LEGISLATIVE COUNCIL

Thursday, September 3, 1970

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

ASSENT TO BILLS

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

Eudunda and Morgan Railway (Discontinuance),
Motor Vehicles Act Amendment,
Referendum (Metropolitan Area Shop Trading Hours).

QUESTIONS

POSTMASTER-GENERAL'S DEPARTMENT

The Hon. R. C. DeGARIS: I seek leave to make a very brief statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. R. C. DeGARIS: Last night on a television programme the Leader of the Opposition in the Commonwealth Parliament, Mr. Whitlam, outlined the Labor Party's policy on the future of the administration of the Postmaster-General's Department. That policy is to convert the department into an independent commission. Can the Chief Secretary say whether the State Government has any objection to that proposal?

The Hon. A. J. SHARD: I did not see the programme referred to: I just heard something on the radio about it. I do not know whether the State Government has been approached about this matter, nor do I know its view on the matter. I shall discuss it with Cabinet and bring down a report later in the session.

ABORTIONS

The Hon. G. J. GILFILLAN: I seek leave to make a statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. G. J. GILFILLAN: On July 23, I asked a question of the Chief Secretary about amendments to the Criminal Law Consolidation Act concerning abortion operations. The points I raised concerned the conscientious objection of a person who suddenly found himself or herself involved in such operations without previous information. My question related to the legal and ethical responsibility of that person should he or she discontinue such assistance at the pre-operative and post-operative phases. Has the Chief Secretary a reply to that question?

The Hon. A. J. SHARD: When the honourable member asked this question I told him that it may take some time to obtain a reply, but I now have the following information for him. The first issue raised by him regarding the amendments to the Criminal Law Consolidation Act relating to abortion operations concerns the responsibility of those conducting abortion operations to ensure that all persons assisting in the operation are fully informed of the specific nature of the operation. It has been ascertained that terms such as "dilatation and curettage" and "hysterotomy" have been used on operating lists of hospitals in an effort to preserve the confidentiality of the abortion operation from the patient's viewpoint. It is agreed, however, that such a procedure could lead to uncertainty in the minds of assisting staff members whether the operation described related to the termination of pregnancy or was necessary for other reasons.

Accordingly, a circular will be issued to all hospitals, which have been approved under the abortion regulations, indicating that all participating staff members need to be clearly informed of the specific purpose of the operation when their assistance is requested. It is believed that such action will prevent any ambiguities arising, particularly in the case of those who may have objections to the procedure on the grounds of conscience.

The second issue raised by the honourable member concerned the legal and ethical responsibilities of those assisting at such operations. As stated in the Act, a person may decline to take part in an abortion operation on the grounds of conscience. The Director-General of Medical Services has had discussions about this aspect with a representative of the Crown Law Office, and it is understood that any person is justified in declining to assist at the operation itself if she or he has a sincere conviction that such an operative procedure is completely unacceptable on either religious or other firmly held beliefs. Whereas the onus of proof rests on the person concerned, it is the general practice of the hospitals concerned to accept the fact that certain staff members do not wish to take part in such operations and, if these staff decline to assist on the grounds of conscience, this is fully understood and alternative arrangements for assistance are made.

In rare instances, the pre-operative preparation of the patient could also be declined if a staff member was convinced that such action could be interpreted as being akin to being an accessory before the event, but there appears to be no legal justification for declining assistance to

the patient after the operation has been completed. The post-operative care of such patients should not be distinguished from the care given to other patients following other surgical procedures. As far as the ethical situation is concerned, it is expected that all staff members in a hospital would in no way endanger the life of a patient by declining to assist a patient if failure to provide such assistance could lead to possible serious injury or death of the patient. It is believed that this fundamental medical and nursing ethic would prevail in all cases.

EGGS

The Hon. V. G. SPRINGETT: Can the Minister of Agriculture tell me whether there is a plan to regulate the expansion of egg production along the lines recommended by the federal council of the Poultry Farmers Association of Australia?

The Hon. T. M. CASEY: No. This matter has been under discussion for quite some time in Commonwealth circles, and I am sure that it will be discussed at the next meeting of the Agricultural Council.

UNIONISM

The Hon. L. R. HART: Earlier this week I asked the Chief Secretary a question with regard to preference to unionists. Has he a reply?

The Hon. A. J. SHARD: I advise the honourable member that the industrial instruction providing for preference to unionists will not alter the rights of ex-servicemen seeking employment. The application of the administrative decision by Cabinet on preference to unionists contained in Industrial Instruction No. 300 must be subject to the overriding statutory provision contained in the War Service (Preference in Employment) Act, 1943, section 3(1) of which reads:

Notwithstanding any other enactment, whenever an appointment is to be made to an office or employment under the Government of the State, and a member of a fighting force or an Australian seaman as well as other persons are applicants for that office or employment, the appointing authority shall appoint a member of a fighting force or an Australian seaman to that office or employment in preference to other persons unless reasonable and substantial cause exists for not doing so.

Subsection (2) is as follows:

In determining whether reasonable and substantial cause exists for not appointing a member of a fighting force or an Australian seaman, the appointing authority shall consider—

(a) the length, locality, and nature of the service of the member of a fighting force, or as the case may be, of the Australian seaman;

(b) the comparative qualifications of the member of a fighting force or of the Australian seaman and of the other applicants for the office or employment;

(*c*) any other relevant circumstances.

WHEAT LOADING

The Hon. R. A. GEDDES: On August 25 I asked the Minister of Agriculture a question regarding the reported departure of a ship from Port Pirie with about 5,000 tons of wheat short of its estimated loading at that port. Has he a reply?

The Hon. T. M. CASEY: The General Manager of South Australian Co-operative Bulk Handling Limited reports that the vessel in question, the *Georgian Glory,* was listed to load 12,370 tons of the 1968-69 season's bulk wheat from the Port Pirie terminal silo, and in fact it loaded 12,650 tons. I am advised that, after the ship had arrived at Port Pirie, it was indicated that it could lift 15,000 tons but, of the cell storage of approximately 81,600 tons for wheat in the Port Pirie terminal, approximately 67,300 tons of last season's (1969-70) wheat and approximately 13,800 tons of the season before last (1968-69) was in storage. The vessel could have been supplied with the additional 2,350 tons of last season's wheat if departure had been delayed for a few days. Such an occurrence is not infrequent in some other States. (Vessels this month have been waiting for periods of two to four weeks in Sydney.) However, the ship's agents elected to proceed to another port for the balance of the cargo. It is not the company's policy to load wheat direct from temporary storages to ship after wheat has been in storage for over a year, as it is considered prudent to fumigate such wheat at the terminal before shipment.

GOVERNMENT INSURANCE OFFICE

The Hon. R. C. DeGARIS: Has the Chief Secretary a reply to a recent question I asked about the feasibility study on establishing a State Government insurance office?

The Hon. A. J. SHARD: Let me make it clear that it was a report on insurance offices. The report referred to on the profitability of insurance offices was furnished to the present Government during its last term of office by Professor K. Wright of the Commerce Department, University of Adelaide. The report was not published and the copy

handed to the Government prior to March, 1968, cannot be located. Professor Wright has been asked to provide a copy of the report.

MINISTERIAL STATEMENT: DRAINAGE RATING

The Hon. A. F. KNEEBONE (Minister of Lands): I seek leave to make a statement.

Leave granted.

The Hon. A. F. KNEEBONE: As honourable members will be aware, complex problems have arisen in the application of the financial provisions of the South-Eastern Drainage Act, 1931-1969. About two years ago my predecessor considered this matter and instituted an inquiry with a view to amending these provisions to provide a more satisfactory method of rating. The committee, which was appointed for this purpose, and the South-Eastern Drainage Board have given considerable attention to this matter and have placed proposals before the Government for consideration. The Government has considered these proposals and believes that further investigation of certain of these matters is necessary before it can make a decision on the policy which should be pursued.

As the South-Eastern Drainage Board must declare a rate almost immediately, it has been decided to proceed along the same lines as has existed during the past two years, and the board will declare a rate accordingly. This action is unavoidable, as it is obvious that a solution of the problems cannot be found immediately. However, I fully expect that a solution will be reached in the not too distant future and action will be taken to submit appropriate amendments to Parliament for consideration. I make this statement so that landholders will be aware of the reasons for continuing with the present rating system and of the Government's intentions regarding amendments.

BERRI POLICE HEADQUARTERS

The PRESIDENT laid on the table the final report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Berri Divisional Headquarters and Police Station.

WILD DOGS ACT AMENDMENT BILL

Read a third time and passed.

SUPREME COURT ACT AMENDMENT BILL (VALUATION)

Read a third time and passed.

AUSTRALIA AND NEW ZEALAND BANKING GROUP BILL

Second reading.

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It has the purpose of facilitating the merger between the Australia and New Zealand Bank Limited and the English, Scottish and Australian Bank Limited. A merger involving these two banks under a scheme approved by the High Court in the United Kingdom was introduced a year or so ago. The merger has been effected by the formation of a new company, the Australia and New Zealand Banking Group Limited, which has acquired all the shares in the two existing banks. Furthermore, as part of the total reorganization, the Australia and New Zealand Banking Group Limited desires to transfer the incorporation and domicile of the Australia and New Zealand Savings Bank Limited from the United Kingdom to Victoria.

On May, 15, 1970, the Parliament of the United Kingdom passed the Australia and New Zealand Banking Group Act, 1970, by which the merger is to be effected, and it conforms to the previous general pattern of legislation for the amalgamation of banks in England. The merger of Australia and New Zealand Bank Limited (hereafter referred to as "A.N.Z.") and English, Scottish and Australian Bank Limited (hereafter referred to as "E.S. &A."), both of which are incorporated in the United Kingdom, involves the following:

(*a*) The formation of the new company named Australia and New Zealand Banking Group Limited (hereafter referred to as "group") in the United Kingdom, and the acquisition by group of the whole of the issued share capital of A.N.Z. and E.S. & A. in exchange for the issue of group's own shares. This exchange has been carried out and both A.N.Z. and E.S. & A. are now wholly-owned subsidiaries of group;

(*b*) The amalgamation of the banking undertakings of A.N.Z. and E.S. & A. (with the exception of certain excluded assets) by transferring the same to group;

(*c*) The transfer of incorporation of A.N.Z. Savings Bank (which is incorporated in the United Kingdom) to Victoria so that A.N.Z. Savings Bank may be deemed to be a company incorporated in Victoria; and

(*d*) The amalgamation of the banking undertaking of E.S. & A. Savings Bank (which is incorporated in Victoria and is a subsidiary

of E.S. & A. Bank) with A.N.Z. Savings Bank, which is a subsidiary of A.N.Z. Bank.

In general terms, the United Kingdom Act referred to provides that on an appointed day the undertakings of A.N.Z. and E.S. & A. Banks will (subject to the exclusion of the excluded assets referred to) be transferred to and vested in group,, which thereafter will conduct the combined undertakings. A.N.Z. and E.S. & A. will continue to exist for limited purposes. as property-owning companies holding the property excluded from the transfer of the undertakings (the excluded assets). The United Kingdom Act referred to also authorizes A.N.Z. Savings Bank to seek the transfer of its incorporation from the United Kingdom to Victoria.

Since the existing banks carry on business outside the United Kingdom and have substantial assets in the Australian States and elsewhere, the question arose as to the capacity of the United Kingdom Parliament to legislate effectively to pass the whole of the undertakings to group and, of course, the undertaking of the E.S. & A. Savings Bank was outside the legislative field of the United Kingdom Parliament. To overcome any disability arising in this respect, supplementary Acts are being sought in the Australian States and other areas to complement and give full effect to the provisions of the United Kingdom Act. This supplementary legislation will, to the extent to which the United Kingdom Act may not itself be wholly effective to transfer the undertakings of the existing banks, render the transfer of the undertakings and the vesting of the assets wholly effective. In general, the scheme of the local legislation is the local enactment of the operative provisions of the United Kingdom Act other than certain provisions that are appropriate only in the United Kingdom.

The merger is being effected with the approval of the Treasurer of the Commonwealth, who, on May 22, 1969, gave his consent pursuant to section 63 of the Banking Act, 1959, to the transfers of the businesses of A.N.Z. and E.S. & A. to group and the business of E.S. & A. Savings Bank to A.N.Z. Savings Bank. The State of Victoria passed supplementary legislation, entitled the Australia and New Zealand Banking Group Act, 1970, on April 7, 1970, which has the following general effect:

(a) It confirms, so far as Victoria is concerned the transfer of the undertakings of A.N.Z. and E.S. & A. Banks to group:

(b) It enables A.N.Z. Savings Bank to transfer its incorporation to Victoria and to become a company deemed to be incorporated under the Companies Act, 1961, of Victoria:

(c) It then proceeds to transfer the undertaking of E.S. & A. Savings Bank to A.N.Z. Savings Bank.

The transfer of the undertakings effected by the United Kingdom Act and the Victorian Act referred to are intended to take effect on a day to be appointed (in the Acts referred to as "the appointed day") which is intended to be October 1, 1970. However, although the merger has been completed in the commercial sense, the two separate existing banking entities are continuing to carry on business independently, and it is desired to merge the banking operations completely. Similar mergers have been carried out in the past between comparatively small banks without any special legislative assistance, but it is now recognized, in the United Kingdom and in other jurisdictions throughout the world, that the sheer volume of paper work involved in preparing full documentation to effect such a union makes it almost impracticable.

In practical terms the merger of these banks will involve: *(a)* the transfer of well over 1,000,000 accounts; and *(b)* the transfer of borrowing arrangements for some hundreds of thousands of the customers of the two existing trading banks and E.S. & A. Savings Bank. The time and effort involved in carrying out the changeover by means of separate transactions with each of the individual customers would be practically prohibitive and would involve not only the staffs of the banks but also the customers themselves and the officers of Government departments such as those in the Stamp and Succession Duties Division and the Lands Titles Office. It would be necessary, for instance, to obtain: *(a)* authority from each customer to transfer accounts from one bank to another, new mandates for operation of a variety of types of account, new authorities for periodical payments and new indemnities for various purposes connected with the accounts; and *(b)* new securities (guarantees, mortgages, liens, etc.) from customers and their sureties or authority for transfer of existing securities where practicable.

The work involved in preparing documents, obtaining signatures, stamping and registration in real terms would be totally unproductive, at the expense of and with delays to new transactions. The purpose of the legislation is threefold. First, it will reduce the volume of paper work and cut red tape to a minimum. There are benefits for both the Government and the banks' concerned: for example, it

would be difficult for the stamps office and the titles office to handle all the necessary changes which would have to be made and which would cause a sudden flood of paper work to arrive at the desks of hard-worked officers. Secondly, it is desirable to preserve the rights of the staff of the existing banks and to give them complete continuity in relation to their employment. It is possible to do this by renewal of contracts, but a more effective and expeditious way to do it is through the form of this legislation. Thirdly, it is necessary for the special provisions of the law of evidence relating to bankers' books to continue to apply to the existing banks, even after they have ceased to hold a banking licence.

The saving of documentation is not intended by the banks to deprive the State of South Australia or any State of the Commonwealth of any revenue which might have been derived from the stamping and registration of such documentation. Accordingly, arrangements have been made with the State Treasurer for the payment by the banks of a sum considered sufficient to compensate the State for the loss of revenue involved. It is planned that the transfers of the undertakings under all the Acts, whether of the United Kingdom or elsewhere, will be made effective on one day, October 1, 1970, by appropriate timing of the machinery steps necessary under the individual Acts. By this method (that is, the combined operation of the United Kingdom legislation and the local supplementary legislation) all the accounts of customers of the existing banks will be appropriately transferred on the appointed day and will thereafter continue to operate as accounts with group (or in the case of savings banks with A.N.Z. Savings Bank) without any further steps being taken.

Moreover, existing securities held by existing banks will continue for the benefit of group (or A.N.Z. Savings Bank, as the case may be) in respect of advances both prior to or subsequent to amalgamation. The Act of Parliament proposed for the State of South Australia may be explained as follows: the preamble recites the present situation regarding the relationship between the banks, the proposals for the merger, and the aims of the legislation, and it is self-explanatory. Clause 1 formally provides for the short title and citation of the proposed Act. Clause 2 sets out the division of the Act into parts. Clause 3 provides that the Act binds the Crown. The necessity for the clause arises from the need to ensure that the benefits of Government guarantees given in respect of certain securities held by the existing banks will continue with group. It would also ensure that any accounts which a Government department might have with any of the banks concerned were transferred in the same fashion as accounts of private customers.

Clause 4(1) provides definitions of a number of terms used in the Bill. I invite particular attention to the following definitions:

"appointed day"—for the purposes of the Act the Governor is authorized by clause 4 (2) to appoint a day, termed the appointed day, upon which the transfer of the undertakings of the merged banks will become effective;

"excluded assets"—lands constituting bank premises are to remain in the ownership of the existing banks. The purpose of this definition is to exclude land held by the existing banks otherwise than by way of mortgage or other security, and also to exclude from the transfer of assets any records required to be kept by the present banks under the South Australian Companies Act;

"liabilities" is defined as covering all obligations whatsoever of the existing banks except such as relate to excluded assets;

"property" is widely defined to include all the property, assets, rights and powers of the existing banks;

"security" is widely defined to cover all types of security which might be held by the existing banks;

"the undertaking of an existing bank" covers all of the property and all of the liabilities of an existing bank on the appointed day with the exception of excluded assets and liabilities relating thereto; and

"the undertaking of E.S. & A. Savings Bank" is similarly defined.

The remaining definitions are formal and speak for themselves. Clause 4 (2) is a key provision of the Act enabling the Governor by proclamation to fix the "appointed day", being the day on which the undertakings of the existing banks are to be transferred. It is confidently expected that the appointed day will be October 1, 1970.

As Parts II and III dealing with the trading banks and the savings banks respectively follow similar lines, the following comments refer to the relevant clauses of the two Parts: clauses 5 and 13 are the principal operative clauses. The effect is that on the appointed day the undertakings of the existing banks (as defined) and the undertaking of E.S. &A. Savings Bank (as defined) will, by virtue of the legislation and without any further act, be vested in group or A.N.Z. Savings Bank

(as the case may be). The clauses follow cognate provisions contained in the United Kingdom Act and the Victorian Act already referred to. By virtue of clauses 6 and 14, all rights and liabilities of the existing trading banks and E.S. & A. Savings Bank existing on the appointed day are transferred to group or A.N.Z. Savings Bank (as the case may be) and made binding on the transferee banks as if they had been originally parties to the transaction, but the provisions of this clause do not apply to any contract or other arrangement which relates to an excluded asset.

Clauses 7 and 15 amplify clauses 6 and 14. By paragraph (*a*) of each of those clauses the relationship existing between an existing bank and a customer will on the appointed day become a relationship between group or A.N.Z. Savings Bank (as the case may be) and that customer and all existing instructions or authorities given by a customer will be preserved until revoked or cancelled by that customer. By paragraph (*b*) existing securities will be deemed to be transferred to group or A.N.Z. Savings Bank (as the case may be) on the appointed day and the respective transferee bank will be entitled to hold the same for debts and liabilities thereby secured at the appointed day which are transferred under the Act. Where the security extends to secure future debts and liabilities it will be available in the hands of the transferee bank for debts and liabilities which the customer may incur after the appointed day with that bank.

By paragraph (*c*) the transferee bank is given the same rights and priorities and is made subject to the same obligations and incidents as applied to the bank from which the security was transferred. Under paragraph (*d*) anything held in safe custody by an existing bank will after the appointed day be held by group (or A.N.Z. Savings Bank) for the same person and on the same terms. Paragraph (*e*) provides in effect that all negotiable instruments drawn, given, accepted or endorsed before, on or after the appointed day will be treated by group (or A.N.Z. Savings Bank) in the same way as they would have been treated by the present banks had there been no merger.

Clauses 8 and 16 have the effect that any actions or arbitrations which at the appointed day are pending by or against an existing bank may be continued by or against group (or A.N.Z. Savings Bank) instead of the existing banks. It further provides that causes of action which at the appointed day are in existence, and might be the subject of proceedings by, or against, the existing banks (or E.S. &A. Savings Bank), may, after that day, be made the subject of proceedings by, or against, group or A.N.Z. Savings Bank (as the case may be). Thus, continuity of the rights both of the banks and of third parties having claims against them are preserved. The clauses further provide that if a judgment or award is made in any such proceedings against group (or A.N.Z. Savings Bank) it may also be made effective against the existing trading banks or E.S. & A. Savings Bank. In this manner the rights of the party in whose favour the judgment or award is made are preserved. However, the provisions of clauses 8 and 16 do not apply to proceedings relating to excluded assets, which are dealt with by clauses 9 and 17.

Clauses 9 and 17 provide, in effect, that any party to an action, arbitration or proceeding relating to an excluded asset who may have taken his proceedings against group (or the A.N.Z. Savings Bank) where the need arises may amend his proceedings by substituting the name of the existing bank (or E.S. & A. Savings Bank) as a party and is exempted from liability for costs occasioned by the amendment. Clauses 10 and 18 provide, in effect, that the provisions of the Evidence Act, 1929, as amended, which relate to putting of bankers' books in evidence, are to continue in operation with respect to the books of the existing banks which are transferred under the Act so that those books do not cease to be available as evidence because of the existing banks ceasing to operate as such.

Clause 11 provides that except where the context otherwise requires any reference to an existing trading bank in any other enactment or in any document whenever made or executed is to be treated as a reference to group, but the clause does not extend to references to an existing trading bank in any pension scheme, provident fund or officers' guarantee fund, nor does it extend to any reference which relates to an excluded asset. The exclusion of reference to excluded assets follows from the general exclusion of excluded assets from the legislation. References to pension funds, provident funds and officers' guarantee funds are excluded because such schemes or funds are dealt with and preserved by clause 12.

Clause 12 deals with the position of bank staff. It preserves any right which at the appointed day had accrued, or was accruing, to an employee of an existing trading bank

under any Statute, award or industrial agreement or under any pension scheme, provident fund or officers' guarantee fund. Rights will continue to accrue against group. Service with group will be regarded as continuation of the employment existing at the appointed day and the accrued or accruing rights will be enforceable against group in the same way, at the same time and to the same extent as they might have been enforced against the existing trading bank if there had been no merger. This clause has no counterpart in that part of the Bill (Part III) dealing with the E.S. & A. Savings Bank, for the reason that neither E.S. & A. Savings Bank nor A.N.Z. Savings Bank employs any staff of its own but the work of both savings banks is carried out by staff members of the existing trading banks.

Clause 19 applies the same provisions in respect to the E.S. & A. Savings Bank as clause 11 enacts with reference to the trading banks, save that clause 19, for the reason already stated, necessarily makes no reference to pension schemes, provident funds or officers' guarantee funds. Clause 20 ensures that, where an existing bank was occupying premises under any instrument which contains provisions restricting the transfer or subletting of the premises, the occupation of those premises by group is not a contravention of those provisions. The clause also provides that no contract or security is invalidated or discharged by any transfer or vesting made by the Bill.

Clause 21 facilitates service of documents (which include summonses, orders and other legal process and notices) and enables them to be served on any of the merging banks, so avoiding any difficulty that might arise from similarity of names or from the exclusion of particular assets from the transfers made under the Bill. Clause 22 also arises because of the exclusion of certain assets from the statutory transfer effected by the Bill. It provides that persons dealing with the banks and the Registrar-General are not concerned to inquire whether property the subject of a particular transaction is or is not an excluded asset. And it further provides that if group (or A.N.Z. Savings Bank) deals with any person in relation to an excluded asset it will be deemed in favour of that person that group (or A.N.Z. Savings Bank) had authority to enter into the transaction. However, the clause also preserves the liabilities of the banks between themselves in relation to any such excluded asset.

Clause 23 is a machinery provision to enable the Registrar-General, on the request of the banks, to make appropriate entries in the Real Property Register recording the transfer of ownership to group (or where appropriate A.N.Z. Savings Bank) which is effected by the Act. Clause 24 is a saving provision designed to ensure that neither group nor A.N.Z. Savings Bank is by the Act relieved from any statutory provision relating to banking companies.

In conclusion, the provisions of this Bill are for all practical purposes identical in form and content with that currently being considered for presentation to the Parliaments of New South Wales and Queensland. To date, the pattern to be adopted in Western Australia and Tasmania has not been determined. This Bill has been considered and approved by a Select Committee in another place, and I commend it to honourable members.

The Hon. R. C. DeGARIS (Leader of the Opposition): The second reading explanation emphasizes clearly that there is a need for immediate attention to be given to this Bill because, as has been explained by the Minister, it is planned that the transfers of the undertakings under all the Acts, whether of the United Kingdom or elsewhere, will be made effective on one day, October 1, 1970. It is necessary for timing that the machinery steps be taken on this day. As this Council rises today until the middle of September for the annual show break and as assent has to be given after the Bill passes, I do not object to the Bill's passing today. I am sure that we all understand that this Council has always attempted to be as co-operative as possible when the need arises. Perhaps the Ministers who are laughing will be kind enough to point out to me exactly what they find so humorous. This Bill, which is a hybrid Bill, has been reported on by a Select Committee of the other House, and part of that report states:

> While under the proposed legislation documentation which could be subject to stamp duty and require registration is rendered unnecessary, your committee is satisfied, on the evidence submitted to it, that State revenue is protected by the arrangement made between the State Treasury and the banks for the payment by the banks of a sum sufficient to compensate the State for the loss of revenue involved.

The United Kingdom and Victoria have already passed appropriate legislation in this matter, and I understand that New South Wales and Queensland are about to consider provisions identical in form and content to those contained in this Bill. For those reasons, I consider it unnecessary to delay the passage

of the Bill for any closer examination. I support the second reading.

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

POTATO MARKETING ACT AMENDMENT BILL

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

LOTTERY AND GAMING ACT AMENDMENT BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It gives effect to one aspect of the Government's policy and amends the Lottery and Gaming Act by enabling authorized and exempted lotteries to be conducted. Clause 2 provides for the Bill to become law on a day to be fixed by proclamation. Clause 3 makes a formal amendment to the principal Act. Clause 4 defines "authorized lottery" and "exempted lottery" and widens the definition of "lottery". An "authorized lottery" is defined as a lottery for the conduct of which a licence under the Act is in force. An "exempted lottery" is defined as a lottery that is for the time being exempted by regulation.

The policy underlying the Bill provides that certain classes of lottery shall be exempted from the provisions of the Act by regulation while authorized lotteries shall be covered by licences granted under the Act. The expression "lottery" itself is given a wider meaning than at present to include any scheme, competition or device for the disposal or distribution of property which depends, at some stage of the scheme, competition or device, on an element of chance. It will, therefore, be seen that the Act provides that all lotteries shall be illegal except authorized and exempted lotteries and lotteries of a kind referred to in section 9 (new section 14a).

Clause 5 makes a formal amendment to the heading of Part II. Clause 6 inserts a new section 4b in Part II which provides that that Part does not apply or refer to any authorized or exempted lottery. Clauses 7, 8 and 9 increase the penalties provided for breaches of sections 6, 7 and 8 of the principal Act. Clause 10 adds to the exceptions from the Act contained in section 9 three new categories of exception—(*a*) where property is distributed among the owners and that property is capable of being fairly apportioned among all the owners and is apportioned equally, so far as practicable, among all the owners; (*b*) where the disposal or attempted disposal of any property or the allotting of any prize of money is by means of a device or game where the participant is entitled gratuitously to participate and to receive such property or prize; and (*c*) where there is a raffle of a private nature among persons engaged in common employment under the same employer and the net proceeds thereof are intended to be appropriated to the provision of amenities for persons in that employment and the value of the prize does not exceed $25.

Clause 11 enacts a new Part IIA, comprising new sections 14a to 14d, which deals with authorized and exempted lotteries. New section 14a provides that it shall not be an offence to conduct or participate in an authorized or exempted lottery or a lottery of a kind referred to in section 9. New section 14b provides for the making of regulations prescribing lotteries or classes of lottery for the conduct of which licences may be granted under the Act; providing for the granting and refusal of licences by the Chief Secretary or a person nominated by him; prescribing the conditions under or subject to which a licence may be granted; providing for cancellation of a licence upon breach of a condition; prescribing and providing for the payment of fees for licences; exempting any lottery or class of lottery; providing for a penalty not exceeding $500 or imprisonment not exceeding three months for a breach of a regulation; and providing for related matters.

New section 14c provides that failure to comply with a prescribed condition is an offence punishable by a fine not exceeding $500 or by imprisonment for six months, or both. It will be a defence in any prosecution for an offence under the section if the defendant proves that he took all reasonable steps to prevent the commission of the offence. New section 14d requires the appointment of an approved person, before a licence is granted to it, by a group of associations or organizations, which shall be responsible for carrying out and complying with all conditions under and subject to which a licence may be granted to or held by the group.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

GOODWOOD TO WILLUNGA RAILWAY (ALTERATION OF TERMINUS) BILL

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

The Hon. A. F. KNEEBONE (Minister of Lands): I move:

That this Bill be now read a second time.

Its purpose is to authorize the removal of the railway between Hallett Cove and Willunga. The removal of this railway is a step in the rationalization of railway services taken on the advice of the Transport Control Board. Rail services between Hallett Cove and Willunga have been running at a considerable loss over a number of years. The removal of this portion of the railway will, therefore, result in a considerable saving of Government expenditure. The portion of the railway to be removed is shown on a plan exhibited for the information of honourable members.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 contains various definitions necessary for the purposes of the Bill. Clause 3 authorizes the South Australian Railways Commissioner to take up the railway between the points marked A and B on the plan and to establish the terminus of the line at the point marked A. Clause 4 incorporates the new Act with the South Australian Railways Commissioner's Act.

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

SUPREME COURT ACT AMENDMENT BILL (SALARIES)

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It is designed to increase the rates of salary paid to the Chief Justice and the puisne judges. The rates of salary were last fixed by the Supreme Court Act Amendment Act, 1969, at $19,400 a year for the Chief Justice and $17,500 a year for each puisne judge. Since that Act was passed, all the other States and the Commonwealth have substantially increased the salaries of their Supreme Court judges. All the judges in South Australia are paying as contributions towards their pensions a proportion of their salaries. The only other State that requires judges to contribute financially towards their pensions is Tasmania. Having regard to the increases that have occurred in the other States and in the Australian Capital Territory and to the pension contributions required of the judges in this State, the Government considers that the salary of a puisne judge should be increased by $3,500 to $21,000 a year.

The Chief Justice has a present differential of $1,900 over the puisne judges, and the Government considers - that his salary should be increased to $23,000. This margin approximates those in other States, having regard to the non-contributory pension schemes in the other mainland States. This Bill gives effect to these proposals and provides for the increases to take effect when the Bill becomes law.

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

COMPANIES ACT AMENDMENT BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It amends the Companies Act by enabling a no-liability company to convert to a public company limited by shares. Sections 25 and 26 of the Companies Act at present provide for the conversion of an unlimited company into a limited company and the conversion of a public company or a private company into a proprietary company. From time to time the Government has received requests from no-liability companies that they be given a similar right to convert into public companies. The constitution of a company as a no-liability company is, under section 14 of the principal Act, peculiar to mining companies. A mining company is defined in section 5 as a company whose sole objects are mining purposes. Not infrequently a company that has begun its life as a no-liability company seeks to diversify its activity and enter fields that are not comprehended within the somewhat narrow definition of mining purposes. This Bill will enable a no-liability company, whose issued shares are fully paid up, to convert to a public company limited by shares and thus to disburden itself of the statutory restrictions on the nature of its activity.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 enacts new section 26a of the principal Act. New subsection (1) provides that a no-liability company whose issued shares are fully paid up may convert to a public company limited by shares by lodging with the Registrar a copy of a special resolution making appropriate alterations to the memorandum and articles of the company. The resolution does not become operative until the Registrar issues an appropriately amended certificate of incorporation

in respect of the company. The Registrar is required to issue such a certificate if he is satisfied that the resolution makes appropriate alterations to the name and otherwise to the memorandum and articles of the company. The change in the nature of the company does not invalidate any legal proceedings by or against the company. New subsections (6) to (11) import, with appropriate modifications, the provisions of section 28 into the new section.

A dissentient shareholder is empowered to apply to the court for cancellation of the proposed conversion of the company or for cancellation of any modification to the objects of the company. The court is empowered to order any such cancellation upon consideration of the interests of the various classes of shareholder and debenture-holder. New subsection (13) continues the operation of sections 331 and 332 to a company converted under the new section. These sections establish the order of priority in which the assets of a no-liability company will be distributed among shareholders on a winding up of the company. The shareholders of a no-liability company are thus prevented from converting the company to a public company merely to avoid the operation of these provisions upon the company's being wound up.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It amends the Evidence Act by inserting a new Part dealing with computer output. Computers now assume a rapidly increasing role in the conduct of commerce and industry. They have, in particular, proved to be extremely useful and effective in storing and retrieving information. Their increasing use for this purpose makes it very desirable that some evidentiary value should be given to computer output in courts of law. The purpose of the Bill is to render computer output admissible in a court of law as evidence of any statement of fact contained in or constituted by the output. The Bill has been prepared by the Parliamentary Draftsman in consultation with Professor J. A. Ovenstone, the head of the Department of Computing Science at the University of Adelaide, and the Law Reform Committee.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 inserts new Part VIA, comprising new sections 59a to 59c, in the principal Act. New section 59a inserts a number of definitions necessary for the purposes of the new provisions. New section 59b is the operative provision of the new Part. It provides in effect, that, subject to the court's being satisfied of the matters set out in the section, computer evidence shall be admissible in any civil proceedings.

New subsection (2) provides that the court must be satisfied that the computer is correctly programmed and regularly used to produce output of the same kind as that tendered in evidence; that the data from which the output is produced by the computer is systematically prepared on the basis of information that would normally be acceptable in a court of law as evidence of the statements or representations contained in or constituted by the output; that in the case of the output tendered in evidence there is no reasonable cause to suspect any departure from the system or any error in the preparation of the data; that the computer has not, during a period extending from the time of the introduction of the data to that of the production of the output, been subject to any malfunction that might reasonably be expected to affect the accuracy of the output; that during that period there have been no alterations to the mechanism or processes of the computer that might be expected adversely to affect the accuracy of the output; that records have been kept by a responsible person in charge of the computer of alterations to the mechanism and processes of the computer during that period; and, finally, that there is no reasonable cause to believe that the accuracy or validity of the output has been adversely affected by the use of any improper process or procedure or by inadequate safeguards in the use of the computer.

New subsection (3) deals with the case where two or more computers have been used in combination or succession in recording data and producing output. The safeguards set out in subsection (2) are applied as far as necessary to both computers. New subsection (4) provides for a qualified expert to give a certificate as to any of the matters set out in subsections (2) or (3). The certificate may obviate the need for a court to hear detailed evidence on these matters, except where some question as to the proper operation of a computer system is actually in dispute. However, under new subsection (6), the court has a discretion in any case to require that

oral evidence be given on matters of which it is required to be satisfied under the new Part, or to require that the person by whom the certificate was given attend for examination or cross-examination on the matters contained in the certificate. New section ,59c enables the Governor to make regulations for the purposes of the new Part.

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

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

Rather more than 12 months ago it was alleged that at a country hotel people of Aboriginal extraction were refused service in the saloon bar of the hotel. There was, however, some evidence that they were offered service in the front bar of the establishment. Section 9 of the principal Act provides in effect that no prosecution under the Act may be provided without the consent of the Attorney-General. When these allegations were referred to the Attorney-General of the day it appears that he did not feel that he could move in this matter since, quite apart from the merits of the matter which of course would fall to the court to determine, he felt that a prosecution was bound to fail as a "refusal to supply" in the circumstances adverted to above would not be a "refusal to supply" in the terms of the principal Act then in force.

As a consequence, the then Leader of the Opposition introduced, in another place, as a private member's measure, a Bill to clarify this matter and in the course of its passage certain amendments were successfully moved by the then Attorney-General. This Bill is substantially the same as that measure that was received from another place in the last Parliament. Subsequently it was returned by this Council with amendments and, in due course, lapsed. Clause 1 of the Bill is formal. Clause 2 strikes out the definition of "service", which it is thought is somewhat too imprecise in the context of the principal Act, and substitute a somewhat more satisfactory definition.

Clause 3 formally binds the Crown and is consequential on the re-enactment of the definition of "service". There was an implication in the original definition, to put it no higher, that the Crown was bound as the supplier of a service and this amendment should put the matter beyond doubt. Clause 4 re-enacts section 4 of the principal Act to make it clear, in proposed new subsection (2), that there must be no discrimination in the quality or kind of the service supplied. Clause 5 extends the principle enunciated in relation to section 4 of the principal Act to the supply of food, drink or accommodation under section 5 of the Act.

The Hon. C. R. STORY secured the adjournment of the debate.

RIVER TORRENS ACQUISITION BILL

Second reading.

The Hon. T. M. CASEY (Minister of Agriculture): I move:

That this Bill be now read a second time.

It is designed to remove obstacles that confront the Government and councils in attempting to improve and beautify the Torrens River. This river can and should be an important aesthetic feature in the countryside through which it passes. Unfortunately stagnation and neglect at some points of its course detract from its attractiveness. One of the major difficulties in the way of obtaining any improvement lies in the fact that the legal tenure of much of the river bed is in private hands and it is in many instances difficult to ascertain exactly in whom the property rights are vested. This Bill is designed to provide for the acquisition of bed and banks of the river by the Minister of Works. Consequent upon this acquisition, the Minister is charged with the duty of performing such works as are necessary to ensure the unimpeded flow of waters over land acquired by him and with the duty of improving and beautifying the river. He may, however, transfer the acquired land to the care, control and management of the local council, in which event those duties are to be undertaken by that council.

The provisions of the Bill are as follows: clause 1 sets out the short title, and clause 2 provides certain definitions that are necessary for the purposes of the Act. In particular "the river" is defined as meaning so much of the Torrens River as does not lie within the city of Adelaide. It is not intended to deal with that portion of the river lying within the city of Adelaide which is, of course, efficiently maintained by the Corporation of the City of Adelaide.

Clause 3 sets out the conditions precedent to the acquisition of the land constituting the river. First, a plan must be prepared delineating the land. The boundaries must be as close as practicable to the top of the river bank. When the plan has been prepared the

Minister must send a copy to each council whose area comprises any portion of the land to be acquired and he must give public notice that the plan is available for inspection at the office of the Minister or of the council. A person may lodge with the Minister written representations as to whether the boundaries of the land to be acquired should be altered. The Minister is obliged to consider any such representations and may amend the plan as he thinks fit.

Clause 4 provides for the acquisition of the land. After the expiration of a period specified in the public notice given under clause 3, the Minister may submit the plan together with copies of the representations (if any) made in connection therewith. The Governor may by proclamation declare the plan to be an authorized plan. Upon that proclamation the Minister may, subject to the provisions of the Land Acquisition Act, acquire the land delineated on the plan. Clause 5 obliges the Minister to execute and perform such works as are necessary to ensure the unimpeded flow of the waters of the river over lands acquired by him and permits him to undertake work for the improvement and beautification of the river. Under subclause (2) the Minister may by instrument in writing transfer the land to the care, control and management of a council.

Clause 6 exempts the Minister from liability to rates, taxes and contributions under the Fences Act in respect of land acquired by him. Clause 7 permits the Minister to grant licences permitting the exercise of such rights over land acquired under the Act as the Minister thinks fit. Clause 8 exempts adjoining owners from any obligation under sections 8 and 9 of the River Torrens Protection Act, 1949, where the river bed has been acquired by the Minister under the new Act. Clause 9 deals with appropriation. Clause 10 permits the Governor to make regulations for the purposes of the new Act.

The Hon. C. R. STORY secured the adjournment of the debate.

STATE GOVERNMENT INSURANCE COMMISSION BILL

Adjourned debate on second reading.

(Continued from September 2. Page 1183.)

The Hon. D. H. L. BANFIELD (Central No. 1): I support the second reading of this Bill. When the previous Labor Government took office this State was 50 years behind some other States in regard to setting up a Government insurance office. Because of actions taken by this Council three years ago we are now a further three years behind those States. It has been the policy of the Liberal Party for many years to keep this State well behind other States. Consequently, we are now 53 years behind some other States. The Leader of the Opposition said three years ago that he thought we had a mandate to set up a Government insurance office and after the recent election he repeated that he thought we had such a mandate. Of course, he did his best to destroy any possibility of a Government insurance office being set up, and he was very successful, as he was with several other Bills that came before this Council. I hope that he will not attempt to do the same as he did previously because he has stated that he believes this Government has a mandate for this legislation.

The Hon. R. C. DeGaris: It is not the same Bill.

The Hon. D. H. L. BANFIELD: Actually, the Leader did not say what the Bill was when he said twice that the Government had a mandate to set up a Government insurance office.

The Hon. Sir Arthur Rymill: Would you mind speaking up so that we can hear you?

The Hon. D. H. L. BANFIELD: If the honourable member would get up early enough in the morning to clean out his ears, or perhaps if he used water that was not polluted with mud, he would be able to hear me. Many reputable companies could sell him a hearing aid and no doubt they would do that after an appointment with Sir Arthur if he would draw his cheque as a director of an insurance company to pay for the hearing aid. Members opposite know that people wanted a Government insurance office many years ago, that we had a mandate to introduce the Bill last time, and that they received a caning because they did not let the previous Bill pass. It is all right for them to say all sorts of things in order to take my attention away from the Bill. They can do that if they wish, but their actions have put this State behind every other State by about 50 years. Sir Arthur Rymill is laughing because he thinks we are such a backward State, but it is because of his actions that we are a backward State. However, this Government is attempting to improve the position.

The Hon. L. R. Hart: Is that why we are a mendicant State?

The Hon. A. J. Shard: It may be that we will be better off than we would have been otherwise.

The Hon. D. H. L. BANFIELD: It is because of the actions of Liberal politicians in another Parliament that we are a mendicant State. The Prime Minister would not accept advice from his officers and told us to go elsewhere for assistance, and it has now been shown that the Commonwealth was not assisting this State to the same extent as it assisted other States. Many people have been concerned about certain actions of insurance companies and about inefficiency in some companies that has caused people to be done out of what they consider to be their rights. In last Thursday's *Advertiser* under the heading "Canberra Concern at Insurance" appears the following article:

The Federal Government was very concerned at the lack of confidence in many insurance companies, the Treasurer (Mr. Bury) said yesterday. He told the House of Representatives that the whole field was under "very thorough consideration" and the Prime Minister (Mr. Gorton) would make an announcement on it soon.

We have found no concern expressed about Government insurance offices in other States, and there has been no suggestion that these offices would repudiate their obligations in any way. True, in other States everyone does not insure with a Government insurance office, but they can do so: if they want to do business with other companies, which today are causing concern, that is their right, but they can insure with a Government insurance office if they wish. Had the previous Bill been passed in 1967 some of the 1,300 South Australian holders of policies with East Australian Insurance Company Limited might not be in the unfortunate position they are in today.

The Hon. R. A. Geddes: How can you substantiate that?

The Hon. D. H. L. BANFIELD: I said that possibly they would not have been affected, because they might have insured with a Government insurance office and would not have been taken in by insurance companies. Generally, a person with property and goods and chattels will insure with a company from which he expects to get a fair deal. When replying to a recent question the Attorney-General stated:

More than 1,300 South Australian holders of policies with East Australian Insurance Company Limited were warned yesterday that it seemed unlikely the company would make refunds or meet claims. The Attorney-General said that the East Australian Insurance Company Limited was incorporated in Victoria in 1969 and registered in South Australia as a foreign company. Its activities in South Australia were in general insurance, and more particularly, car insurance.

These companies are setting up in business and are being patronized, because up to now there has been no competition from a Government insurance office in South Australia. They can put over shoddy deals and get away with it, but if a Government insurance office was set up in this State it would stimulate better, services from other offices, and no doubt it would stabilize insurance premiums. From time to time members of this Council have said that they believe in competition. I suggest that this is their opportunity to face up to the position by allowing this Bill to pass, as it will provide another form of competition. If insurance companies play the game they will have nothing to fear by the establishment of a Government insurance office.

The Hon. R. C. DeGaris: Do you believe in fair competition?

The Hon. D. H. L. BANFIELD: The Leader has said that he believes in competition, but from some of the amendments that he is to introduce he seems to think that allowing fair competition from a Government insurance office means having its hands tied behind its back. It seems that the Leader does not mind competition but if the Government enters the insurance field it is wrong for it to compete with other companies.

The Hon. M. B. Dawkins: He asked if you believed in fair competition.

The Hon. D. H. L. BANFIELD: I did not interrupt the honourable member when he was speaking. We know that he does not believe in fair competition and I suggest—

The Hon. M. B. Dawkins: You don't believe in it?

The Hon. D. H. L. BANFIELD: —that the Government insurance office will be able to provide competition if its hands are not tied behind its back. I have no doubt that a Government insurance office will stabilize the present rates. Various companies claim that their rates are on an even basis and outwardly they carry out the decisions made by the Underwriters' Association. Opposition members always condemn trade unions but they will not condemn such things as the Underwriters' Association, the Chamber of Manufactures, or similar organizations; when speaking about trade unions they become critical. The tariff companies outwardly carry out the decisions arrived at by the association to charge a fixed rate for a particular policy

but, forgetting their principles and their undertaking to the association, they often go their own way. If the customer is lucky enough to belong to a club, or knows someone with some influence, he can get a discount from tariff companies, but other members of the public who are not in the same position have to pay a higher rate. The non-tariff companies charge a constant lower rate without giving a discount, because they know that the rate they charge is economical to the company and satisfactory to the insured, and they do not indulge in the underhand practice of giving discounts to favoured and chosen people.

The Hon. Mr. Gilfillan is afraid that people are going to be persuaded to take out insurance with a Government insurance office, and he implied that he was against any type of persuasion by anybody for people to go to a State insurance office. Why does he not do something about the other companies who use certain forms of persuasion to induce people to take out certain types of policies? On the other hand, some companies not only dissuade people from taking out insurance but in some cases they refuse to take certain insurance business from people. The Victorian Insurance Commissioner refers to the question of persuasion as follows:

> In the keenly competitive market most general insurers, and brokers as well, use every endeavour to persuade firms to entrust their employers liability cover along with all their other insurances to the one underwriter. Therefore, as the accident office is statutorily restricted to underwriting this class of business solely, we experience difficulty in even retaining our register, so the increase of $755,698 in "written" revenue is pleasing.

He was referring to the increase of that amount during the year ended June 30, 1969. The Hon. Mr. Gilfillan apparently does not mind if some companies persuade people to take out all their insurance with them as long as the Government is not allowed to persuade anybody to take out insurance with a Government insurance office.

Other honourable members have questioned whether a Government insurance commission in this State would be able to pay its way. We can only look at what has happened in other States, and in that respect I will give some details of what has occurred in Queensland, which has a population similar to that of South Australia. For the year 1967-68 (the latest figures I have been able to get from that State), the Workers' Compensation Fund showed a net profit of $7,247,770. This includes investment income of $1,553,245. Therefore, even without the latter figure there is still a surplus of about $5,000,000 in that State. In its General Insurance Fund, which includes policies taken out for fire, marine, accident and motor vehicles, the operations for the year ended June, 1968, resulted in an underwriting surplus of more than $2,500,000. This figure increased to $4,723,260 when investment income was added. Out of that sum, provision for payment of $1,170,475 to the State Government in lieu of income tax resulted in a net surplus profit of $3,552,785. Therefore, not only has the Queensland Government benefited as a result of the operations of the Government insurance office but so have semi-government instrumentalities, for the Queensland State Government Insurance Office has put some 50.56 per cent of its total investments in semi-government securities. The total amount invested by the Government insurance office in that State since its inception is $161,536,383.

Surely if honourable members are fair dinkum in their desire to assist this State (and they claim that they are, although there is precious little action to substantiate it) this is their opportunity to allow this State to progress in the same way as other States have progressed by allowing a Government insurance office to be established. This would enable the State to benefit from the profits that would be made by the establishment of such an office.

In 1967 I said that I favoured the Bill to establish a Government insurance office. At that time, many honourable members half-heartedly said that they supported that move. However, they took every step they knew to thwart this action. Members of the Opposition again say that they are supporting this Bill, and this time I hope they vote accordingly, for that is the only thing that counts. It does not matter what they say: no-one really trusts them, because often they say one thing and then they vote the other way. I hope that on this occasion at least they will stick to what they say and allow the Government to set up the proposed commission before the end of this year. I support the second reading.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for, the attention they have given to this Bill and for the views they have expressed. The climate ,in which the Bill has been received and debated has been quite favourable, and I hope that as the season progresses and we get some nice spring rain the crops can be collected in a climate which is equally as favourable. I do not intend to reply in any great detail because

I think the questions that have been posed are of a fairly general nature. In fact, I think it can be fairly said that many members asked similar types of question. I will reply briefly to the questions I have noted, and if I have missed anything that some honourable member wants to know I shall do my best to obtain the answer for him perhaps during Committee.

The first question the Leader asked concerned whether the commission would be subject to the control of the Minister. In fact, the Housing Trust is subject to the direction of the Minister on policy, and due to the provisions of advances to the State Bank by the Treasurer and the requirements of the State Bank Act for the Treasurer's approval of certain transactions, the State Bank is in practice in a similar position.

Another question asked by the Leader concerned the holding of the commission's assets for and on account of the Crown, and an amendment was suggested to achieve this. The requirement for the commission to hold its assets on account of the Crown is unnecessary in this case. It was provided in the case of the Electricity Trust because the trust was taking over assets not held by the Crown and, in the case of the Savings Bank, in order to avoid the provisions of the Commonwealth Banking Act of 1945. There is no objection to including such a provision. However, it would achieve nothing.

Another question by the Leader concerned the Public Trustee's allowing insurance to remain with existing insurers when taking over the administration of an estate. It is not intended that the Public Trustee should alter his present practice. However, if he found an advantage to the estate in altering an insurance it would clearly be his duty to do so. Another question by the Leader concerned indirect subsidizing of the State insurance office by taxpayers and whether this constituted fair and just competition. The scheme of operation is clear from the whole Bill, and the Leader cannot be serious when he suggests that a clause in the Bill could provide what he suggests. It is not intended to alter the present provisions relating to the employment of public servants.

The Leader also raised the question of the payment of taxes. In reply, I say that in principle there can be no objection to calling upon the commission to meet all costs for taxes, charges and statutory obligations impinging on private insurers, and the Bill has been drafted with this principle well in mind, even to the extent of calling for payment of an equivalent to income tax.

The Hon. R. C. DeGaris: But there are more taxes than that.

The Hon. A. J. SHARD: That is the answer I have obtained.

The Hon. R. C. DeGaris: You are saying that you would not object to the others going in?

The Hon. A. J. SHARD: I will get some advice on that. The Hon. Mr. Dawkins asked a question about the insurance of public buildings not now insured. The answer is that it is not intended to act in the manner described. To do so would add unnecessarily to Government expenses, and to no purpose. The honourable member also asked about reinsurance. The answer is that the commission will decide on measures for reinsurance, which is simply good business practice. There is no provision for coercion of local government authorities. I have picked out the more important questions asked by honourable members. If there is an answer to a particular question that an honourable member wants and I have not given it, I will do my best to get an answer for him during the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"The Commission."

The Hon. R. C. DeGARIS (Leader of the Opposition): I move:

To strike out subclause (3).

There are three clauses that need to be amended to remove the commission from Ministerial control, and this is the first of them. The purpose of the amendment is to remove the commission from any political control. Although the Chief Secretary said that the Housing Trust was under Ministerial direction nevertheless so many of the commissions and trusts that have been set up in South Australia are completely free from Ministerial or political control. I see no reason why this policy should be abandoned now. It was interesting to hear last night on television that the Federal Executive of the Australian Labor Party had adopted a firm policy in relation to reorganizing the Postmaster-General's Department. It has strongly recommended, and indeed has adopted, the policy that the Postmaster-General's Department should be run by an independent commission free from Government direction. This strengthens our case in South Australia.

In fact, our case in relation to the proposed insurance commission is much stronger because that commission will be in competition with private insurers.

The Postmaster-General's Department has a monopoly in its field but I believe the fact that the Government will be in open competition with private insurers strengthens the argument that this commission should be free from political control. In the second reading debate I referred to matters contained in the Australian Airlines Act, which removes the running of Trans-Australia Airlines from political control; it also lays down firmly some guide lines for fair competition. I have listened to the Chief Secretary on this matter and see no reason why I should withdraw my amendment. The strength of it has been further bolstered by Mr. Whitlam's statement last night about the Postmaster-General's Department and its organization.

The Hon. A. J. SHARD (Chief Secretary): The amendment is unacceptable to the Government, which believes that all Government and semi-government undertakings should be under some Ministerial control. I am sure that towards the end of his term of office as Chief Secretary the Leader would have liked some Ministerial power of control to correct what I think, and what I think he knows, was an obvious error of judgment. Since I have been in office I have had no doubt that a semi-government authority, with no Ministerial control over it, has made an obvious and grievous error.

When I spoke to the semi-government authority concerned, I achieved nothing. We shall appoint the commission to do what we want to achieve; it will be a new undertaking in this State. Even though the Government may get the right people to serve on it, if the commission acts contrary to Government policy in what is thought to be the best interests of the people of this State, where will our Labor Government, or any Liberal Government, stand in its efforts to bring the commission back on to the rails?

The Hon. R. C. DeGaris: Would you apply that same philosophy to the State Bank?

The Hon. A. J. SHARD: I would; I believe that every Government or semi-government organization should be subject to Ministerial control. When we were in Government previously we brought under Ministerial control one department that had not been under such control.

The Hon. R. C. DeGaris: The Railways Department?

The Hon. A. J. SHARD: Yes, and what is now the Marine and Harbors Department. That is our policy and we believe it to be right.

The Hon. R. C. DeGaris: What is wrong with Mr. Whitlam?

The Hon. A. J. SHARD: Mr. Whitlam is entitled to his views and I am entitled to mine. It is a Commonwealth Parliamentary Labor Party decision, but that is its problem, not ours. That is the difference. If a future Government acts to appoint something, I am sure that, though it may be a Government of a different character from ours, it will have the same views as I am expressing. The Opposition's views today are different from what they were when in Government. I have been criticized by honourable members for doing certain things, although I have done exactly the same thing as the previous Minister has done. The Government firmly believes (and I think my Party does, too) that a commission such as this should have Ministerial control. I agree that the Minister should not interfere in the running of the business, provided that it is run satisfactorily. If, as has happened in another matter in the last six months, something were to go wrong, surely the Minister or the Government should have the right to say so and expect a correction. I hope the Committee will not accept the amendment.

The Hon. Sir ARTHUR RYMILL: I said during the second reading debate that this enterprise would be unprofitable for many years. If the Minister can help it, that will be a good thing. As it is a Government undertaking, it will be the Government's complete responsibility. Unlike the Leader, I think the Government should be closely involved. This organization will not be very much different from a Government department. The Chief Secretary has said that some Government departments have been free from Ministerial control, and he mentioned two bodies that were brought under Government control during the time the Labor Party was last in Government. This is a fairly open matter that is not of tremendous consequence. Under this clause the Minister cannot interfere with decisions made by the commission under clause 16, which relates to investments, and he cannot interfere or exercise a discretion inconsistent with the Bill's provisions. In those circumstances, I support the clause as drafted.

The Hon. G. J. GILFILLAN: When I spoke on this matter yesterday I supported the Leader's views. I accept much of what

the Chief Secretary has said, in that I do not believe that the Government would be dishonest in its approach. The Government does not honestly intend to interfere unduly, but we do not know that a future Government will be the same way inclined. I believe that the Government would have sufficient control over the commission, because Parliament has control of the Act. If anything should come forward in the commission's operations, the Act could be brought before Parliament for amendment. However, once a provision such as this is written in, only the Government can move successfully to have the legislation amended. In a Government insurance office a whole series of problems could arise, for example, claims that could bring extreme political and personal pressure on the Minister of the day (motor insurance claims, fire insurance claims and workmen's compensation). The Minister could be subjected to pressures, and this is undesirable for the commission's working and the protection of the public generally.

The Committee divided on the amendment:

Ayes (2)—The Hons. R. C. DeGaris (teller) and G. J. Gilfillan.

Noes (13)—The Hons. D. H. L. Banfield, T. M. Casey, Jessie Cooper, R. A. Geddes, L. R. Hart, Sir Norman Jude, A. F. Kneebone, F. J. Potter, Sir Arthur Rymill, A. J. Shard (teller), V. G. Springett, C. R. Story, and A. M. Whyte.

Pair—Aye—The Hon. M. B. Dawkins. No—The Hon. C. M. Hill.

Majority of 11 for the Noes.

Amendment thus negatived; clause passed.

Clauses 4 to 7 passed.

Clause 8—"Common seal, meetings and quorum."

The Hon. R. C. DeGARIS: I do not intend to proceed with the amendment that I had foreshadowed to this clause and one of the amendments I had foreshadowed to clause 12.

Clause passed.

Clauses 9 to 11 passed.

Clause 12—"Powers and functions of commission."

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

In subclause (3) after "amended" to insert "and, if it does become an approved insurer, the commission shall become bound by the provisions of that Act in the same manner and to the same extent as other approved insurers are bound by those provisions."

For all practical purposes it may be said that private insurers are bound to accept all third party risks offered. In terms of the hit and run provisions (or, more correctly, the nominal defendant provisions) of the Motor Vehicles Act, approved insurers are allowed to work out among themselves how they will comply with the obligations imposed on them by law. In effect, the majority decision of approved insurers prevails, the Government being not so concerned with how a result is achieved as it is with the fact that it is achieved. The insurance commission should be under the same obligations as private insurers are, and that is the purpose of this amendment. Other amendments that I will move are in a similar vein.

The Hon. A. J. SHARD: The Government cannot accept the amendment, because the proposed addition to subclause (3) seems unnecessary. The clause appears already to make adequate provision to ensure, by implication, that the commission has all the obligations that a private insurer may have under the Motor Vehicles Act.

The Hon. R. C. DeGARIS: The Chief Secretary has said "by implication". If it is there by implication, I cannot see why it should not be there in black and white. Therefore, I cannot see why the amendment should not be carried.

The Hon. Sir ARTHUR RYMILL: The Chief Secretary does not disagree to the purpose of the amendment but thinks it unnecessary. On the legal principle of *ex abundante cautela* I do not see any reason why it should not be carried.

The Committee divided on the amendment:

Ayes (9)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, L. R. Hart, Sir Norman Jude, F. J. Potter, Sir Arthur Rymill, and V. G. Springett.

Noes (7)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, A. F. Kneebone, A. J. Shard (teller), C. R. Story, and A. M. Whyte.

Majority of 2 for the Ayes.

Amendment thus carried.

The Hon. R. C. DeGARIS: I move to insert the following new subclause:

(3*a*) Notwithstanding any provisions of any Act or regulation to the contrary, a person who, in terms of any law or by contract with any department or instrumentality of the Government of the State—

(*a*) is required to insure any risks, whether in his own name or his name and the name of the Crown, any Minister of the Crown, department or instrumentality of the Government of the State;

or

(*b*) is obliged to pay the premium on any such risk,

shall not be obliged to insure with the Commission.

This follows the precedent established by section 20 of the Hire-Purchase Agreements Act. In the interests of fair competition between the commission and private insurers I contend that members of the public who are in some way beholden to the Government should not be compelled or coerced into insuring with the commission. Also, many Government instrumentalities, being in the same position, should not have to insure with the commission.

The Hon. A. J. SHARD: The Government cannot accept this amendment because it is likely to cause difficulties in specific cases, and circumstances arise from time to time when a department or instrumentality may find it proper to insist on particular insurance. Private enterprise does this, occasionally in circumstances where there is financial or other interest with the nominated insurer.

The Hon. R. C. DeGARIS: Does the Chief Secretary understand the precedent that has been established by section 20 of the Hire-Purchase Agreements Act in which this same philosophy is written?

The Hon. A. J. SHARD: I have not studied that Act, but I have been supplied with information and the Government cannot accept the amendment.

The CHAIRMAN: Is the honourable member moving two amendments now, or is he moving only to insert new subclause (4)?

The Hon. R. C. DeGARIS: I have further amendments.

The Committee divided on the new subclause:

Ayes (10)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, L. R. Hart, Sir Norman Jude, F. J. Potter, Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, A. F. Kneebone, A. J. Shard (teller), and C. R. Story.

Majority of 4 for the Ayes.

New subclause thus inserted.

Progress reported; Committee to sit again.

ADJOURNMENT

At 4.41 p.m. the Council adjourned until Tuesday, September 15, at 2.15 p.m.