LEGISLATIVE COUNCIL

Tuesday, October 27, 1970

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

QUESTIONS

FROST DAMAGE

The Hon. C. R. STORY: The Minister of Lands has done me the courtesy of informing me that he has a statement in reply to a question I asked last week about frost damage. Will he give that reply?

The Hon. A. F. KNEEBONE: The honourable member asked me a question regarding damage caused by severe frost in various parts of the Murray Mallee and the Karoonda district last Thursday week. An officer from the Lands Department, accompanied by an officer of the Agriculture Department, carried out an inspection and found that the damage was fairly severe in some areas. I have seen some of the barley and wheat affected by this frost. Yesterday, I took to Cabinet a recommendation that people in those areas where the damage was most severe should come within the provisions of the Primary Producers Emergency Assistance Act, and it was agreed in Cabinet that this Act would apply to those people who suffered frost damage in the same way as it was announced last week it would apply to people affected by drought. The same type of application form will be available to those people, and the applications should be made to the Lands Department.

The Hon. L. R. HART: The Minister said that assistance would be on a similar basis to that announced last week with regard to drought. I take it that in making that statement he was referring to a Dorothy Dix question asked by the Hon. Mr. Banfield in relation to drought relief, in which case the Commonwealth assistance—

The PRESIDENT: Is the honourable member making an explanation?

The Hon. L. R. HART: I was trying to phrase my remarks into a question.

The PRESIDENT: If the honourable member wishes to explain his question, he must have leave.

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

Leave granted.

The Hon. L. R. HART: Thank you, Mr. President; perhaps I should have sought leave at first. I should like to know whether this relief will come from the source referred to by the Minister of Lands when replying to the question asked by the Hon. Mr. Banfield, or whether it will come from the Farmers Assistance Fund, which, at present, has a credit balance of about $600,000. Can the Minister say whether he considers there is sufficient money in the Farmers Assistance Fund to meet this emergency, and whether assistance will be given by grant or by repayable loan? If it is given by repayable loan I assume that the interest on the loan will be at a normal rate, but can the Minister say whether it will be at a concessional rate? If the money is coming from this source, they are the questions I wish to ask. However, if it is coming from the source that has been made available to the Government whereby the Commonwealth Government is to help when the State Government has assisted to the extent of $1,500,000, then the interest rate is 6¾ per cent. I believe that the Minister will understand to what I am referring.

The Hon. A. J. Shard: He will have to be pretty good.

The Hon. L. R. HART: The Minister of Lands is a man with much intelligence, and he is in touch with problems associated with the rural community at present, and I am sure that he will be able to reply to my questions better than the Chief Secretary could.

The Hon. A. J. Shard: You would get a nice reply from me, I'm telling you!

The Hon. A. F. KNEEBONE: The honourable member will get a nice reply from me, too! First, if he had paid attention last week when he was in the Council he would have realized that the Dorothy Dix question (as he termed it) did not refer to any amount or conditions concerning the loans. The Dorothy Dix question (as he called it) referred to the severity of the frost damage in the country. If the honourable member had listened attentively to my statement about drought relief he would have known all the details he has asked for now. The honourable member should pay more attention, and if he wants to know the replies to these questions he should look at my statement in *Hansard* about drought relief, and the Premier's statement in the House of Assembly concerning the same matter.

The PRESIDENT: I point out to honourable members that questions and replies should be confined to information and not comment.

The Hon. R. C. DeGARIS: I seek leave to make a short statement prior to asking a question of the Minister of Lands.

Leave granted.

The Hon. R. C. DeGARIS: The Auditor-General's Report for the year ended June 30, 1970, contains reports on three funds, namely, Farmers Assistance Fund, Marginal Lands Improvement Account, and Primary Producers Debt Adjustment Fund. Can the Minister say whether these funds are to be used in an endeavour to overcome the financial difficulties of people in the Murray Mallee area as a result of drought and frost damage and, if they are, what rate of interest will be chargeable on the money made available by way of assistance?

The Hon. A. F. KNEEBONE: I will examine the question and bring down a considered statement later this week, possibly tomorrow.

HAIR SPRAY CANS

The Hon. V. G. SPRINGETT: Has the Minister of Lands a reply from the Minister of Labour and Industry to my recent question about hair spray cans?

The Hon. A. F. KNEEBONE: My colleague has given me the following reply:

Aerosol packs comprise a container, a valve, a propellant and the material to be sprayed. The spray often contains a solvent which may be flammable, such as alcohol, whilst the propellant may also be flammable—often liquefied petroleum gas is used. The overall flammability of the contents of the pack, however, is determined by the interdependence of the various compounds of spray and propellant, and no satisfactory test has been devised to enable a system of hazard rating to be applied. There seem to be two main areas of hazard, one of storage and the other to users as a result of exposing the spray to a flame or because of explosion whilst incinerating a pack, either filled or empty. This is a matter that would have to be dealt with on a uniform basis throughout Australia: it would not be practicable for one State to consider the matter in isolation.

The Hon. V. G. SPRINGETT: Following that reply, will the Minister confer with his colleagues in the other States with a view to getting uniform legislation on this matter?

The Hon. A. F. KNEEBONE: I will convey the honourable member's request to my colleague and see whether this can be arranged.

REPLIES TO QUESTIONS

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. M. B. DAWKINS: My question refers to a report in the *Advertiser* of October 24, headed "Route of by-pass opposed". A report coming from Angaston states:

A Highways Department proposal for a by-pass of Greenock and Nuriootpa on National Route 20 has been received with concern by the Angaston District Council.

The report goes on to state why the report has been received with concern and where the proposed route is expected to go, pointing out certain troubles it may cause, in the view of the council. I presume that as district councils do not meet every day of the week the council has had that report for some time—at least, for a few days. My question refers to the fact that on September 22 last, five weeks ago today, I asked a question in this Council about these very matters—the reconstruction of the Sturt Highway from Greenock to Nuriootpa, and the by-pass of the latter town. If there is any blame for the delay in answering that question, I say immediately that none attaches to the Minister of Lands, because he did try to get me an answer, and until today he was not successful. I have now received an intimation that I will get an answer today. However, can the Chief Secretary say whether or not it is Government policy (I take it that it is) to answer questions asked by honourable members about public affairs concerning their constituents and, if it is the Government's policy to answer such questions as soon as possible, will the honourable gentleman endeavour to see that they are answered before they are made public in the newspapers and available to other people?

The Hon. A. J. SHARD: I do not want to go into this matter any further than I did one day last week. Honourable members know my views. However, I shall be happy to take this question to Cabinet so that, if anything is wrong, it can be corrected. It has happened (I do not know why) that departmental heads and officers of a department have made answers available without notifying the Ministers or before the Ministers know about them. It could have happened in this case. It happened in another case only one day last week when my secretary, as a matter of courtesy, gave a gentleman some information, and the next he knew about it was that it was in the next morning's press. In general, my belief and the Government's belief is that honourable members' questions should be answered before that happens.

FISHING

The Hon. R. A. GEDDES: I direct my question to the Minister representing the Minister of Agriculture. I understand that Mr. Olsen, the Director of Fisheries, made a recommendation about bag limits for fish in

the Port Pirie area. Does the Minister of Agriculture intend to reintroduce bag limits for fish in the Port Pirie area and will those limits be for fishermen who fish from boats only or will they be for fishermen who fish from boats and net from beaches in the area?

The Hon. A. F. KNEEBONE: I shall convey the honourable member's question to my colleague and bring down a reply as soon as possible.

NURSES' SALARIES

The Hon. L. R. HART: I seek leave to make a short statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. L. R. HART: An article in today's press states that the Royal Adelaide Hospital and the Queen Elizabeth Hospital have not been paying the salary increases granted to nurses under an award that was recently handed down. Can the Chief Secretary say whether what the article says is correct and, if it is, why the salary increases have not been paid?

The Hon. A. J. SHARD: This is a real Dorothy Dixer: I expected this question. There are some reasons for the unfortunate set of circumstances, which have been corrected. Unfortunately, there is a demarcation dispute between two unions—the Royal Australian Nursing Federation and the Public Service Association. One is trying to score off the other and at present I am the meat in the sandwich. Another aspect is that, when the award was being dealt with, through some unfortunate happening it was not correctly gazetted, and the procedures involved take a long time to get through.

The Hon. L. R. Hart: Other hospitals are paying the salary increases, though.

The Hon. A. J. SHARD: Perhaps other hospitals are not under the supervision of the Auditor-General. Let it be clearly understood that we must do things correctly. I believe that the nurses who readily agreed to write those letters to the press knew the exact position, which I shall now relate to the honourable member. After my illness I returned to duty on October 13, and it was during that weekend that my attention was drawn to this anomaly. This is what has happened since. There is no intention to delay payments of salary increases to nurses. Owing to an error in the construction of the award published in the *Government Gazette* in late September, there were some difficulties in the legal application of the award. When this was brought to the Government's attention, it was decided that payments to nurses would be made on the basis of the agreement made for increased salaries.

I ask honourable members to take note of the dates I shall mention. The Hospitals Department was verbally informed of this decision on October 16, and written instructions from the Minister of Labour and Industry followed on October 21. All Government hospitals are being informed of the procedures to be followed to implement the conditions of the award, and nurses at the Queen Elizabeth Hospital and the Royal Adelaide Hospital will have their pay adjusted with effect back to September 3, 1970, for the pay period ending November 14, 1970. The actual payment of all back-pay will be made to nurses in these two hospitals on November 20. Country Government hospitals will be adjusted in the following week. While it may be true that private hospitals are paying the salary increases, it must be remembered that each private hospital has relatively few staff members, not a staff of about 1,500 people. So, the Hospitals Department must follow the necessary procedures. Let it be clearly understood that the Royal Australian Nursing Federation and the Public Service Association knew that the salary increases would be paid from September 3. They knew that we had legal difficulties, yet the nurses seemed prepared (for some reason, which I do not know) to splash this matter, and the media again made a mountain out of a little hill.

STURT HIGHWAY

The Hon. M. B. DAWKINS: Has the Minister of Lands obtained from the Minister of Roads and Transport a reply to my question about the Sturt Highway?

The Hon. A. F. KNEEBONE: The Minister of Roads and Transport reports:

Planning investigations have been undertaken into proposals to upgrade the route of National Route 20 between Gawler and Truro. Several schemes have been investigated, the most favourable of which includes by-passes of the townships of Greenock and Nuriootpa. This scheme has been referred to the district councils of Angaston and Freeling for their concurrence. When agreement is reached, final designs for the new facility will be prepared. The work has been tentatively programmed for implementation in 1972-73, when funds are expected to be available.

ORANGE JUICE

The Hon. V. G. SPRINGETT: Has the Minister representing the Minister of Education a reply to my question of October 13 regarding

the supply of orange juice to certain schoolchildren?

The Hon. A. F. KNEEBONE: The Minister of Education reports:

The supply of fruit juices to schoolchildren, as an alternative to milk, has been considered from time to time and representations have been made accordingly to the Commonwealth Government for an extension of the provisions of the States Grants (Milk for School Children) Act to permit this. The Commonwealth Government has declined to make any change but, in view of the honourable member's question, the matter will be taken up again.

AGRICULTURAL EDUCATION

The Hon. C. R. STORY: Can the Minister representing the Minister of Agriculture say whether or not the committee which has been set up to inquire into agricultural education has submitted its report and, if it has, when copies will be available for honourable members' perusal?

The Hon. A. F. KNEEBONE: I shall convey the question to my colleague and obtain a reply as soon as possible.

STOBIE POLES

The Hon. C. M. HILL: Has the Minister representing the Minister of Local Government a reply to my question of October 13 about the provision of underground electricity supplies in new subdivisions?

The Hon. A. F. KNEEBONE: The Minister of Local Government reports:

The Government is investigating the undergrounding of electricity in some subdivisions. Several schemes have been investigated, but no real progress has been made to date. The matter is being actively considered and, if it is decided to go ahead with regulations, the Council will be informed.

EVIDENCE ACT AMENDMENT BILL

Read a third time and passed.

PINNAROO RAILWAY ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

The Pinnaroo Railway Act of 1903 provided for the construction of the railway from Tailem Bend to Pinnaroo. The provision of this Act allowed for the survey of additional Crown lands for allotment. In connection with this survey of Crown lands, the Act required that in the subdivision of land in the hundreds of Pinnaroo, Bews, Cotton and Parilla, the Surveyor-General should ". . . reserve such portions of same as he may deem advisable to be perpetually preserved as breakwinds for the prevention of drift sand and soil". The Act also provided for a penalty for any person found cutting or removing timber, scrub or undergrowth on or from such breakwind areas.

This perpetual preservation of reserves created problems, particularly when it was necessary to relocate or create roads. This problem was overcome by the Pinnaroo Railway Act Further Amendment Act of 1914, which provided for the Minister of Lands, following the receipt of a written request from a district council, to declare parts of breakwind reserves to be public roads or to close roads or parts of roads abutting on breakwind reserves. Such closed roads were to become part of the breakwind reserves, and the district council was required to preserve and protect from destruction or injury all timber and other trees growing on these former roads. Although these breakwind reserves were previously justified, it has become evident, particularly in recent years, that problems have developed regarding control and administration and the prosecution of offences against persons alleged to have cut or removed timber from the reserves. The existing legislation does not satisfactorily indicate clearly under whose control the reserves are placed.

It is now necessary that some action be taken to resolve the present difficulties. As a prior requirement to any recommendation being made, a field inspection of all breakwind reserves was made by departmental officers to obtain an indication of present conditions. This inspection showed that the major portion of these reserves was natural scrub or regrowing scrub, with the remainder being cleared or cleared and cropped. Instances were found where fences, access tracks, telephone and power lines were located on the reserves. Some of the roads were located wholly or in part on the breakwind reserves and not within the areas surveyed for road. Thus it became obvious that extensive amendments to the Pinnaroo Railway Act would be necessary if the breakwind reserves were to remain subject to that Act, with added provisions to establish effective control and administration and to permit appropriate action in view of existing conditions. However, the kind of control envisaged, and the various powers considered necessary, already exist in the provisions contained in the Crown Lands Act. Therefore, it is apparent that the most simple yet most

suitable and effective means of achieving the desired result is for the breakwind reserves to become Crown lands subject to the provisions of the Crown Lands Act. The present amendment is put forward with this end in view.

As Crown lands, the control of these areas would be vested in the Minister of Lands. The areas could then be dealt with in various ways. They could, for example, be dedicated as:

1. National Parks under the control of the National Parks Commission;
2. Reserves under the control of a district council;
3. Reserves under the control of the Minister.

Areas that need not be preserved in their present form could be dedicated as recreation grounds or disposed of under the provisions of the Crown Lands Act. Areas required for the purpose of road making could be delineated on public plans and roads to be closed could be dealt with under the Roads (Opening and Closing) Act. Telephone and electricity lines could be covered by the issuing of licences under the Crown Lands Act.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 incorporates portion of the Pinnaroo Railway Act Further Amendment Act, 1908, in the principal Act. When the Pinnaroo Railway Acts were enacted, it was usual for an amending Act to contain substantive provisions that were not incorporated as provisions of the principal Act. This is not consistent with the present drafting style. The Bill accordingly repeals these substantive amending Acts and incorporates the only substantive amendment that does not relate to breakwind reserves in the original Act. This will result in a unified principal Act in conformity with the present drafting style. Clause 3 repeals and re-enacts section 13 of the principal Act. The new section provides that those areas that were formerly breakwind reserves shall become Crown lands subject to the Crown Lands Act. Clause 4 repeals the Pinnaroo Railway amending Acts, which are now unnecessary in view of the provisions of the Bill. I commend the Bill to honourable members.

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

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

In Committee.

(Continued from October 22. Page 1990.)

New clause 6.

The Hon. A. M. WHYTE: When we were last discussing this Bill the Chief Secretary said he would ask the Attorney-General whether he could accept this new clause. Has he obtained a reply?

The Hon. A. J. SHARD (Chief Secretary): I have been told that the Attorney-General has discussed this matter with certain people and that he is not prepared to go further, at least at this stage, than I stated last Thursday. The statements of the Leader and Sir Arthur Rymill were placed before the Attorney-General, but he thinks that the Bill as presented goes as far as he desires.

The Hon. R. C. DeGARIS (Leader of the Opposition): Although I have read the reply given by the Chief Secretary regarding this new clause, I have great difficulty in following how its inclusion can reduce the discretion of the Attorney-General. Can the Chief Secretary explain that point?

The Hon. F. J. POTTER: I understand from what the Chief Secretary has said that, where the Act specifies that the Attorney has a discretion, the addition of this new clause may limit that discretion by providing that he shall not give his certificate unless he is satisfied that the objects of the Act cannot be attained. If this is so, a small amendment to show that it is not intended in any way to limit the discretion and that the Attorney must take this action before giving the certificate may overcome the difficulty.

The Hon. C. R. STORY: As I believe that this new clause is reasonable, I ask the Chief Secretary to reconsider the matter.

The Hon. A. J. SHARD: To enable me to seek further advice, I ask that progress be reported.

Progress reported; Committee to sit again.

CONSTITUTION ACT AMENDMENT BILL (ADULT FRANCHISE)

Adjourned debate on second reading.

(Continued from October 22. Page 1981.)

The Hon. R. C. DeGARIS (Leader of the Opposition): This could be described as a bare Bill.

The Hon. C. R. Story: And naked!

The Hon. R. C. DeGARIS: Yes, if the honourable member wishes. It provides that the electors who vote to elect members to this Council will be those who are on the House of Assembly roll. I point out that already the intention of the State legislation has been circumvented. As most members realize, enrolment to vote for the House of

Assembly is not compulsory under our State laws, but it has become compulsory because the Commonwealth rolls have been adopted for State electoral purposes. The Government has indicated clearly that it will not accept any amendment to this Bill, and it has issued a threat that this Council must pass this legislation or face an election. Both these attitudes are quite legitimate: the Government is entitled to take this view. But, as far as a constitutional challenge is concerned, the position is the same, whichever way it goes—whether the Bill is amended or defeated. Every honourable member knows that, if any Government wants to challenge a decision of this Council, whether that decision be to defeat legislation or to include an amendment in a Bill, the majority in control of another place can challenge that decision at the level that one may describe as the final court of appeal—the people of South Australia.

It is to the credit of the Council in the attitude it has adopted for many years that the deadlock provisions in the Constitution have never been invoked. Over the 114 years' history of the two-House system in South Australia, the fact that these deadlock provisions have never been invoked indicates that this Council has not been obstructive to the will of a Government: in other words, it has throughout those years interpreted the majority will of the people. Otherwise, the deadlock provisions would have been invoked during that period. It is obvious to me that, no matter what the Legislative Council does with this Bill, the Government intends to remain inflexible in its desire to seek a confrontation as quickly as possible. It is common knowledge (I have mentioned this in this Council on many occasions and no denial has ever come from any honourable member here) that the Government seeks the abolition not only of this Council (and will do all in its power to denigrate the two-House system) but also of all State Parliaments and the Senate, so that one day all power may rest in a one-House system based in Canberra.

It must be remembered that, when that day, the day of the "great democracy", arrives, all sovereign and constitutional power will rest in the hands of a very few people in Canberra. I have mentioned this before; I do not like raising the "red" bogy, but there are only two political Parties in Australia that hold that belief. There are people who believe that, once this question of the franchise is behind them, everything in the garden will be rosy. I think they are extremely naive, because this is only the first step in the long process of finally having all power resting in a very few hands.

I have never backed away from my fundamental belief that the family franchise, which is, in effect, the present franchise for this Council, has produced an Upper House in South Australia with a very proud record. For all honourable members of this Council, the first question that must be answered is: has this system worked in the interests of the people of South Australia? Any examination of that question must reveal the answer "Yes". The second question is: has the democratic process been denied by the present franchise? If that question is examined in all reasonableness, the answer must be "No".

The Government's moves in this matter are designed to destroy the historic role of the Legislative Council and to bring all the decisions made in this Council to Party controlled decisions. If any honourable member thinks that that will improve the democratic process, he will be sadly disillusioned. More than ever before, for the sake of democracy there is a need to ensure that the second Chamber is removed as far as is humanly possible from the dictates of the dominating Party bosses in another place. We have seen the development of what I term the dominant Party machine, which demands absolute loyalty on all matters and, if that loyalty is not forthcoming, the member concerned finds himself no longer in Parliament. We saw the demand for loyalty clearly illustrated recently in the matter of shopping hours in South Australia. Recently I had a letter from a person on this matter asking an important question: with this domination of the Party machine, who will represent the people of South Australia? As I have pointed out, if there is no loyalty there is expulsion.

The historic development of the two-House system (long before the development of the Party machine) by our forefathers, right back in history, brought with it all the checks, balances and safeguards contained in a two-House system. I believe that, with the development of the modern political Party more than ever impinging on the question of checks and balances, we must see that, where humanly possible, the dominating influence of the Party machine is excluded from considerations in an Upper House. There is a greater need today than ever before to think about these safeguards, which are achieved in many ways throughout the democratic countries of the world.

Usually, we find that there is adult franchise for the Lower House. Sometimes there is adult franchise with different boundaries for the Upper House. At times it is a nominated House, and at other times it has a restricted franchise. Nevertheless, the same philosophy follows through, that it is the judgment of history that the democratic process is best served by the two-House system; but, in the development of that system, where possible some safeguards are incorporated to allow a more independent outlook to be taken in the Upper House than in the Lower Chamber. Let us suppose that this Council became a mere extension of the Party machine operating in the House of Assembly. Would this add to the democratic process in South Australia? What protection could be given to certain organizations and certain people who draw their independence from the fact that they are responsible to Parliament—and to a two-House Parliament? Could the Commissioner of Police have acted as he did not very long ago if this Council was dominated by the Party machine operating in the House of Assembly? What barrier could there be to a complete sell-out of State powers and State rights to the dreamers of centralism, who seem to have had much to say recently?

Let us suppose the Government, on the outcome of this Bill (whether it be amended or whether it be defeated), decides to go to the people on this issue. All I can say is that, for the first time, here would be an even break for this Council to be able to tell its story, which is generally not understood. This Council is not a publicity-seeking House: it is not a place that generates publicity—the political actors are in the House of Assembly. This is not a House that gets its message over very easily, and I hope it remains that way. However, the issue has been clouded by the emotional publicity and false information that have been peddled by people who seek absolute power in our society.

Let us suppose that all these matters are presented to the people and that the people demand the same franchise as that which applies to the House of Assembly. I still strongly believe that, if that happened, the people would also require that the Upper House should maintain its difference in some way. It would be the people's hope that the approach of the Upper House in South Australia to its allotted task would not vary from the approach it has made over the 114 years of the history of the two-House system in South Australia. I am convinced that, if all the facts were presented to the people, they would want the two-House system to be retained in South Australia. Indeed, every referendum that has been held in Australia on this question has overwhelmingly endorsed the retention of the two-House system. I am sure that the people would demand that this Council should be as independent as possible from the Party-political pressures existing in another place. Now, the present position provides exactly this, but the Bill does not provide this.

This Bill is unacceptable to me and, as I have previously pointed out, irrespective of what happens to it, the Government has said it will not accept any amendments; the constitutional position is exactly the same, and the Government has said that it intends to take this matter to the public for its decision. That is its right, but it does not bluff me at all, because the Bill as it stands is unacceptable, and I believe it is unacceptable to every thinking person in South Australia. If change is demanded, what should we do to preserve the historic role of the Council? I do not think the Government is even slightly interested in these matters. I strongly believe that there should be a constitutional assurance of voluntary voting for this Council. The only way this can be assured is for the House of Assembly to follow the principle followed in this Council for a very long time.

I do not think any honourable member here can argue that compelling people to go to the polls is, in itself, democratic. Also, there must be an assurance on a redistribution of Legislative Council boundaries. I stand firmly on the principle that in the Upper House the rural areas of this State must have equal representation with the metropolitan area. I also believe that, if there is to be a change, we should consider the question of proportional representation and a guarantee that the minority Parties in our community should have representation in this Council. I go a shade further and say that we should also consider whether minority Parties which poll more than 5 per cent of the votes should each have one representative in this Council. Further, if there is to be a change, we should consider the question of having some nominated members in this Council.

I make no bones about it: rather than see this Council completely become a mirror image of the House of Assembly (which would effectively destroy the independence of this Council), we should consider the question of some nomination of members. Because local

government, the other arm of Government in South Australia, has very great responsibilities, we should consider the question of some representation of local government in this Council. Of course, in some parts of the world the Upper House is nominated by local government. We must ensure that we preserve the independence that this Council has had over many years, during which it has acted in the interests of the people of South Australia. If change is demanded, we must ensure that we achieve the purpose for which the two-House system was designed. I oppose the Bill.

The Hon. C. M. HILL (Central No. 2): I support the second reading of this Bill, and I am prepared to support it in its further stages, provided that honourable members favourably consider the amendments that I have placed on their files. In broad terms, those amendments ensure a truly voluntary vote and truly voluntary enrolment, and they ensure that the elections for this Council take place on a day different from the day for House of Assembly elections.

I am a realist and I commend the Leader on the splendid speech he has just made. He dealt with the question in an extremely practical way. However, I disagree with him that the Government will not consider any amendments. That statement has been made publicly. On the other hand, being a very practical person I accept that, because of the tremendous amount of propaganda on this subject that has come from the Australian Labor Party over a long time, one may well look on the public statements that have been made recently as being mere propaganda.

I think it is proper to disregard that kind of public announcement and to accept the Government's attitude, in that the Bill has been introduced by the Government in this Chamber and the second reading explanation has been given. I raise that as one of the bases of my argument. To go back to the point of being a political realist, I am sure that all honourable members would agree that in considering this legislation the question of political theory inevitably arises. However, one must consider what one's electorates expects one to do: one must consider the opinion in one's electorate. It is my experience that electors expect their representative to be very practical in his approach to a political question, especially to vital questions such as those that affect the State's Constitution.

The Hon. R. C. DeGaris: Was that Tom Stott's approach?

The Hon. C. M. HILL: I am rather proud of the fact that I genuinely keep in close contact with my electorate, but I have some doubt as to whether Mr. Stott genuinely kept in close contact with his electorate. The whole question of the two Houses and the question of the checks and balances, which the Leader has mentioned, and of the need for co-operation between the two Houses, if Parliament is to act in the best interests of the people, have been dealt with in great length on many occasions stretching back over many years; in fact, back into the last century.

A very modern approach to the role, composition and functions of a modern Upper Chamber was given by the Lord Chancellor of the British Parliament in a speech delivered at the Conference of Commonwealth Speakers and Presiding Officers held at Ottawa on September 9, 1969. His Lordship went right through the various problems that affect Upper Chambers in the modern sense and in today's world. He dealt with the question, mentioned by the Leader, of what is the best way either to elect or to nominate a second Chamber. His closing remarks are very significant. They read:

My belief is that in the modern world an Upper Chamber can justify itself only as a partner and a complement to the elected House. It must not compete with the elected House, nor seek to overthrow the authority that the elected House enjoys by the very fact of its election. It can, however, make a contribution of the utmost value in relieving the elected House of much that it is not equipped or has not the time to do. This means a firm understanding between the Houses as to the respective functions of each House and a continuing dialogue between them upon the details of their division of work. The essence of the matter is not competition and antagonism between the Houses, nor even a system of checks and balances, but partnership and co-operation in the interests of Parliament as a whole.

It is very easy to say, when reading that, "Well, this second Chamber has not, for many many years, received any co-operation or hand of partnership from the Labor Party in another place." That is true. However, I do not agree that that is an excuse to cut ourselves off and not to continue our endeavours as a responsible second House or to endeavour to make some progress and to achieve some form of satisfactory partnership in the interests of everyone in the State.

This short Bill deals, in essence, with just the one aspect of adult franchise. In his second reading explanation, the Chief Secretary made claims that can only be described as unfair and wild. He dealt with, as he called it, the

narrow confines of land and leasehold owners and their spouses, and compared them with the broad field of House of Assembly electors. The Chief Secretary continued:

Since its inception, the Constitution Act has provided that, irrespective of the vastly wider provisions of the Act embracing House of Assembly electors, no person shall be entitled to vote at a Legislative Council election unless he or she owns or leases land in the State or is the tenant of a dwellinghouse in this State.

He then dealt with the additions that have been made from time to time. In using the words "narrow confines", and comparing them with the interpretation of the broad field of other electors, he implied the specific point that there was a great gulf or difference between the numbers of people who were entitled to vote for the House of Assembly, compared with this Chamber. Of course, this is not so.

The Hon. M. B. Dawkins: Do you agree that the franchise for the Council is now a very wide one?

The Hon. C. M. HILL: The franchise now is about 85 per cent of the total number of those people able to vote for the House of Assembly. So, instead of this big gulf, as can only be interpreted from the second reading explanation, the difference is about 15 per cent. There is not a great difference.

The Hon. R. C. DeGaris: I wonder, if the people knew that they did not have to enrol on the House of Assembly roll, whether there would be any difference at all?

The Hon. C. M. HILL: I do not know about that. I know that it is not compulsory for people to enrol on the Assembly roll, although it is usually accepted in the community that this should be done. In fact, it is done. I know that the means of enrolment through the Commonwealth application forms includes State enrolment for the House of Assembly. However, I do not think there is any great point in pursuing that aspect.

The Hon. G. J. Gilfillan: Is there any bar to the other 15 per cent becoming qualified?

The Hon. C. M. HILL: No, there is no bar if they come within the qualifications. Of course, I would think that those who argue against the present system have a reasonable argument, if we expect them to buy a block of land simply to qualify for enrolment.

The Hon. M. B. Dawkins: They don't have to do that: all they have to do is rent a separate flat.

The Hon. C. M. HILL: Some people prefer to live with their parents. The second matter in the Chief Secretary's explanation on which I comment is the following sentence:

I find it difficult to believe that any member of this Council who professes the democratic faith, which is the very basis of the society in which we live, could possibly support the continuance of a restricted and privileged franchise that has the effect of giving one section of citizens of the State political privileges that the rest do not enjoy.

What do we really mean by the expression "democratic faith"? It is a most hackneyed expression. The word "democracy" has, unfortunately, become one of the most hackneyed words throughout the world. Some great dictatorships in the world look on their system as being a democracy. Therefore, we have to be very careful in being influenced simply by that word unless we look into the question at considerable depth. The failing, far from being a local one, is apparent throughout Australia. Professor J. D. B. Miller, in his book *Australia*, dealing with this subject, said:

Democracy was a favoured word in Australia long before it became widely acceptable in Britain. It has not been unusual for Australians to claim that theirs was the most democratic land on earth. But, if one looks at actual usage and practice, the situation is not so attractive. Australian views of democracy tend to be either negative or mechanical. They are negative in the sense that they were popularized as reactions against aristocratic privilege, as experienced in 19th century Britain, and against attempts to create equivalent privilege in Australia; they have shown little of the creative force which Rousseau's formulation of democratic feeling has, for instance, and they have rarely taken up the possibilities of active democracy. They are mechanical in that, to a surprising degree, they are confined to forms of voting, especially to the machinery of counting votes. Australia has experimented with almost every known system of election; even voluntary bodies will argue fiercely about how a committee should be voted for. Much less attention is given to the questions of fairness, aptness, opportunity and tolerance which are associated with democracy by those who write books about it.

Later on he said:

It is in these concrete forms, rather than in notions of democratic atmosphere and obligation, that most Australians seem to see democracy when they are challenged to define it.

My fundamental belief in democracy lies in the characteristics of human tolerance, compromise and understanding between people, not on a voting system at all. Surely these characteristics are essentials to democracy as we want to see it practised in this State. I support the Hon. Mr. DeGaris in his remarks regarding the family unit which, in my view, is an essential part of our democratic way of

life. The Universal Declaration of Human Rights, in Article 16, states that "the family is the natural and fundamental group unit of society". Because of actions by this Council, the franchise for this Council has now been widened to one which can well be called a family vote; in other words, two votes for each family.

The Hon. D. H. L. Banfield: This Council also stopped 15 per cent of the people getting a vote, didn't it?

The Hon. C. M. HILL: I am dealing with the importance of the family vote. This is an aspect that deserves high priority when we argue and research and dispute what is a democracy and what is not.

The Hon. A. F. Kneebone: It is not a complete family vote: it is a Dad and Mum vote.

The Hon. C. M. HILL: Well, Dad and Mum act on behalf of the family; and, of course, they act on behalf of the family in many things. However, the Labor Party is not content with this situation as a basis of the franchise for this Chamber.

The Hon. D. H. L. Banfield: Somewhere between 50 per cent and 60 per cent of the delegates to your conference agreed with us. It could not get the 66 per cent vote for adult franchise, but it got over 50 per cent.

The Hon. C. M. HILL: I am speaking here and enjoying the independence that is mine in my Party. If the honourable member wishes to argue this question of independence as compared with his Party's policy, I shall be only too pleased to accommodate him. We have had examples in recent times of just how independent are members from the other side.

The Hon. D. H. L. Banfield: How do you get your preselection?

The Hon. C. M. HILL: We get ours by going out to the people, whereas members of the Labor Party get theirs down at the Trades Hall, with the ticket vote. The honourable member need not talk to me about his Party's democracy, for the difference between the two Parties on these matters is stark and paramount.

The Hon. D. H. L. Banfield: You get about 30 people voting for you.

The PRESIDENT: Order! Interjections are out of order.

The Hon. C. M. HILL: I have endeavoured to develop my thinking to this current position, where there is a franchise for this Council and where it can be argued on a democratic basis that it is a most satisfactory one. As the Hon. Mr. DeGaris has said, the record of the Council stands. Many who have served in this Parliament and who from time to time have been opposed to this Chamber have agreed ultimately that their first thinking was wrong. One of those persons was the Hon. C. C. Kingston, who consistently advocated the abolition of the Legislative Council. However, towards the end of his Parliamentary career he said:

In the Legislative Council, democracy has nothing to fear and much to be thankful for. I come back to the modern approach to second Chambers by the Lord Chancellor of Great Britain and to what I consider is my obligation in offering partnership to and co-operation with the other House. Without any doubt, the real motive of the A.L.P. in pursuing this matter is the ultimate abolition of this Chamber. The Hon. Mr. DeGaris made that point with great force. This is contained in the actual platform of the A.L.P. If there is any doubt at all about this question, we need only go back five years to the A.L.P.'s policy speech in 1965. Prior to the election in that year, the then Leader of that Party said:

In the event of forming a Government, early legislation will be introduced to provide for an increase in the number of members in the House of Assembly and an alteration to the voting franchise in the Legislative Council which will mean that every person who is entitled to a vote for the Lower House receives one also for the Upper House, pending its abolition.

Despite the real motives behind this measure, that Party has expounded this theory for many years. I believe that the principle of full franchise is supported by many people in my district, which is a metropolitan district. I do not believe, from my experience of travelling in country areas, that the principle is supported by many country people. I support the principle that once the State wants a certain course the duty of a second Chamber, ultimately, is to yield. I know that many do not agree with this point, but I refer to a quotation of Lord Salisbury in the latter part of the last century when he spoke about second Chambers and said:

When the opinion of your countrymen has declared itself and you see that their convictions—their firm, deliberate, sustained convictions—are in favour of any course, I do not for a moment deny that it is their duty to yield. It may not be a pleasant process.

Also, I refer to Walter Bagehot's *English Constitution,* a textbook still used by students of law and other disciplines, in which on page 128 he stated:

Since the Reform Act the House of Lords has become a revising and suspending House.

It can alter bills; it can reject bills on which the House of Commons is not yet thoroughly in earnest—upon which the nation is not yet determined. Their veto is a sort of hypothetical veto. They say, We reject your Bill for this once or these twice, or even these thrice: but if you keep on sending it up, at least we won't reject it.

The Hon. M. B. Dawkins: You are still talking about Houses that are nominated.

The Hon. C. M. HILL: I am speaking of second Chambers.

The Hon. M. B. Dawkins: Those references are specifically to the House of Lords.

The Hon. C. M. HILL: I am speaking of principles as they apply to second Chambers. Despite the fact that partnership and co-operation should be the goal and target of this Council, it does not alter the fact that there are some extremely important problems associated with principles applying to second Chambers that this Bill not only does not affect but also completely eradicates. I refer to one that I believe is the most important of all. It is far more important than the question of restricted or adult franchise: that is, the question of how to achieve an electorate that sends people into the House of Assembly that is in some way different from the electorate that sends people into this Council. Time after time this theory, which has been called the rubber stamp theory, has been expounded.

It is no good the same people sending members into one House and other members into a second Chamber, because one House then becomes a pale reflection of the other. Each representative does his duty and introduces views from his district that are identical with the views expressed in the other House. If identical views are expressed in each Chamber the separate approach, which is absolutely essential if we speak of democracy, cannot be obtained for a true House of Review. I believe that this principle is far more important than the problem of the 15 per cent mentioned earlier.

If the Government, or this House, is willing to ensure that there will be a difference in the method of election in this House compared with that in the other House, I am willing to support the policy of adult franchise, which has been put forward by the Labor Party again and again. The only way to achieve this difference is to have a truly voluntary vote for this Chamber.

The whole problem of franchise then disappears: all the pettiness and the abuse we as a Chamber have received for years would be cast aside if that aspect could be achieved. However, the Government can show its good faith and that it really believes that we have some use if a system could be invoked to send people to this Chamber that would be different (however slight) from a system sending people to the other House. A true voluntary vote means that all people, if they so wish, could enrol and vote. However, in practice we know that those interested in the second Chamber and who take an interest in their politics, irrespective of their political beliefs, are those who would form a different group to send members into this House.

My amendments would bring that position about: they would mean that the election would be on a separate day (which would include a voluntary vote) and would allow people interested in political matters to vote for the Legislative Council if they so wished.

The Hon. G. J. Gilfillan: Do you really think the attacks on the Legislative Council would then cease?

The Hon. C. M. HILL: Being realists, we have to accept that misunderstandings and criticisms flow from either House towards the other from time to time. I am not so foolish as to say that this will be the end of any misunderstandings. There will always be problems, but we are dealing with a specific point introduced by this Bill. It is a narrow and bare Bill, but we are dealing with a specific point.

Other Bills will be introduced and they must be considered as they arrive. That is the Government's intention and that is what I am willing to do, because I have applied myself to this measure. I know that members of this Council will read and study this Bill and the second reading explanation given by the Leader of the Government in this Chamber. My vote for the second reading is a conditional one. If the amendments were passed in this Chamber, it would mean that this Chamber agreed to adult suffrage and that for all time, unless there was a referendum of the people, a different group of the people would be sending members to this Council from that sending members to another place.

The argument can be raised, of course, that there is a voluntary vote now, but again surely all realists accept the fact that by administrative action the Labor Party in its term of Government previously turned the intention of the Constitution (a voluntary vote) into almost a compulsory vote. This occurred, but amendments that I am proposing will bring the

Constitution back into its rightful place in this matter.

The proper procedure to be adopted will be written into the Constitution and entrenched there by these amendments. It surely must be accepted as some means of co-operation with the Government to achieve this one point to which time and time again it attaches tremendous importance when it goes to the hustings at each election and when it sounds out its policy from time to time. Therefore, I seek support for these amendments, which I have kept as simple as possible.

I agree with the Hon. Mr. DeGaris that many other problems will recur from time to time in connection with this Council—boundaries, functions, powers, and other voting systems. I need not introduce those aspects into my speech. I have tried to keep my point of view simple and have dealt with the one matter that the Government has brought forward, because that is how the Government wanted it.

While I am prepared to support the change, I am at the same time endeavouring to amend the Constitution so that the principle of having a different electorate, which I think is the most important issue in this matter, is entrenched in the Constitution and will not be altered in future by the two Houses of Parliament unless the Government of the day is prepared to go to the people to seek such a change.

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

CATTLE COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 22. Page 1983.)

The Hon. M. B. DAWKINS (Midland): I rise to support this Bill. The principal Act was first enacted in 1939; it has from time to time been amended slightly to introduce various improvements that have been found necessary. On this occasion, the purposes are to see that the full market value instead of three-quarters of the market value shall in future be paid in cases of compensation (I think that was in section 6 of the principal Act) and that section 7, which deals with the maximum amount payable by way of compensation, shall be amended, the suggestion being that that amount be increased from $120 to $200. This is a reasonable increase, because some years have passed since this amount was last varied. I will support the amendments envisaged.

However, I do believe that the Minister's second reading explanation, as mentioned by the Hon. Mr. Story last week, did not contain sufficient information. We have heard much this afternoon about second Chambers. From time to time we see various instances of the value of a second Chamber when dealing with Bills, both important and small. In the case of the smaller Bills coming before Parliament, the value of the second Chamber has been demonstrated in no uncertain fashion. I believe that this Council and Parliament in general are indebted to the Hon. Mr. Story, who posed certain pertinent questions last week and went to the trouble of providing the answers himself, because, had not the questions been posed by the honourable gentleman, nothing like sufficient research might have been undertaken to determine whether or not this Bill was advisable. It had to come to this place, as I understand it, before questions about the state of the Cattle Compensation Fund were asked.

In the Minister's second reading speech, what should have been stated was the condition of the fund, the situation that it was envisaged would arise if these amendments were passed and the possibility of the fund being able to withstand the extra charges to be put upon it. As it so happens, the fund is sound. We have amended this legislation from time to time, as we have amended the Swine Compensation Act, and each time, since I have been in this Council, we have looked at the funds to see whether or not they were viable, sound and able to stand proposed amendments. On this occasion, we find, thanks to the inquiries of the Hon. Mr. Story, that the fund is sound. As I remember it, when we amended the Act in 1967, the Hon. S. C. Bevan (the Minister then in charge of the Bill in this Chamber) told us that the fund was about $270,000 in credit. It had had a somewhat similar amount in credit in 1965, as I remember, and it varied between $250,000 and $300,000 in 1968, when the previous Government amended the Act.

The Hon. Mr. Story pointed out to this Council last week that there was about $335,000 in the fund last year and there was nearly $300,000 in it now. It has been agreed that it is wise to keep the fund above a safe level, which in this case is considered to be $200,000. In that case, we have, according to the figures supplied by the former Minister last week, nearly $100,000 above the safe limit. Therefore, it is wise that we should make these amendments to this Act; they are commendable.

However, I suggest to the Minister that this sort of information should be the first supplied to the Council when this type of measure is brought before it. We now know the details about the suggested charges on the fund and whether the fund can stand those charges. With due respect, I believe the only thing the Minister said on this point was that the position would be continually reviewed to ensure that the fund remained financially sound. That statement is quite inadequate. However, thanks to my colleague, the Hon. Mr. Story, the true position has now been placed before us and we can see that the fund can stand the changes involved in this Bill, which I therefore have pleasure in supporting.

The Hon. A. M. WHYTE secured the adjournment of the debate.

ADJOURNMENT

At 4.2 p.m. the Council adjourned until Wednesday, October 28, at 2.15 p.m.