties have to a large extent been resolved, and it is hoped that the same will apply to the Aboriginal and coloured people in this State.

This Bill is to some extent a reflection of the acceptance that has been willingly extended to many people who have come here from

the near-Asian countries to study in our universities, hospitals and schools. Too hasty action in trying to rectify what was an isolated incident is likely to upset the very cordial relations that we have with most of the Malaysians, Indonesians, Indians and other people from the near-East countries who are in Australia and enjoying our hospitality. These people are being given every opportunity to further their studies in this community. Consequently, I beg honourable members to consider this Bill very carefully.

It is most important that we do not disrupt the wider situation because of a single incident that occurred in a Port Augusta hotel. We must respect the rights of business men to select their customers to a reasonable degree. Amending the principal Act in the way proposed in this Bill is likely to disturb the high regard that many people have for people with coloured skins.

If we walked out on to North Terrace and talked with university students who are here at our invitation and sponsored by their Governments, we would find that those students are not unhappy with the attitude of the community toward them. However, it is different when we are dealing with Aborigines, who not only have differently coloured skin but have completely different backgrounds and training.

The Aborigines must realize that most members of the community will, if they are given a fair chance, extend a welcome to them. Of course, there are some die-hards who will not give them any recognition at any price, but such people are in the minority. The Aborigines must realize that they will be accepted in our community only if they conform to the ordinary day-to-day standards. Of course, it is very difficult for the Aborigines to have any appreciation of these standards. In other words, I believe that this Bill is premature and that we should give the principal Act longer to operate.

A few Aborigines are undoubtedly wandering around with a chip on their shoulders, looking for a chance to quarrel. Again, some white people are in the background advising and encouraging them and trying to buy a fight at any time. The principal Act is sound legislation and it has enabled much progress to be made. However, loading it with the amendments in this Bill will go beyond what is a fair thing. The principal Act has been in operation for only a short time.

The Hon. A. M. Whyte: It is just beginning to work.

The Hon. H. K. KEMP: Yes. Over the next few years it will prove to have more strengths than weaknesses, but it will lead to trouble if it is too heavily loaded. This is a delicate subject, because these people are reaching forward for their position in the community. There are difficulties on every side that most Aborigines do not appreciate; there are difficulties in their training, their background and their education that they will need much help to overcome.

Any action that endangers the goodwill that the Aborigines now enjoy may set back their progress many years. Many people have been disappointed to see the difficulties that Aborigines have faced as a result of drinking privileges being extended to them too rapidly. To load them too heavily with privileges at this stage will undo the good work that has been done. At present I believe that this Bill has been introduced too hastily and that it is too far-reaching. Because we should give the principal Act a chance to show its qualities, at this stage I do not entirely support the Bill. There is perhaps a need for its provisions in very isolated cases, but it gives an opportunity to the coat-tail dragger to put up a case in situations where it is often unwarranted.

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

ELECTORAL ACT AMENDMENT BILL (ROLLS)

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

LAW OF PROPERTY ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 20. Page 3151.)

The Hon. A. J. SHARD (Leader of the Opposition): I oppose this Bill, not simply because it is consequential on the Local Courts Act Amendment Bill but because I object to the whole principle of this legislation.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 18. Page 3030.)

The Hon. A. J. SHARD (Leader of the Opposition): I oppose this Bill for the same reason that I opposed the previous one: I am totally opposed to the Local Courts Act Amendment Bill. This Bill is consequential on it. I oppose the system; therefore, I oppose the Bill.

The Council divided on the second reading:

Ayes (14)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 10 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

JURIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3031.)

The Hon. A. J. SHARD (Leader of the Opposition): This Bill is consequential on the Local Courts Act Amendment Bill. As I oppose the whole system, I oppose this Bill.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

JUSTICES ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 18. Page 3032.)

The Hon. A. J. SHARD (Leader of the Opposition): This Bill implements another part of the three-tier court system. Because I am totally opposed to the whole system, I oppose the Bill.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Interpretation with respect to powers of a single justice."

The Hon. F. J. POTTER: This Bill is not in quite the same category as the other Bills we have dealt with, because it is not entirely a consequential Bill. By itself, it effects certain changes in our court system, one of the principal changes being the creation of special justices. This is the one constructive thing that is being done in this series of Bills to relieve the work of special magistrates. The special justices will be people who have qualified in some satisfactory way—perhaps through being a senior clerk of a court with years of experience, or being a retired legal practitioner, or being a very experienced justice of the peace.

Such special justices can, to some extent, take over the less important work of magistrates. The jurisdiction of special justices will cover minor road traffic offences, unsatisfied judgment summonses, charges relating to common drunkenness and other minor charges of that nature. Much of this work has tended not only to occupy the time of magistrates but also to lower their status. If we can do anything to relieve magistrates of this work and at the same time increase their status we are doing something worthwhile.

I am not very happy about new section 5 (3), which provides that a person may object to the jurisdiction of a special justice. If a defendant is charged with a simple offence

he can request that the case be heard and determined by another court. This is a rather unusual procedure; I do not know of any situation at present where a defendant can object to the jurisdiction of a court—even of a humble justice of the peace. I do not know that I want to do anything about it, nor do I know that I can do anything about it. However, I am not very happy about it, because this kind of procedure is rather foreign to our ideas of court procedure.

I do not know whether, on objection, the special justice completely desists from further hearing a matter. Although the justice can adjourn the matter to be heard by a special magistrate or by two or more justices, it is not clear whether the special justice can be one of the two justices who subsequently constitute a court. This situation will have to be watched, and the Government may have to consider amending the provision in the future, if it does not work out quite as expected.

The Hon. C. M. Hill: It is really intended as a safeguard.

The Hon. F. J. POTTER: It can work the other way, of course. A special justice may get a reputation for being a little too lenient or, perhaps more likely, a little too severe, and someone may wish to try his chances with another tribunal. I think that, in these circumstances, to be given the opportunity to do so on mere request is not a particularly happy situation. However, we will see how it works out in practice.

Clause passed.

Remaining clauses (6 to 16) and title passed.

Bill read a third time and passed.

JUVENILE COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3033.)

The Hon. A. J. SHARD (Leader of the Opposition): This Bill is an amending measure consequential on the passing of the Local Courts Act Amendment Bill. Having opposed the scheme contained in the previous Bill, I oppose this measure.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

POOR PERSONS LEGAL ASSISTANCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3033.)

The Hon. A. J. SHARD (Leader of the Opposition): This is a consequential Bill following the passing of the Local Courts Act Amendment Bill. I oppose the proposed system, and I therefore oppose this Bill.

The Hon. F. J. POTTER (Central No. 2): I rise to see whether I might be able to persuade the Leader not to call for a division on this Bill. My plea is based on the fact that in the Legal Practitioners Act Amendment Bill passed earlier this session clause 3 repealed this Bill, anyway.

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

OFFENDERS PROBATION ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 18. Page 3033.)

The Hon. A. J. SHARD (Leader of the Opposition): This is another consequential Bill. I oppose the system, and I therefore oppose this Bill.

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

PRISONS ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 18. Page 3033.)

The Hon. A. J. SHARD (Leader of the Opposition): This is a further Bill consequential on the passing of the Local Courts Act Amendment Bill. I am opposed to the whole system, and therefore oppose this Bill.

The Council divided on the second reading:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 3034.)

The Hon. A. J. SHARD (Leader of the Opposition): This is a further Bill that is consequential upon the Local Courts Act Amendment Bill. As I am opposed to the suggested new system, I oppose this Bill.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

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

That this Bill be now read a third time.

The Hon. H. K. KEMP (Southern): Some protest should be registered at this moment. We have now dealt with nine Bills all consequential on one Bill, and we have not had time to consider their implications. I do not doubt that these Bills are clean and will have no adverse repercussions, but we should have had more time to consider them.

Bill read a third time and passed.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (COURTS)

Adjourned debate on second reading.

(Continued from November 26. Page 3288.)

The Hon. A. F. KNEEBONE (Central No. 1): This Bill, like several others that appear on today's Notice Paper, has been described as consequential on the Local Courts Act Amendment Bill. The other Bills have just been dealt with. However, the principal Act that this Bill proposes to amend is of major importance to people who have to work for their livelihood. It provides that Workmen's Compensation Act cases shall now be dealt with by the judges of a local court as defined in the new provisions covering local and district courts. Workmen's compensation jurisdiction is as highly specialized as that in relation to land valuation, yet we see provision being made during this session for a special court to deal with the latter cases.

My colleagues and I experienced great difficulty with award breaches and compensation matters when they were being dealt with in courts with no special knowledge of industrial matters. I well remember a case in which my own union was interested. An employer was being charged with a breach of an award which, in the opinion of the union, was of significant importance. It related to an apprenticeship matter. The court found the employer guilty and he was fined the totally inadequate sum of $2 (it was £1 in those days). Had the same case been dealt with by a magistrate with industrial experience or by the Industrial Commission, I am sure the employer would have been treated much more severely. It is interesting for me to recall that the employer committed an identical breach in later years. The union was so discouraged by the court's attitude in the former case that it was considered hopeless to proceed against the employer on that occasion.

I am sure also that, because of the complexity of the many workmen's compensation cases involving, as they do, a variety of injuries, including back injuries or heart attacks suffered on a job, and in which disputes arise about whether the work contributed to the ailment, there are many cases where less than justice is meted out. There has been such a wide variance in the decisions handed down by various tribunals throughout the State over the years that this can hardly be disputed.

I believe this jurisdiction should be handed over to a tribunal with wide experience in the industrial field. I refer to the Industrial Commission of South Australia. I have placed an amendment on the file designed to amend clause 3 for the purpose I have already indicated. This would be the first of a number of amendments necessary to achieve my purpose. This amendment would be in the nature of a test.

On the Industrial Commission there are two judges, namely, Their Honours Judge Bleby and Judge Olsson. Because of the nature of the industrial cases with which they deal and the knowledge they therefore gain of conditions under which employees work, those judges would be eminently suitable to deal with workmen's compensation cases. I am sure that both sides of industry would have complete faith in their judgment in such matters. When we get into Committee, I intend to move the amendment I have indicated. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. A. F. KNEEBONE moved:

In the definition of "Judge" in section 3 to strike out "as defined in section 4 of the Local and District Criminal Courts Act, 1926-1969" and insert "of the Industrial Court of South Australia".

The Hon. C. M. HILL (Minister of Local Government): The amendment seeks to confer jurisdiction in relation to workmen's compensation claims on the Industrial Court whereas this Bill in its present form confers jurisdiction on the Local Court judge as arbitrator. If the amendment were passed, it would mean a number of consequential amendments to the Industrial Code to provide for the appointment of new Industrial Court judges and for the payment of their salaries, and consequential amendments that cannot be made to this Bill. As I believe that the amendment is unnecessary, I oppose it.

The Committee divided on the amendment:

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

Noes (15)—The Hon. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Majority of 11 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (4 to 31) and title passed.

Bill read a third time and passed.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (DEPENDANTS)

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

STATUTES AMENDMENT (PUBLIC SALARIES) BILL

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

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

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

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 27. Page 3356.)

The Hon. R. C. DeGARIS (Chief Secretary): As usual, I shall exercise my right of reply to this Bill. With the amount of material that has been supplied during the debate over some few days, I could take a great deal of time in replying to this debate. First, I should like to deal with the very short speech made by the Leader of the Opposition, in which he said, (*Hansard*, page 2488):

The proposals in this Bill for alterations to the Constitution do not accord with the principles held by the Australian Labor Party. We are wedded to the principle of one vote one value, which we consider is the only fair system.

As the Leader mentioned the question of Australian Labor Party principles, I believe these principles are worth examining. During the debate the other Labor Party members in this Council, who have spoken to the Bill only after considerable cajoling by the Hon. Sir Norman Jude, have said that they believe the Bill is unfair; they are wedded to the system of one vote one value, which they consider to be the only fair system. This Bill provides for 28 metropolitan seats and 19 rural seats. At this stage I should like to make my personal views quite plain. I believe in adequate country representation, but I do not believe that the present proposals provide for this. However, as a Government we were faced with an extremely difficult problem; for a long time we have been battling for redistribution in South Australia.

Since 1956 the rapid growth of the new districts on the outskirts of the metropolitan area has thrown these districts completely out of proportion. The Liberal and Country League has always admitted this but has been completely unable to get any redistribution because of the slavish attitude of the A.L.P. members to this question: the only system they will accept is the one vote one value system.

The Hon. D. H. L. Banfield: You had a constitutional majority in 1956. What are you talking about?

The Hon. Sir Arthur Rymill: It used to be one man one vote, but now it is one man one vote one value one Party.

The Hon. R. C. DeGARIS: I agree that it comes down to that. In reply to the Hon. Mr. Banfield, I point out that the 1956 redistribution was passed through the House of Assembly without a division. In 1962, only six years later, I think every honourable member agreed that the growth of what one may term the new dormitory districts in the metropolitan area had allowed certain districts to grow well beyond the size that was appropriate for complete electoral justice. In 1962 a redistribution was completely opposed because of the slavish adherence of the A.L.P. to the

philosophy of one vote one value. I have made the point that I believe that this Bill does not give adequate country representation, and I hope to show this by a comparison with other States and other countries that use a democratic form of election. I believe that the fairest possible redistribution in South Australia at present would provide for 25 metropolitan seats and 20 country seats. We were forced to go to 47 seats because—

The Hon. D. H. L. Banfield: Of public opinion.

The Hon. R. C. DeGARIS: —the A.L.P. proposed 56 as a reasonable number of seats for the House of Assembly at the last election, but it found that this was not very popular either in the metropolitan area or in the country.

The Hon. A. F. Kneebone: We made this suggestion so that you would have 26 country seats.

The Hon. R. C. DeGARIS: The A.L.P. policy at the last election was for 56 seats. However, before a by-election the A.L.P. reduced this figure to 48 seats, so the number changed very quickly. On coming to office, we decided that, as we had no constitutional majority in the House of Assembly and as we believed very firmly that our own policy was reasonable and just—

The Hon. D. H. L. Banfield: But unacceptable to the people.

The Hon. R. C. DeGARIS: If the honourable member likes to move an amendment in Committee that this Bill should go to a referendum of the people, he will soon find out their reaction. I challenge him to do that.

The Hon. S. C. Bevan: Why did you bring this Bill in?

The Hon. R. C. DeGARIS: Because we believe that, with an evenly divided House in another place, and with no constitutional majority, it was fair that we should come halfway between the Labor Party proposal of 48 seats and our own proposal of 45 seats. We put forward a proposition that we considered would pass in another place and would also pass in this Council. I believe that that is the situation, but my personal belief is that, as far as country representation is concerned, this Bill goes too far.

The Hon. Sir Arthur Rymill: That is my belief as a city representative, too.

The Hon. R. C. DeGARIS: Having arrived at a compromise between what we believe as a Liberal and Country League Government and what the A.L.P. believes, we now have the A.L.P. saying, "This Bill is unfair".

The Hon. S. C. Bevan: Who said that?

The Hon. R. C. DeGARIS: The Leader said that in his second reading speech. Would you like me to read it?

The Hon. S. C. Bevan: He did not say that the Bill was unfair.

The Hon. R. C. DeGARIS: He did say that "one vote one value" was the only fair system; if he said that, then surely he thinks that the proposed system is unfair?

The Hon. S. C. Bevan: That is only your construction.

The Hon. R. C. DeGARIS: That is the only construction I can put on it. I can quote it clearly from *Hansard* where the Leader said that this Bill is unfair.

The Hon. A. J. Shard: I don't think you will be able to do that.

The Hon. R. C. DeGARIS: I think I will. I shall attempt to find it before the Committee stage of this Bill, if I can be given a little time.

The Hon. A. J. Shard: I will try and read it, and check it for you.

The Hon. R. C. DeGARIS: Having reached the stage where we have been told that this Bill is not fair and that the only fair system is "one vote one value", let me now examine the question of what "one vote one value" would do to the electorates in South Australia. According to the Australian Labor Party, that is the only fair system—that there should be, in a House of 47 seats, 34 seats in the metropolitan area—34 seats virtually within a stone's throw of the G.P.O.—and 13 seats representing an area from Mount Gambier to Oodnadatta, from Penong to Pinnaroo, and covering an area of 340,000 square miles.

Several times during the debate I interjected when a member of the A.L.P. was speaking and asked the speaker to state clearly whether he believed that 13 country seats out of a total of 47 seats would be a fair system of representation in South Australia.

The Hon. S. C. Bevan: Where do you get your figure of 13 seats?

The Hon. M. B. Dawkins: Only nine would be really rural seats.

The Hon. R. C. DeGARIS: Perhaps if the Hon. Mr. Bevan takes his pencil in his hand I could give him a little exercise in arithmetic.

First, take 170,000 electors outside the metropolitan area, together with a total of 610,000 electors in South Australia. That means 17/61 of the electors in South Australia reside in country areas. Multiply 17/61 by 47—that being the number of seats proposed in another place—and it will be found that the answer is 13. If the honourable member wants to check those figures, he can work out that little sum and he will then see that what the Labor Party is saying is that the only fair system is 34 members in the metropolitan area within striking distance of the G.P.O.

On those figures, it would mean that 10 members would be catching the bus from Port Adelaide in the morning to go to work at Parliament House, but only two members would be catching the train to go back to the South-East of a Thursday night. That is the position. What I want to know is (and I would like members of the A.L.P. to tell me), in a House of 47 members do they believe that 13 members can adequately represent the total country area of South Australia? That is all I want; I do not want anything else. All I want is for the members of the A.L.P. in this Council to say, "This is my belief: that 13 members can represent the total country area of South Australia." I will now pause and wait for the interjections, but I want members opposite to answer just that question.

The Hon. A. J. Shard: The Bill provides for 19 members for country districts.

The Hon. R. C. DeGARIS: All I want is an answer "yes" or "no" to my question; that is, do the members of the A.L.P. believe that 13 members out of a total of 47 can represent country districts in South Australia in the House of Assembly?

The Hon. A. J. Shard: But the country is to have 19 representatives.

The Hon. M. B. Dawkins: They cannot answer your question.

The Hon. R. C. DeGARIS: No, they cannot answer the question. They can argue as much as they like, but clearly they are wedded to the principle of "one vote one value", which they consider to be the only fair system. I repeat: do A.L.P. members believe it is fair that 13 members can represent the total rural areas of South Australia while 34 members represent the metropolitan area? We see the vacillation because they are ashamed of their policy; ashamed to say clearly, "I believe that 13 members can represent the total country districts in South Australia."

The Hon. S. C. Bevan: I remind the Chief Secretary what I said when I made my second reading speech—

The Hon. R. C. DeGARIS: I intend to return to the honourable member's comments later.

The Hon. S. C. Bevan: I said that I was not ashamed of the policy of the A.L.P. on this question, and neither I am; I am rather proud of it.

The Hon. R. C. DeGARIS: This means that the honourable member is not ashamed of his policy, but he still will not answer my question directly, so that I can put it in all the country newspapers in South Australia that he believes that 13 members can represent the total rural areas of South Australia out of a total of 47 representatives. Will any of the honourable members opposite say "yes" or "no" to that statement?

The Hon. A. J. Shard: But there are 19 country representatives under the Bill.

The Hon. F. J. Potter: You will never get an answer from them.

The Hon. R. C. DeGARIS: I do not think I have any hope of getting an answer because, fundamentally, the members of the A.L.P. are ashamed of their policy. All the A.L.P. will do is talk about the abstract term of "one vote one value". When they are confronted with figures, they run and hide their heads in a corner, and so they should. Indeed, I will say that A.L.P. principles change to suit conditions as those conditions change. In fact, there are no principles; no-one can say that the A.L.P. has ever had any principle whatsoever in regard to electoral areas in any State over a period of 20 years. The A.L.P. policy changes to suit conditions existing at a particular time.

The Hon. A. F. Kneebone: What is your policy on voting?

The Hon. R. C. DeGARIS: It is quite clear.

The Hon. A. F. Kneebone: Is it two votes for one person and no vote for another?

The Hon. R. C. DeGARIS: It is quite clear, and I will answer that point shortly, because the Hon. Mr. Bevan raised that question.

The Hon. D. H. L. Banfield: You can't tell us your policy.

The Hon. R. C. DeGARIS: Our policy is adequate country representation.

The Hon. D. H. L. Banfield: What is that?

The Hon. R. C. DeGARIS: This would involve a changing factor, and I agree that of necessity it would be a changing factor.

The Hon. A. F. Kneebone: What is your value, if it is not "one vote one value"?

The Hon. R. C. DeGARIS: I believe in adequate country representation.

The Hon. D. H. L. Banfield: Tell us what "adequate" is.

The Hon. R. C. DeGARIS: I have already said what I think is adequate. I believe that 25 metropolitan seats and 20 country seats would give adequate country representation. Let me continue to examine the question of A.L.P. principles with regard to voting and the arrangement of electorates as it applies to all of Australia. We find that at present that Party considers that each electorate should have the same number of electors. However, three years ago it was an entirely different situation, because in this Council we had a Bill where the principle of "one vote one value" was not adhered to by the Labor Party. I now ask members of the Labor Party in this Council to deny that three years ago that was the case and that their policy has changed in three years on this matter.

Let us go further. We have been told of the A.L.P's. support for the exhaustive ballot system or, if you like, a long way of getting to the preferential vote in their own elections. We had one example in Canberra recently, when it took the Labor Party three hours, I think, to elect its shadow Cabinet by its exhaustive ballot method.

The Hon. D. H. L. Banfield: They were called to Canberra for their one-day Parliamentary session.

The Hon. R. C. DeGARIS: But we find now that the A.L.P. is advocating voting by a cross. Why is that suddenly so popular? Is it because it is a democratic way of election or is it because it now suits the A.L.P.?

The Hon. D. H. L. Banfield: There is no A.L.P. in Britain.

The Hon. A. J. Shard: You are afraid of the majority talking.

The Hon. R. C. DeGARIS: If the Leader can show me that the majority talks by voting with a cross, I will roll a peanut down King William Street with my nose. Not long ago the A.L.P. was espousing proportional representation, but that has been forgotten, although it was a great principle of the A.L.P. not so many years ago.

The Hon. A. F. Kneebone: You ought to know.

The Hon. R. C. DeGARIS: The principles of the A.L.P. are to gerrymander whenever the occasion demands, to suit the A.L.P. best, not the country. Let me move on in the Leader's speech. He said:

However, in view of the present system of Parliamentary representation in South Australia and in order to get some improvement on this unfair system—

The Hon. S. C. Bevan: That is the present system.

The Hon. R. C. DeGARIS: —

it was necessary to arrive at some compromise between the views of the A.L.P. and those of the Government. Parliament agreed to the compromise that was embodied in the instructions to the electoral commission, and this Bill has been prepared on the basis of the commission's report.

Earlier the Leader had said:

The Bill not only does not provide for one vote one value but provides for a difference in representation between country and city areas that is nearly twice as great as the difference existing in New South Wales, Queensland and Victoria.

Can we examine for a moment "twice as great as the difference existing in New South Wales, Queensland and Victoria"? Can I look at the matter from the point of view of the A.L.P.'s own policy and own distributions in these States the last time a Labor Govern ment was in power? This is an interesting comparison. For example, in New South Wales the last Labor Government there had a policy of 48 metropolitan and 46 country seats. In Victoria the last time a Labor Government was in power (the Cain Government, which was so long ago that I cannot remember the date) it had 34 metropolitan and 32 country seats. The last Labor Government in Queensland had 24 metropolitan and 51 country seats. In South Australia, we have had 13 metropolitan and 26 country seats. In Western Australia the last Labor Government had 17 metropolitan and 32 country seats; and in Tasmania the Labor Government has had one metropolitan division and four country divisions. It is interesting to note the Labor Party's philosophy when it was in power in those States. If we want to look at the disparities between the various areas and at a gerrymander, we should look at Queensland during the 40-odd years of Labor rule there.

The Hon. A. F. Kneebone: Look at it today!

The Hon. R. C. DeGARIS: The Queensland gerrymander was one to outdo any gerrymander ever introduced anywhere in Australia.

The Hon. A. F. Kneebone: That gerrymander has gone the other way now.

The Hon. D. H. L. Banfield: What percentage of votes did Labor get?

The Hon. R. C. DeGARIS: I will provide the honourable member with those figures. In 1950 in Queensland the A.L.P. polled 46 per cent of the votes.

The Hon. D. H. L. Banfield: That is more than the Liberal and Country League polled here.

The Hon. R. C. DeGARIS: The Liberal and Country Party there polled 48 per cent of the votes; yet the number of seats won in Queensland by the A.L.P. was 42, while the L.C.P. won 30.

The Hon. D. H. L. Banfield: That result compares favourably with what would happen in South Australia.

The Hon. R. C. DeGARIS: If we look at the drawing of the electoral districts in Queensland—

The Hon. D. H. L. Banfield: What is it like now in Queensland?

The Hon. R. C. DeGARIS: I am prepared to say that the last figures in Queensland were very complimentary to the Liberal and Country Party Government there. We know what the present principles of the A.L.P. are. They are: 34 metropolitan seats and 13 country seats in the House of Assembly; voting by a cross; the abolition of the Legislative Council; the abolition of the States of Australia (I ask any member of the A.L.P. to deny that that is its official policy); the abolition of the Senate and the complete constitutional control of Australia with a one-House system based in Canberra, and I daresay on a one vote one value system, voting with a cross. We often hear when legislation is being debated in this Council members of the A.L.P. talking about the right of a person to appeal; that there must be an appeal. The Minister of Roads and Transport will correct me if I am wrong, but in one of his Bills recently there was pressure for this right of appeal; yet probably in the most important area of the whole of our human endeavour, if ever there was a need for a body to press for a right of appeal, it was in this matter of the structure of our Parliamentary system.

The Hon. D. H. L. Banfield: You appeal to the people for their judgment.

The Hon. R. C. DeGARIS: Yes, with the two-House system. Under our present Constitution, if this Council defeats any legislation and the Government does not like it, it can test the temperature and feeling of the public by taking the matter to an election at that point of time. There is always this safety valve that, if the Government thinks that this Council is becoming obstructive (and it never has been; once again figures will show that quite clearly) there is a way in which the feeling of the population on the particular measure can be gauged, by having an election. These things are Labor policy—34 metropolitan and 13 country seats, the abolition of the right of appeal to the Legislative Council, the abolition of the States, the abolition of the Senate, and complete constitutional control in the hands of one House based in Canberra. We hear often about A.L.P. principles but let me point this out, too, that these are also the principles of the Communist Party of Australia.

The Hon. A. F. Kneebone: Here is the smear!

The Hon. R. C. DeGARIS: There is no smear involved; it is a matter of fact. If it is a fact, why should it not be mentioned?

The Hon. D. H. L. Banfield: You have now ruined your argument.

The Hon. R. C. DeGARIS: No, I have not.

The Hon. D. H. L. Banfield: Yes, you have.

The Hon. R. C. DeGARIS: Because, if you reach the position—

The Hon. D. H. L. Banfield: You nearly convinced me. Here is where the smear tactics come in.

The Hon. R. C. DeGARIS: If honourable members object to the fact that Communist policy is exactly the same in this regard as the A.L.P.'s.—

The Hon. D. H. L. Banfield: It is the first time that the Chief Secretary and the Premier have agreed on the red bogy, or on anything else.

The Hon. R. C. DeGARIS: No, I am merely pointing out that we want protection against a dominant, controlled Party machine; but the A.L.P.'s policy is the way to allow the people of this State and of Australia to be dominated completely by a one-House system with complete control over the Constitution of Australia. That is the surest way for one to put one's head in a noose. This has happened elsewhere in the world; indeed, it happened in Germany in 1933, and it is the surest way in which to allow a dictator to emerge.

The Hon. Mr. Rowe raised the valid point that, as the metropolitan area grows, Southern, Midland, Central No. 1 and Central No. 2 Districts will be completely dominated in this Chamber by the vote of the metropolitan area.

The Hon. D. H. L. Banfield: Sir Norman Jude poo-hooed the idea of Southern District going to the A.L.P.

The Hon. R. C. DeGARIS: I am looking well ahead in this matter. One can see the great interest that the Australian Labor Party has taken regarding the country districts when it stated its objective of having 13 country seats representing the whole of South Australia as compared with 34 metropolitan area seats in the House of Assembly. It has also demonstrated its great interest in the country districts by the interjection which the Leader made and which can be found on page 2553 of *Hansard*. In speaking to the Bill on October 29, 1969, the Hon. Mr. Rowe said:

Leaving aside the question of Midland (a district in which I am not uninterested), with the growth of population to the south of Adelaide it will not be many years before a large proportion of the population in Southern District will be people not from rural areas but from the metropolitan area. Consequently, we shall have the position of Central No. 1, Central No. 2, Midland and Southern Districts all being controlled by metropolitan interests.

Then, the Leader made the following revealing interjection:

It cannot come quickly enough.

The Hon. D. H. L. Banfield: Hear, hear!

The Hon. A. F. Kneebone: Hear, hear!

The Hon. R. C. DeGARIS: One can see there the very great interest that the A.L.P. takes regarding country representation, not only from its attitude to the House of Assembly but also in relation to the Legislative Council. The Labor Party has been really saying that 80 per cent of the members of this Council should come from the metropolitan area. Two honourable members opposite have just said "Hear, hear": in other words, they want 80 per cent of the representation in this Council coming from the metropolitan area.

The Hon. D. H. L. Banfield: You have it in the reverse now. What are you worrying about?

The Hon. S. C. Bevan: You have had it the opposite way for years, but that is all right, of course!

The Hon. R. C. DeGARIS: We are jumping ahead of ourselves a little. I intend answering the points made in the Hon. Mr. Bevan's speech in good time.

The Hon. S. C. Bevan: You will be here all night then.

The Hon. R. C. DeGARIS: It is not a matter of that but of how members can represent an area outside of the metropolitan area. It is easy for the member for Port Adelaide or for a member representing Central No. 1 to catch a bus and come to Parliament House, sit here for a day and then return home to his wife. However, it is a different position in relation to country members: I assure the Council that many more personal problems have to be faced in large country areas.

When the Electoral Districts (Redivision) Bill was before the Council, the difficulty arising from the growth of the metropolitan area into the rural Council districts was foreseen. This flaw in the original Bill is one of the major causes of concern to members when considering this Bill. The Hon. Mr. Bevan suggested that some members of this Council were frightened of the Bill because it was possible they would lose their seats. He even construed the words of the Hon. Sir Norman Jude in that way. However, nothing could be further from the truth.

I know many members are concerned about this Bill because it could happen that 80 per cent of the members of this Council will be drawn from the metropolitan area and, if the A.L.P. has its way, 80 per cent of the members of the House of Assembly also will come from the metropolitan area. When the Electoral Districts (Redivision) Bill was before the Council, an amendment was introduced which, I believe, was an eminently fair one.

The Hon. D. H. L. Banfield: To tie it up again for another 100 years.

The Hon. R. C. DeGARIS: That is not so. It was a fair amendment, proposing that there should be equal representation from the metropolitan and country areas of this State in this Council.

The Hon. A. F. Kneebone: It is not equal now.

The Hon. R. C. DeGARIS: Two areas are involved: first, the metropolitan area and, secondly, the areas outside of it. I firmly believe in the principle that representation in this Council from these areas should always be maintained at parity.

The Hon. A. F. Kneebone: They are not now.

The Hon. S. C. Bevan: You want that for one particular purpose.

The Hon. R. C. DeGARIS: Yes, to be absolutely and unscrupulously fair—

The Hon. S. C. Bevan: You are only worried about keeping in power here.

The Hon. R. C. DeGARIS: That is not so, and the honourable member knows that very well. We have already seen the great advantages in one vote one value in the attitude to central Government in this country, and we can see the value of having a States' House being controlled by a Party machine. The amendment giving equal representation for metropolitan and country areas in this Council would also have increased the size of this Council to 24 members. I point out that the people have already spoken on this matter in a referendum that was conducted regarding the enlargement of the House of Representatives as compared with the Senate.

Honourable members realize that in the Commonwealth Parliament the Senate must be approximately half the size of the House of Representatives. This matter was taken to the people, who gave their answer in no uncertain terms. Yet here the House of Assembly is being enlarged to comprise 47 members while this Council will still comprise only 20 members. I shall now give some comparisons of the situation obtaining in the other States: In Western Australia there are 51 members in the Lower House and 30 in the Upper House; in Tasmania there are 35 members in the Lower House and 19 in the Upper House; in New South Wales 94 members comprise the Lower House and 60 comprise the Upper House; in Victoria there are 73 members in the Lower House and 36 in the Upper House; and, of course, in the Commonwealth Parliament there are 125 members in the House of Representatives and 60 in the Senate.

Therefore, it is apparent that the amendment proposed to the Electoral Districts (Redivision) Bill was eminently fair, and, I believe, could not be faulted. Yet, as a result of the hanky-panky of the Labor Party in the House of Assembly it was defeated, and we are now faced with a distribution whereby the representation in this Council will remain at 20 members while that of the House of Assembly will rise to 47 members, with a further possibility that this Council will, as time proceeds, unless some alteration is made, experience a representation of 80 per cent of its members from the metropolitan area.

The Hon. A. F. Kneebone: The Premier promised to introduce a Bill to look after that.

The Hon. R. C. DeGARIS: And he will keep his promise. However, the honourable member knows that without there being a constitutional majority in the Assembly there is no possibility of such legislation being passed. I concur with the honourable member that this was agreed to at a conference; but I am certain that such an agreement would not be attainable in the present situation. When we were dealing with the question of trying to maintain adequate country representation in this Council and when it was pointed out that the metropolitan area could control 80 per cent of this Council, the Hon. Mr. Shard interjected and said that it could not come quickly enough.

This is one of the fundamental reasons why back-bench members are considering this Bill very closely. I wonder whether the people of South Australia really understand its provisions. The Leader of the Opposition spoke for about three minutes in damning this Bill as being unfair, and he then proceeded to support it! Then, when the Hon. Mr. Rowe spoke next day in an excellent speech of about half an hour, the adjournment was opposed. Why? The only reason I can see is that the Leader of the Opposition did not want the people of South Australia thoroughly to understand the Bill's provisions.

There is, of course, no great urgency about this Bill, for there will be no election until March, 1971. There is other legislation before this Council, so there is no great hurry. I commend honourable members for the attention they have given the Bill. It is my role as Leader of the Government to get legislation through the Council but, as long as I get it through, if any honourable member requires time to consider a Bill I will give it. If there is some urgency and if I appeal to honourable members to deal quickly with a Bill, I get their co-operation. In this connection, I received a request from honourable members that they wanted to look at this Bill very carefully.

I wonder at the motives of the Leader of the Opposition in constantly dividing this Council on the question of adjourning the debate. I believe that he has been trying to bulldoze this Bill through the Council. Why? Was it because the petulant Leader of the Opposition in the House of Assembly wanted the Bill

through in case his planned no-confidence motion succeeded? That could be the reason, but that no-confidence motion fell as flat as a flounder.

The Hon. Mr. Dunstan's passionate performance in defence of a leading South Australian Communist is just as interesting as the recent reference I made to the A.L.P. policy on constitutional matters. I will repeat that policy: 34 metropolitan seats and 13 country seats in the House of Assembly, 80 per cent metropolitan representation in this Council and, if possible, the abolition of this Council, the abolition of the States, and the abolition of the Senate. So, it is interesting to see the Hon. Mr. Dunstan's passionate performance in coming to the defence of a leading South Australian Communist. I point this out as a matter of fact, not in criticism. The A.L.P.'s avowed policy in this regard is identical to the policy of the Communist Party in South Australia.

The Hon. C. M. Hill: What about their principles when they smeared me earlier in the session?

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: I turn now to the remarks of the Hon. Mr. Bevan. Rather strangely, he referred to the Millicent by-election; he said:

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 imagination, say that Millicent is a metropolitan district.

The Liberal and Country League candidate, Mr. Martin Cameron, won the seat of Millicent.

The Hon. D. H. L. Banfield: We won the Government, but we were not declared elected.

The Hon. R. C. DeGARIS: The L.C.L. candidate won the Millicent seat by a couple of votes. However, on the finding of the Court of Disputed Returns, a new election was ordered. The issues at the new election were totally different from those at the general election, because people began to feel sorry for Mr. Corcoran, with six children and without a job. At that time there was not the pressure for a change of Government. If one told the Millicent people that they voted for 34 metropolitan seats and 13 country seats, one would get a shock. However, this was not the issue upon which the new election was conducted: it was based on a personal concern for Mr. Corcoran.

I am quite sure that, in returning Mr. Corcoran, the Millicent electors did not understand that they were returning a candidate who was willing to sell their representation down the drain, but that is what they did. I am certain that the Millicent electors did not realize that they were electing a man who would take a prominent part, with the Leader of the Opposition in the House of Assembly, in supporting the preferment of a wellknown Communist. The Hon. Mr. Bevan also raised the old hoary question of the previous gerrymander when he said:

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.

Well, there is not one grain of truth in this at all. I wish to refer to an excellent book by the Clerk of the House of Assembly, Mr. Combe, and to deal with the contention that the principle behind the present distribution was introduced by Sir Richard Butler. In 1861 a Select Committee of the House of Assembly appointed for the purpose brought in a Bill to consolidate and amend the several Acts providing for the election of members of Parliament. The Legislative Council in South Australia's first Parliament of 1857 consisted of 18 members elected by the whole province, and the House of Assembly comprised 36 members returned from 17 districts, one district being represented by six members, one district by three members, 12 districts by two members, and three districts by one member each.

In the first session of the first Parliament an Electoral Law Act Amendment Act was passed which provided for a minor amendment to the boundaries of the District of Yatala. Opportunity was taken during the debate on this measure to attempt to divide the single district of the Legislative Council into either six or 16 districts, but the efforts were not successful. The 1861 Select Committee brought in a Bill concerning which, incidentally, members of the committee were not unanimous but which recommended the division of the city of Adelaide District into two districts to be called West Adelaide and East Adelaide, and the reduction of its representation from six members to four.

This was to be compensated for in total by allowing two members each to the districts of Flinders and Victoria which previously had only one member each. These were the only alterations to the 1855-1856 Act recommended by the House of Assembly Select Committee. The House chose not to accept the provisions of the Select Committee's Bill and decided in favour of 18 districts, each returning two members. In 1861, the average number of eligible voters for each of the two-member House of Assembly districts was 1,660. The highest number of voters (2,314) was in the District of Light, and the lowest number (1,056) was in the District of Sturt, there being deviations from the average to the extent of about 40 per cent. This result is interesting if for no other reason than that, in relation to electoral boundaries, the House for the first time had been the judge in its own cause.

In 1872, the Attorney-General brought in an Electoral Districts Bill based on the report of the 1871 Select Committee. It provided for 21 districts each returning two members. The debate on this measure continued over a period of more than six months.

The Hon. D. H. L. Banfield: Nearly as long as this Bill has taken.

The Hon. R. C. DeGARIS: Yes. The House had failed to agree on any theoretical principle of division in the early discussions on the Bill. The Ayers Government pointed out that it had prepared the schedule of districts on the principle of avoiding any wiping out of existing districts but at the same time providing for more adequate representation of the inconveniently large ones. The question whether population should be the sole basis of representation was thrashed out by advocates and opponents and honours were about even. The resulting Electoral Districts Act of 1872 divided the province into 22 districts returning in total 46 members. The average number of adult males (that is, eligible House of Assembly voters) to each member in the new districts in 1872 was about 925. The largest variations from this mean were to be found in West Adelaide, where the average to each member was 1,210, and in Albert, where the relevant figure was 645, representing a maximum deviation from the average of about 33 per cent. This was smaller than the corresponding figure of about 40 per cent in the 1861 division, due in part to the rejection of the principle of a uniform number of members for each district and to the granting of extra members to the districts of Wallaroo, Flinders and Light. This alteration of the constitution of the House, providing for 46 members from 22 districts, was to come into operation for the 1875 general elections.

Attempts were made on several occasions prior to the eventual enactment in 1882 to alter the boundaries and representation of House of Assembly districts. In 1879 a Bill was introduced which provided alternatives based on returns prepared by the Returning Officer. After its second reading the Bill was referred to a Select Committee. The committee was unanimously "of opinion that representation upon the basis of population alone is undesirable, as it gives undue voting power to centres of population". The report of the Select Committee was rejected by the House. It agreed to the creation of four new districts and the addition of six members. In 1879 this Bill failed to receive the sanction of the requisite majority. In 1881 the Bill was introduced to provide for a House of Assembly consisting of 52 members returned by 26 two-member districts. This Bill had to be discharged due to pressure of work. In the following recess, a Royal Commission consisting of nine members of the House of Assembly was appointed to consider the division of the province. The Commission recommended the division of the province into 26 districts, each returning two members. A Bill based on this report was enacted in 1882, and the unwillingness of the sitting members to pass any Bill that provided for the absorption of established districts made Governments resort to the alternative method of creating new districts returning additional members. The main emphasis was still on representation of local interests.

In August, 1901, after taking cognizance of the surrender of considerable powers to the Commonwealth involved in Federation and the fact that the State had a population of only 380,000, the Government introduced a Bill in the Assembly in which it was proposed to reduce the number of members in both Houses of Parliament by one-third. Directions to the non-Parliamentary Commission was that the seven metropolitan districts be divided into 12 districts, each containing as nearly as possible an equal number of electors and that the rest of the State should be divided into 24 districts, each to contain as nearly as possible an equal number of electors. This would serve to maintain the ratio of two country districts to one city and suburban district. This has been the principle followed since 1861, and in 1901, after a Royal Commission had been appointed,

Parliament passed a Bill that would serve to maintain the ratio of two country districts to one city and suburban district.

However, the decision on 41 members was revised when the Bill was subsequently recommitted and the House finally settled for a strength of 42 members. This arrangement of districts gave 12 representatives to the metropolitan area and 30 to the rest of the State. The population of the State at this time was divided roughly equally between city and country. Following the surrender of the Northern Territory to the Commonwealth by an Act passed in 1910 the number in the House of Assembly was reduced accordingly from 42 to 40. In 1913, the Attorney-General introduced a Bill which provided for a Legislative Council of 20 members and a House of Assembly of 46 members. The Government justified the increase in number of members of the House of Assembly from 40 to 46 by comparison of the per capita representation since 1855-56. The Bill eventually passed. The number of members and the electoral districts of the two Houses, as fixed by the Act of 1913, remained undisturbed for nearly a quarter of a century. There were A.L.P. Governments as well as L.C.L. Governments in that quarter of a century.

In 1936, the Attorney-General brought in a Bill to alter the Constitution to implement a promise made prior to the 1933 elections that his Party favoured a reduction of members of the Assembly maintaining the existing ratio between metropolitan and country constituencies. This is the principle to which the Hon. Mr. Bevan referred as being introduced by Sir Richard Butler. This has been the principle since South Australia's early days; it was reaffirmed in 1901, and it has been followed by both A.L.P. and L.C.L. Governments up to this point of time.

The Hon. A. F. Kneebone: But in 1901 the numbers were approximately the same in the country as in the metropolitan area. You said that yourself.

The Hon. R. C. DeGARIS: That is right, but there were still 12 city seats and 30 country seats. The general principle has been continued for a long time in South Australia (reaffirmed in 1901 and again in 1933) of two country seats to one city seat.

The Hon. D. H. L. Banfield: What is it now?

The Hon. R. C. DeGARIS: I am referring to the Hon. Mr. Bevan's argument that this principle was introduced by Sir Richard Butler. He used the word "gerrymander" and said that this principle was introduced by Sir Richard Butler. However, it has been the principle followed in this State almost since South Australia was first established. This principle was reaffirmed in 1901, and for a quarter of a century it remained, even while A.L.P. Governments were in power. The then Government issued the following terms of reference to the committee:

The Government policy is to reduce the number of the members of the House of Assembly by seven, and to divide the State into single electorates, preserving the present ratio of representation between the metropolitan and the extra-metropolitan districts, bearing in mind always the desirableness of electoral districts having a community of interest as far as possible. The accompanying plan having in view these points has been tentatively prepared by the Electoral Office and the Government would be glad if you would consider the whole position and report at as early a date as possible whether in your opinion the plan brings about the reduction of numbers in a fair and equitable manner. The Government also desires you to adjust Legislative Council districts . . .

This was the beginning of the 13 metropolitan and 26 country districts, but the principle had been established for many years in South Australia, and to lay the blame for what is termed a "gerrymander" on the head of the late Sir Richard Butler is wrong. Then the Hon. Mr. Bevan went on and spoke of the various percentages of votes cast in recent years in South Australia, and I would like to include those figures in *Hansard*. In 1938, the A.L.P.'s share of the vote in South Australia was 34 per cent; in 1941 it was 34 per cent; in 1944 it was 43 per cent; in 1947 it was 40 per cent; in 1950 it was 40 per cent; in 1953 it was 43 per cent; in 1956 it was 46 per cent; and in 1959 it was 48 per cent.

The Hon. A. F. Kneebone: Why don't you tell us the percentage your Party got?

The Hon. R. C. DeGARIS: I have not those figures here.

The Hon. D. H. L. Banfield: They would be too interesting!

The Hon. R. C. DeGARIS: If it is so desired, I can get them quickly. The point I make is that a claim has been made in this Council regarding a gerrymander that has existed in South Australia for a long time. As I have pointed out, at no stage between 1938 and 1959 did the A.L.P. poll over 50 per cent of the vote.

The Hon. D. H. L. Banfield: Neither did the Liberal Party.

The Hon. A. F. Kneebone: You want a Government with a lesser percentage than the Labor Party had.

The Hon. R. C. DeGARIS: We have heard the Hon. Mr. Kneebone say it is possible to get carried away with percentages, and members of the Labor Party have constantly mentioned a figure of 53 per cent of votes received by that Party at the last election. Because of that, I rang the Electoral Office and asked what that figure was, and I was told that the A.L.P. polled 50.78 per cent of the votes cast in South Australia. If the matter of formal votes cast is considered, the A.L.P. received 51.9 per cent of the votes. That is a vastly different figure from the 53 per cent that members of the A.L.P. are constantly speaking of and, frankly, it is not true.

The Hon. D. H. L. Banfield: Tell us what the L.C.L. got.

The Hon. R. C. DeGARIS: If that information is required, then I point out that the A.L.P., with all preferences allotted, got possibly 52 per cent of the votes and the L.C.L. got 48 per cent.

The Hon. D. H. L. Banfield: Yet you formed the Government.

The Hon. R. C. DeGARIS: Constantly we hear A.L.P. members saying that the L.C.L. got 42 per cent. The point I make is that for a long time there has been this talk of a gerrymander in South Australia, yet during the period 1938 to 1962 the A.L.P. never polled as much as 50 per cent of the votes.

The Hon. D. H. L. Banfield: And neither did the L.C.L.; when did you get 52 per cent of the votes?

The Hon. A. F. Kneebone: Tell us how many primary votes the L.C.L. got at the last election.

The Hon. R. C. DeGARIS: The actual figure was 50.78 per cent for the A.L.P., 43 per cent for the L.C.L., and 4.1 per cent for other Parties. Invariably, with the exception of the Communist Party, preferences are given to the L.C.L. Looking at these figures, it will be seen that at the last election about 52 per cent of votes went to the A.L.P. and 48 per cent to the L.C.L.; that is as close as I can get. However, how often do we hear the story that 53 per cent of the votes went to the A.L.P.? Frankly, that is untrue. I do not wish to take this argument any further.

I hope that I have replied to many of the questions that have been raised by various members. I thank honourable members for their attention to this Bill. I point out clearly that while I am in this Council (and I give this assurance to the members of the A.L.P.) I will never agree to any further reduction in country representation in this Parliament. I give notice of that because I believe most strongly that a State as large as South Australia cannot sustain a system of one vote one value, which has become an emotional catch-cry. I have already challenged members of the A.L.P. in this Council several times and asked them to state whether they agree with a representation of 34 metropolitan seats to 13 country seats, but not one has been able to say, "Yes, that is my policy."

The Hon. M. B. Dawkins: They are not game.

The Hon. A. J. Shard: It is not true, because the country has 19 seats under this Bill.

The Hon. R. C. DeGARIS: We have been told that members of the A.L.P. believe in one vote one value. Does the Leader agree with that statement?

The Hon. A. J. Shard: Of course we do!

The Hon. R. C. DeGARIS: Therefore, I take it that, if the Labor Party had its way, immediately it came to power it would introduce a Bill to provide for 34 metropolitan and 13 country seats.

The Hon. A. J. Shard: That is what you are saying; that is not what I am saying. I am telling you that this Bill provides for 19 country seats.

The Hon. R. C. DeGARIS: The Leader is either very dense with his mathematics or he will not admit the truth. At no time will I stand by and see the country districts sold down the drain in their representation by any A.L.P. policy. I thank honourable members for their attention to this Bill. I know there are several amendments on file, and I trust that the Bill will have a speedy passage through Committee.

The PRESIDENT: As this Bill amends the Constitution, it is necessary that the second reading be carried by an absolute majority of the whole number of members of the Council. I have counted the Council, and there being present an absolute majority of members, I put the question: That this Bill be now read a second time.

The Council divided on the second reading:

Ayes (13)—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris (teller), R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, A. F. Kneebone, F. J. Potter, Sir Arthur Rymill, A. J. Shard, and V. G. Springett.

Noes (5)—The Hons. Jessie Cooper, M. B. Dawkins, H. K. Kemp, C. D. Rowe (teller), and A. M. Whyte.

Majority of 8 for the Ayes.

The PRESIDENT: I declare the second reading carried by an absolute majority of the members of the Council.

The Hon. C. D. ROWE (Midland) moved:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider new clauses dealing with the qualification of electors for Council elections and the Legislative Council franchise based on war service.

Motion carried.

The Hon. G. J. GILFILLAN (Northern) moved:

That Standing Orders be so far suspended as to enable him to move:

> That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the abolition of the House of Assembly and the Legislative Council, the alteration of the powers of the Legislative Council, and the repeal or amendment of certain sections of the Constitution Act, 1934-1965.

The PRESIDENT: I have examined the Bill and find that it deals with only three topics—the alteration of electoral boundaries, the increase in the number of members of the House of Assembly and the quorum required in the House of Assembly for the transaction of business. The matters dealt with in the notices of motion for instructions to the Committee of the whole Council are not relevant to the subject matter of the Bill as disclosed by its clauses but are relevant to the title as required by Standing Order No. 423. As I pointed out to the Council on September 18 last, the matter of instructions has been a difficult one to decide in the past, but on this occasion I believe that the topics mentioned in the notices of motion on the Notice Paper should be dealt with in a separate Bill. However, in view of the report of the Standing Orders Committee tabled and adopted on November 12, 1958, it is for the Council to decide whether or not the instruction should be agreed to.

Motion carried.

The Hon. G. J. GILFILLAN moved:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the abolition of the House of Assembly and the Legislative Council, the alteration of the powers of the Legislative Council, and the repeal or amendment of certain sections of the Constitution Act, 1934-1965.

Motion carried.

In Committee.

Clause 1 passed.

New clause 1a—"Enactment of section 10a of principal Act."

The Hon. G. J. GILFILLAN: I move to insert the following new clause:

1a. The following section is enacted and inserted in Part II of the principal Act after section 10 thereof:

10a. (1) Except as provided in this section—

(*a*) the House of Assembly shall not be abolished;

(*b*) the Legislative Council shall not be abolished;

(*c*) the powers of the Legislative Council shall not be altered;

(*d*) sections 8 and 41 of this Act shall not be repealed or amended; and

(*e*) any provision of this section shall not be repealed or amended.

(2) A Bill providing for or effecting—

(*a*) the abolition of the House of Assembly;

(*b*) the abolition of the Legislative Council;

(*c*) any alteration of the powers of the Legislative Council;

(*d*) the repeal or amendment of section 8 or section 41 of this Act; or

(*e*) the repeal or amendment of any provision of this section,

shall be reserved for the signification of Her Majesty's pleasure thereon, and shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.

(3) On a day which shall be appointed by proclamation, being a day not sooner than two months after the Bill has passed through both the Houses of Parliament, the Bill shall, as provided by and in acordance with an Act which must be passed by Parliament and in force prior to that day, be submitted to the persons whose names appear as electors on the electoral rolls kept under the Electoral Act, 1929-1965, as amended, for the election of members of the House of Assembly.

(4) When the Bill is so submitted as provided by and in accordance with the Act referred to in subsection (3) of this section, a vote shall be taken in such manner as is prescribed by that Act.

(5) If the majority of the persons voting approve of the Bill, it shall be presented to the Governor for Her Majesty's assent.

(6) Without restricting or enlarging the application of this section, this section shall not apply to any Bill providing for or effecting—

(*a*) the repeal;

(*b*) the amendment from time to time; or

(*c*) the re-enactment from time to time with or without modification,

of sections 11, 12, 16, 17, 18, 19, 20, 20a, 21, 22, 44, 45, 46, 46a, 48, 48a, 49, 50, 51, 52, 53, 54, 54a, 55, 56, 57, 58, 59, 60, 61, 63, 64 or 65 of this Act as in force immediately after the commencement of the Constitution Act Amendment Act, 1969, or of any enactment for the time being in force so far as it relates to the subject matter dealt with in any of those sections.

(7) Any person entitled to vote at an election for a member or members of the House of Assembly or the Legislative Council shall have the right to bring an action in the Supreme Court for a declaration, injunction or other legal remedy to enforce any of the provisions of this section either before or after any Bill referred to in this section is presented to the Governor for Her Majesty's assent.

This amendment, or series of amendments, refers to special provisions as to a referendum. They are all consequential and are in sequence. I ask your ruling, Mr. Chairman, whether I should speak to the whole amendment now or confine myself to the first part of it.

The CHAIRMAN: The honourable member can speak to the whole of his amendment and we can decide later whether the different parts should be put separately.

The Hon. G. J. GILFILLAN: Although this amendment appears to be lengthy, it is quite simple in its application. It is similar to a provision that was passed in another place last year as an amendment introduced into a Bill there by the Leader of the Opposition. The Bill passed through that House and later it went to the foot of the Legislative Council Notice Paper at the end of the session as it had not been dealt with completely.

This proposed amendment differs slightly from that accepted by both the A.L.P. and the L.C.L. in another place, with the addition of the House of Assembly and sections 8 and 41 being mentioned. The reference to the House of Assembly is deliberate, as this series of amendments is an attempt to protect our State Parliament and our bicameral system. The Chief Secretary, when speaking to the Bill, mentioned the dangers of too much power being passed to a centralized authority. It is obvious that the sovereign States are gradually losing their influence. At present, of the total Commonwealth Ministry of 26 members, only two are from States west of the Victorian border. This problem is even more accentuated when we think of representation in the country districts as outlined by the Chief Secretary this evening.

If we get a completely centralized Government, we shall find Australia ruled by the Eastern seaboard areas, certainly by Melbourne, Sydney and associated cities. In South Australia the position would be even worse, because we are a State with not only a small population but also large centres of population and a sparsely populated country area. We should do all in our power to preserve the rights of the people in the State. These proposed amendments do not confer a privilege on anyone; they are merely to preserve the Constitution of this State. They will ensure that the abolition of either House cannot take place without the consent of the people by way of a referendum.

Paragraph (*d*) of new section 10a (1) refers to the necessity of any alteration to the Constitution requiring an absolute majority in both the Legislative Council and the House of Assembly. That provision exists in the Act at present, and it is the intention of the amendment to retain that provision. Section 41 refers to the settlement of deadlocks, and, pursuant to the amendment, it is intended to retain this important part of our bicameral system.

The amendments are self explanatory. New subsection (7) refers to the right of an elector of the House of Assembly or the Legislative Council to bring an action to the Supreme Court should the provisions of the Constitution Act be not complied with. I have said that the amendment confers no privileges whatsoever. It does not alter the Constitution in favour of any one section, but merely preserves the rights of the people in the State, and any objection to this principle can only mean that such an objection is prompted by an ulterior motive. I ask honourable members to accept the amendment.

The Hon. A. J. SHARD (Leader of the Opposition): I oppose the amendment. I agree with what the President said: that it is proper for it to be dealt with under a separate Bill. The Hon. Mr. Gilfillan did not tell the Committee that these amendments were the result of an agreement between the Parties

in another place that, when it passed the Bill, there would be a common roll for elections of both Houses. I will not deal with the merits of that matter. This Bill comes before us as a result of the findings of a commission set up to to perform a particular task. It was agreed at a conference that the House of Assembly boundaries should be amended, and the Premier said also that the boundaries and franchise of the Legislative Council could be dealt with in a separate Bill. As I consider that it should be done in that manner, I oppose the amendment.

The Committee divided on the new clause:

Ayes (15)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan (teller), L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

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

Majority of 11 for the Ayes.

New clause thus inserted.

Clause 2 passed.

New clauses 2a, 2b and 2c—"Qualifications of electors for Council elections."

The Hon. C. D. ROWE: I move to insert the following new clauses:

2a. Section 20 of the principal Act is amended—

(*a*) by inserting in paragraph I of subsection (1) after the word "freehold" the passage "or leasehold";

(*b*) by striking out from paragraph I of subsection (1) the passage ", which estate is of the clear value of at least fifty pounds above all charges and encumbrances affecting the same";

(*c*) by striking out paragraph II (including the proviso thereto) and paragraph III of subsection (1) and the word "and" immediately following paragraph III of that subsection;

(*d*) by inserting in paragraph IV of subsection (1) after the passage "dwelling-house" firstly occurring the passage "situated within South Australia";

(*e*) by inserting in paragraph IV of subsection (1) after the passage "no person" the passage "other than a spouse referred to in paragraph IVa of this subsection and paragraph V of subsection (1) of section 20a of this Act";

(*f*) by adding after paragraph IV of subsection (1) the following paragraph:—

IVa. The lawfully wedded spouse, if any, of a person who is entitled to vote by virtue of this section.;

and

(*g*) by striking out subsection (6).

2b. Section 20a of the principal Act is amended—

(*a*) by striking out from paragraph I of subsection (1) the passage—

"and who—

(*a*) voluntarily enlisted in that force; or

(*b*) whether he voluntarily enlisted or not, served in that force outside the Commonwealth, or in an evacuated area";

(*b*) by adding after paragraph III of subsection (1) the following paragraphs:—

IV. A person who is or has been on active service as a member of a naval, military, or air force of the Commonwealth in any place outside Australia that is declared by proclamation to be a proclaimed place for the purposes of this paragraph, or who is or has been engaged as such in any naval, military or air force operation that is declared by proclamation to be a proclaimed operation for the purposes of this paragraph:

V. The lawfully wedded spouse, if any, of a person who is entitled to vote by virtue of this section.;

and

(*c*) by striking out subsection (4).

2c. Section 21 of the principal Act is amended by inserting in the proviso before the passage "war service" the passage "that person's active service,".

The object of these new clauses is to enlarge the franchise relating to Legislative Council elections by (*a*) granting a right to vote at Legislative Council elections to spouses who have attained the age of 21 years of persons who are at present eligible to vote; (*b*) removing from qualifications for voting of the owner or lessee of any land the requirement that the land must be of a minimum value; and (*c*) enlarging the rights of servicemen and ex-servicemen to vote at such elections. Honourable members will remember that on October 9, 1968, I introduced a private member's Bill to achieve this purpose; I think it went through this Council with the support of all honourable members. The Hon. Mr. Shard said that he would support the Bill although it did not go as far as he would like it to go. This amendment establishes a family franchise: where the husband is entitled to

vote, his wife will be entitled to vote, too, and vice versa. This is an admirable franchise for a House of Review.

The Hon. A. J. SHARD: I oppose the amendment on the same grounds as those I referred to when dealing with the Hon. Mr. Gilfillan's amendment. Because I have not looked up what I said previously on this matter, I do not want to touch on the merits of the amendment. I think a promise was made that something like this would be done in a separate Bill: this is my only reason for opposing the amendment.

The Hon. M. B. Dawkins: You are opposing the widening of the franchise?

The Hon. A. J. SHARD: No; I am not touching on the merits of the amendment.

The Hon. M. B. DAWKINS: I find it very difficult to follow the honourable member. This amendment widens the franchise to what the Hon. Mr. Rowe called a family franchise. I believe I am correct in saying that last year the Opposition members did not oppose the provision to widen the franchise to include spouses. So, in this respect these honourable members are completely inconsistent. This amendment is very sound because it will provide for a very representative franchise. Under this franchise the Council will continue to be the valuable instrument in the legislative process that it has been throughout the history of South Australia.

The Hon. A. F. KNEEBONE: I oppose the amendment for the reason given by the Leader of the Opposition. I am still hoping that the Premier will keep his word in regard to the introduction of a Bill dealing with the Legislative Council. I think all honourable members opposite ought to have faith in their Premier.

The Hon. C. R. Story: Would the honourable member support what was put up?

The Hon. A. F. KNEEBONE: I am not saying: I want to see the provisions of the Bill before I say whether I will support it. I am not opposed to the extension of the Legislative Council franchise, but I am opposed to this provision being included in this Bill, thereby cluttering it up and causing problems. The Bill should be passed in the form in which it came from the House of Assembly. Let us get on with the redistribution.

The Hon. A. J. SHARD: The Hon. Mr. Dawkins must have been sleeping: I said that I did not want to touch on the merits of the amendment. When dealing with the Hon. Mr. Gilfillan's amendment, I did not touch on its merits. I agree with what the President said before we went into Committee—that this Bill does three things. It should be restricted to those three things. The amendment should be dealt with in a separate Bill. As a result of a conference last year it was stated that a Bill would be introduced to deal with the redistribution of Legislative Council boundaries and the Legislative Council franchise. That procedure should be adopted. I am opposing the amendment because it is an amendment to a Bill that should not be amended in this way. The Bill comes to us as a result of a commission set up to inquire into electoral boundaries, and we should not attach anything else to it. If this amendment came through in a straight-out manner, honourable members might be surprised what support it would get. I take exception to the Hon. Mr. Dawkins' saying that I am opposed to giving a vote to spouses.

The Hon. M. B. Dawkins: You are opposing it at present.

The Hon. A. J. SHARD: Yes. If the honourable member is so dumb that he cannot understand what I have said, I sympathize with him.

The Hon. A. M. WHYTE: Any amendment to this Bill could not help but improve it. Both the amendment of the Hon. Mr. Gilfillan and this amendment is worthwhile.

The Hon. C. D. ROWE: This Council has done a great deal of credit for itself by the manner in which it has dealt with this Bill. All the speakers, both Liberal and Labor, have made excellent speeches. This Bill will change the whole electoral scene in South Australia. I speak for myself when I say that the decision on the way in which I vote on this Bill was not reached lightly and it was not reached on the basis of personal interest: it was reached on the basis of what I thought would be in the best interests of South Australia.

I am quite prepared to admit that there is some force in the argument of the Hon. Mr. Shard—that probably this matter should have been dealt with in a separate Bill. It was for this reason that it was necessary for me to get an instruction. I thought about this matter, and honourable mmebers will recall that last October I intoduced a private member's Bill into the Chamber to achieve this object. This is a matter in which I believe on principle that the franchise should be extended to this degree. That Bill passed this place with the support of the Australian Labor Party and went to the other place. However,

I think the best thing I can say about it is that it seems to have got lost down there, and it never saw the light of day.

The Hon. D. H. L. Banfield: That is like another Bill up here that provided for full adult franchise.

The Hon. G. J. Gilfillan: That is a different matter.

The Hon. D. H. L. Banfield: It's a different Bill with the same principle.

The Hon. C. D. ROWE: My own Bill got lost in another place and never saw the Statute. I believe that this provision should be added to our legislation, and that is why I have moved the amendment at this time. It is not unrelated to the matter with which we are dealing in the Bill, although it does not strictly come within the confines of a Constitution Act Amendment Bill.

The Hon. F. J. Potter: It will affect numbers in districts.

The Hon. C. D. ROWE: Yes, it will increase the numbers considerably in some areas, and I think this is a desirable thing. That is why I have moved the amendment and why I am asking the Committee to carry it. I think that by doing it in this way the provision has a better chance of getting on to the Statute Book than if the matter were dealt with in a separate Bill. I think it should be possible for us to incorporate this provision in the Bill without creating any unfair difficulties. The amendments that have been moved to the Bill do not in any way affect the redistribution of boundaries determined by the other House. We do not intend to alter the country or city representation. We have given virtually all that has been asked for, and as far as I am concerned that is exceedingly generous. I am sorry that we have been so generous concerning the relationship between the country and city areas.

We are not interfering with anything that has been done elsewhere. We are merely asking that this matter be given serious consideration. Over recent years the role of the spouse has increased in importance, bearing in mind the emancipation that has come with economic development and the number of wives who are working and contributing as much to the upkeep of a home as the husband contributes. These days, it does not seem proper to me that a husband should have the right to vote while his wife, who probably contributes as much to his success as he does, is denied that right. That is why I have moved this amendment.

Also, in view of the increasing values of land, I think it is rather ludicrous to put a lower limit below which people, if they own land in this category, should not be entitled to vote. I think it is reasonable to remove that altogether, so that anyone who has a land interest in the country gets a vote in regard to this matter. I am prepared to admit that, if this Bill becomes law, it will make it somewhat more difficult that it has been in the past for us to retain Midland as an L.C.L. seat (certainly in the long period).

The Hon. D. H. L. Banfield: But in the interests of the State you don't care two hoots.

The Hon. C. D. ROWE: I do not quite understand the honourable member's interjection.

The Hon. D. H. L. Banfield: Personally, you won't mind, because it will be in the interests of the State if you lose Midland.

The Hon. C. D. ROWE: I do not mind myself, although let me say quite sincerely that a person who has given 21 years of his life to politics, successfully or unsuccessfully, does not relish the idea of the termination of that contract in the near future. However, that is not the issue in front of me at the moment. As I have not yet been endorsed for the Midland seat at the next election, it is not possible for me to say who the candidates for Midland will be. However, if it is necessary to contest a plebiscite for Midland I shall do so as I have done in the past, I hope with some success, or at least the same success as has been achieved in the past. About this time six years ago when an election was coming up, I was told that I would not be re-elected for Midland. However, the person who told me that was incorrect, and I am rather of the opinion that people who are saying this now are in the same category.

The Hon. D. H. L. Banfield: You are the only one suggesting it.

The Hon. C. D. ROWE: We are dealing with the question of giving the vote to spouses, and I am sure that members will agree that this is reasonable in every respect. I ask that the amendment be supported.

The Hon. G. J. GILFILLAN: I consider that I must support my colleague, who has gone to so much trouble in moving this amendment, which is a provision that was contained in a measure passed by this Council last year. I believe that it is only right, now that private members' business has closed in the House of Assembly, that it should be put

on our Statutes, and the only way this can be done is by including the provision in this measure. I cannot follow the reasoning of members opposite in denying spouses this right because it is provided for in a Bill dealing with another matter. This is a Bill altering our Constitution, and the measure in which such a provision should be included is a Constitution Act Amendment Bill. I believe that, although contingent notice of motion had to be given, it is in the correct Bill.

Ultimately, despite the manner in which it has been introduced into Parliament, if its passage is successful the provision will go into the Constitution Act. Therefore, I cannot see the force of the argument, which would deny spouses the right to be enrolled and to vote as they so wish, when we have a Constitution Act Amendment Bill before us. It has been said that an agreement was reached at a conference last year. I was also on that conference with the Hon. Mr. Shard, and I know that such a statement was made by either Mr. Hall or Mr. Dunstan.

The Hon. A. J. Shard: They both agreed.

The Hon. G. J. GILFILLAN: They could have. This Council is an independent Chamber that has the right to make its own deliberations on matters that come before it, and I believe that a private agreement between two members of another place has no bearing whatsoever on the proceedings of this place in connection with a measure of this kind. An undertaking that may have been given regarding this Bill by the two Leaders in another place is their business. I believe that it is still the prerogative and right of this place, as a Parliamentary institution, to consider legislation on its merits, and that is what this place has done and is doing. I ask honourable members to support the Hon. Mr. Rowe's amendment.

The Hon. R. C. DeGARIS (Chief Secretary): As there are other Bills on the Notice Paper, and as time is drawing on, I ask that progress be reported.

Progress reported; Committee to sit again.

LOTTERY AND GAMING ACT AMENDMENT BILL (COMMISSION)

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

BULK HANDLING OF GRAIN ACT AMENDMENT BILL (QUOTAS)

Returned from the House of Assembly without amendment.

WHEAT INDUSTRY STABILIZATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.19 p.m. the Council adjourned until Wednesday, December 3, at 2.15 p.m.