LEGISLATIVE COUNCIL

Thursday, November 19, 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's Deputy, by message, intimated his assent to the following Bills:

Constitution Act Amendment (Ministry),
D. & J. Fowler (Transfer of Incorporation),
Motor Vehicles Act Amendment (Fees).

QUESTIONS

MEAT

The Hon. R. C. DeGARIS: Has the Minister of Agriculture a reply to my recent question about inspection of meat for human consumption in the metropolitan area?

The Hon. T. M. CASEY: I have been informed by the Director-General of Public Health that poultry is meat within the meaning of the Food and Drugs Regulations, which provide that all food is to be wholesome, free from contamination, and suitable for human consumption, the onus being on the vendor to ensure that food offered for sale is satisfactory. Although individual processors institute various inspection procedures to safeguard their business, poultry is not required to be inspected by an independent authority at the time of slaughtering. Poultry on sale is subject to inspectors, and few complaints are received regarding unsatisfactory poultry being offered for sale. Since August, 1969, inspectors of the Department of Public Health, working in conjunction with the local authority concerned, have visited all known processors of poultry and, as a result, improvements to premises, equipment and processing techniques have been implemented in many instances.

The Hon. R. C. DeGARIS: Will the Minister clarify further the position of whether the only inspection undertaken of poultry is by the individual processors and, secondly, can he say how inspectors who inspect poultry on sale can detect diseased poultry going on to the market?

The Hon. T. M. CASEY: I shall endeavour to obtain further information and bring back a report for the Leader.

AGRICULTURAL EDUCATION

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply from the Minister of Education to my question of November 5 concerning the possible extension of courses similar to those conducted at the Urrbrae Agricultural High School to strategically situated high schools throughout the State?

The Hon. T. M. CASEY: My colleague informs me that the certificate course in Agriculture was introduced at Urrbrae in 1968 on a pilot basis. It was designed to meet the educational needs of boys who, after three years of satisfactory schooling, desire a further two years at school in studies directed towards agriculture before taking up work on the land or connected with agricultural industry.

The course does not prepare for higher studies at an agricultural college. It is a departure from the traditional system in secondary schools of offering the single subject of agriculture or agricultural science with the other general and craft subjects. It consists of a programme of studies orientated towards agriculture. The "core" subjects, agriculture, animal husbandry, agricultural economics and farm management, and agricultural engineering occupy two-thirds of the student's time and general or cultural subjects—English, social studies, mathematics—make up the remainder.

The certificate course has created State-wide interest and has now progressed beyond the pilot stage. It caters for some 50 to 60 students at each of its two years. The policy of the Education Department concerning the extension of the Urrbrae certificate course is as follows:

1. It is intended to increase the number of students taking this course at Urrbrae up to the limit of the facilities and resources available. This limit has not yet been reached and will not be reached in 1971, probably because of the depressed nature of the agricultural industry and the difficulty of prospective students obtaining suitable board in the metropolitan area.
2. Also, it is intended to extend this type of course to secondary schools in rural areas where there is sufficient demand to ensure continuity and to justify the expense involved in providing land, buildings, equipment, and specialist staff necessary to establish such a course. At present this demand is not evident in any area.

Agriculture is included as a single subject in the curriculum of 26 rural secondary schools as well as at Urrbrae. In these schools the subject is offered as an elective in the junior secondary curriculum, along with a core of

subjects which make up a broad general education. In 20 of these schools the subject is offered at fourth year (Leaving level), but here it is studied by a small minority of students who do not aspire to Matriculation.

Of more than 700 farmers' sons entering secondary schools where agriculture was offered in 1967, fewer than 350 remained at school in 1970 in fourth-year classes. Of these only 184 study agriculture: 53 at Urrbrae and the remaining 131 in 20 country secondary schools. This suggests that a large proportion of farmers' sons are leaving at or before the end of the third year of secondary schooling, even in schools where agriculture is offered, and are not taking full advantage of the agricultural education already provided in rural areas.

MOUNT BARKER ROAD

The Hon. V. G. SPRINGETT: Yesterday I asked the Minister representing the Minister of Roads and Transport a question with regard to the Mount Barker Road. Has he a reply?

The Hon. A. F. KNEEBONE: My colleague, the Minister of Roads and Transport, has informed me that the Highways Department expects that that portion of the road affected by the spilling of the tallow will be clear and traffic back to normal by tonight; and this morning's paper reports this. The department will keep the surface under observation but there will be no restriction to traffic.

PREMIER'S DEPARTMENT

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

Leave granted.

The Hon. R. C. DeGARIS: My question concerns Mr. Claessen, who I believe was private secretary to the previous Leader of the Opposition and now is on the staff of the Premier's Department. It is rumoured that Mr. Claessen will be leaving for Sydney shortly. If that rumour is true, can the Chief Secretary say what Mr. Claessen will be doing in Sydney?

The Hon. A. J. SHARD: I am not conversant with this matter. However, I shall refer the question to the Premier and bring back a reply as soon as possible.

DERAILMENTS

The Hon. C. M. HILL: I seek leave to make a short statement prior to asking a question of the Minister of Lands representing the Minister of Roads and Transport.

Leave granted.

The Hon. C. M. HILL: The firm of Maunsell and Partners has been carrying out an investigation into the causes of derailments on the new standard gauge railway line between Broken Hill and Port Pirie. Earlier this session I asked whether this inquiry had been completed and whether a report had been received and, if it had, whether the report would be tabled or its contents made known to members of the Council. At that stage the Government had not received the report. Has the report of Maunsell and Partners now been received? If it has, will the Government table it?

The Hon. A. F. KNEEBONE: I do not know the exact position. However, I shall obtain this information from my colleague and bring back a reply for the honourable member as soon as possible.

FLINDERS RANGES

The Hon. A. M. WHYTE: I seek leave to make a short statement prior to asking a question of the Minister representing the Minister in charge of tourism.

Leave granted.

The Hon. A. M. WHYTE: The Far Northern Development Association has received a reply from the Director of Tourism (Mr. Pollnitz) to its request that the Tourist Bureau erect toilet facilities along the main tourist routes through the Flinders Ranges. As we are all aware, the volume of tourist traffic is growing every year. Part of the letter from Mr. Pollnitz is as follows:

> Funds are provided each year to subsidize local government authorities in the provision of improved tourist facilities. The subsidies granted are usually on a one Government to one local basis.

The difficulty in this area is that there are no local government authorities to provide their share on a $1 for $1 basis or, indeed, any finance whatsoever. Will the Minister take up with the Government the possibility of the Government's supplying all the money necessary for the provision of some tourist facilities, mainly toilet and ablution blocks, at selected points along the main tourist route in the Flinders Ranges?

The Hon. A. J. SHARD: I will take up the matter with my colleague, the Minister in charge of tourism, and bring back a reply as soon as possible.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Adult Education Centre, Murray Bridge,
Fulham North Primary School.

WHEAT DELIVERY QUOTAS ACT AMENDMENT BILL

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Wheat Delivery Quotas Act, 1969. Read a first time.

The Hon. T. M. CASEY: I move:

That this Bill be now read a second time.

The principal Act, the Wheat Delivery Quotas Act, 1969, which was enacted towards the end of last year, established a scheme for allocating wheat delivery quotas for the season that commenced on October 1, 1969. It now seems likely that the system of wheat delivery quotas will remain with us until the amount of wheat in storage is reduced to more manageable proportions. Accordingly, this Bill provides for the allocation of wheat delivery quotas for future quota seasons. It is clear that in the allocation of wheat delivery quotas for the first quota season some anomalies appeared. This does not in any way reflect on the work of the quota committees which were called upon to discharge a most unenviable task.

In this Bill, power is given to the advisory committee to resolve at least some of the anomalies that appeared. In addition, as honourable members will be aware, the Government has recently appointed a committee of inquiry to examine all aspects of the allocation of wheat delivery quotas. However, in the nature of things it is unlikely that effect could be given to any recommendations of this committee of inquiry in this quota season. Accordingly, the position will again be examined in the light of that committee's recommendations. Clauses 1 to 3 are formal or consequential upon amendments made elsewhere in the Act.

Clause 4 validates certain acts of the advisory committee. Honourable members will recall that the greater portion of the work in relation to the wheat delivery quotas was done by the gentlemen whose names are set out in section 26 of the principal Act. These gentlemen, who represented the various interests involved, were appointed by the then Government before there was any enabling legislation and in fact the principal Act was, I understand, largely the result of their recommendations and the recommendations of the industry. However, the principal Act did provide for the formal appointment of an advisory committee and, while it was intended that these gentlemen would constitute the first advisory committee, the necessity for their formal appointment was overlooked until some months ago. Accordingly, this provision validates all their actions between the time this Act came into force and the time that they were formally appointed.

Clause 5 provides for changes in the powers of the advisory committee by enabling it to allocate quotas for any quota season, since in the terms of the principal Act it could only allocate quotas for the 1969-70 season. Briefly, the system in the future will be that each production unit will have established for it a nominal quota that will be either the 1969-70 quota or the 1969-70 quota as adjusted in the manner provided in this Bill. The wheat delivery quota for a production unit for any future quota season will be the nominal quota for that production unit increased or decreased by the prescribed percentage determined for the season by the advisory committee. The prescribed percentage will be related to the amount by which, in any given quota season, the State quota exceeds or is less than 45,000,000 bushels, this figure being the State quota for the season which commenced on October 1, 1969.

Honourable members will no doubt be aware that the State quota for this season, that is, the State's share of the amount of wheat that will attract the advance payment under the Wheat Industry Stabilization Act, is 36,000,000 bushels, being the amount fixed by the wheat industry itself through the agency of the Australian Wheatgrowers Federation. Clause 6 inserts a new section 18a and is related to the question of the contingency reserve, that is, that amount that is set aside from the State quota to be used to satisfy appeals for increased quotas; previously this amount was determined by the advisory committee alone. It is clear that the actual size of this pool is of enormous importance in determining whether or not the review committee can do substantial justice within the limits of the State quota (and I emphasize the words "within the limits of the State quota"), because all that both committees can do is to ensure a fair distribution of the fixed amount of the State quota. Accordingly, the importance of properly determining the size of this contingency reserve is recognized by ensuring that both the committees, together

with a person appointed by the Minister, play a part in its determination. If, and only if, the persons who form the joint committee to fix this contingency reserve cannot agree, the Minister may himself fix the amount.

Clause 7 provides for applications for wheat delivery quotas. It is important to note here that the effect of this provision will be to limit applications from production units that have a nominal quota, that is, properties that delivered wheat during the 1969-70 season. In summary, it will be impossible, in the terms of the Act, to receive a quota in respect of land first brought into wheat production after the 1969-70 season, since every bushel of quota wheat allocated to that land would reduce the amount available for allocation to existing producers. Clause 8 amends section 22 of the principal Act to give effect to the proposals for the fixing of quotas for this season and for succeeding seasons.

Clause 9 strikes out from the principal Act the provisions that provided for the fixing of a basic quota by reference to areas of wheat planted for harvest during the 1969-70 season as an alternative to the fixing of quotas based on production over the previous five-year period. It is felt that the application of these provisions in the fixing of quotas gave rise to the greatest number of anomalies. Clause 10 provides for the fixing of special quotas for the 1969-70 season and is related to the power to adjust this quota before ascertaining a nominal quota for the property.

Clause 11, which inserts new sections 24a, 24b, 24c, 24d, 24e and 24f, sets out in some detail the basis of the future quota scheme and, accordingly, these proposed new provisions will be dealt with *seriatim*:

Section 24a provides for the establishment of a nominal quota for each production unit—this nominal quota will be the actual 1969-70 quota for that unit or the 1969-70 quota as adjusted in accordance with the succeeding provisions.

Section 24b excludes from the establishment of a nominal quota production unit that received a 1969-70 quota on the so-called "new ground" allocation, that is, production units that had not produced any wheat in the previous five seasons, where no wheat at all was delivered from those production units in the 1969-70 season, unless sufficient grounds can be established for the non-delivery. The reason for this provision is to ensure that such speculative applications do not prejudice existing growers.

Section 24c sets out the classes for 1969-70 quotas that may be adjusted by the advisory committee; briefly they are:

(*a*) quotas comprised of basic quotas allocated on the basis of area sown for harvest in the 1969-70 season;
and

(*b*) quotas consisting, in part, of special quotas, and as a corollary quotas which were based on only deliveries over the five-year period will not be adjusted by unilateral action of the committee. The reason for this adjustment provision is that it is in the classes (*a*) and (*b*) mentioned above that the bulk of the anomalies occurred. An appeal will, of course, be available against any adjustment, and a right for the holder of a wheat delivery quota to make representations before his quota is adjusted, is also provided.

Section 24d gives any wheatgrower the right to apply to the committee to have his 1969-70 quota adjusted.

Section 24e gives the committee limited power to attribute to a production unit a 1969-70 quota where, although wheat had been produced from that production unit during the whole or part of the previous five-year period, for some good and sufficient reason, no quota had been applied for the 1969-70 season.

Section 24f provides that adjustments made pursuant to the preceding sections will not affect past deliveries of wheat.

Clause 12 again enacts a number of new sections which are intended to spell out in some detail the procedure to be followed when a production unit or part of a production unit is transferred. Since in the terms of the principal Act persons occupying a production unit under lease were entitled to the allocation of a wheat delivery quota in respect of that production unit, the "falling in" of that lease has, for the purposes of these provisions, been regarded as a "transfer" of the production unit, or part, subject to the lease. The effect of the proposed new provisions may be summarized as follows:

(*a*) both parties to the transfer must give notice of the transfer to the advisory committee;

(*b*) if a sale of a property is involved and there has been over-quota wheat delivered from the property, the seller must give written notice to the buyer of the amount of that over-quota wheat. If the seller does not give

the notice the buyer may within six months of the sale avoid the contract of sale. The purpose of this requirement is to ensure that the buyer is in the best position to determine the price he should pay for the property, since the amount of over-quota wheat that has been delivered will affect the amount of wheat that can be delivered as over-quota wheat by the buyer of the property;

(*c*) where no over-quota wheat is involved the whole or an appropriate part of the wheat delivery quota follows the transfer of the whole or part of the production unit as the case requires; and

(*d*) where over-quota wheat is involved, until the over-quota wheat is taken up as quota wheat, the amount of wheat that the transferee can deliver from the production unit will, in effect, be reduced by the whole of the over-quota wheat where the whole production unit has been transferred or a proportionate part of the over-quota wheat when part only of the production unit is transferred.

Clause 13 provides for a standing deputy for the Chairman of the review committee and will enable the Chairman to call on his deputy at short notice if the Chairman is for any reason unable to attend a hearing of the review committee. Clause 14 recasts the provisions of section 38 of the principal Act, which relates to the determination of appeals, to relate that determination to appeals against the establishment of nominal quotas since, in the terms of the Act as proposed to be amended, every wheat delivery quota for a particular season will bear a precise mathematical relationship to the nominal quota on which it is based; thus any variation in the nominal quota will be reflected in the quota for a particular season.

Clause 15 makes certain formal amendments to section 40 and also retrospectively validates certain exercise of jurisdiction by the review committee. In fact, the review committee purported to deal with a number of appeals that were technically out of time, on the basis that, in an exercise of this nature, consideration should be given to the substantial merits of the case rather than technicalities; for the same reason the amendment proposed by clause 16 will allow the review committee, in considering an appeal, to go outside the four corners of the notice of appeal if it considers that substantial justice will thereby be done.

Clause 17 re-enacts section 49 of the principal Act which dealt with "short falls". Honourable members may recall that the section provided at subsection (3) that regard should be had to the amount of any short fall in allocating quotas for the next ensuing season. The amendment provides that a percentage of any short fall in one season will be added to the wheat delivery quota for the next succeeding season. The percentage, which may be up to 100 per cent to be added in any season, will be determined by the advisory committee, having regard to the total of the short falls in any season compared with the State quota for that season.

Clause 18 amends section 53 of the principal Act which deals with sales of wheat otherwise than to the Australian Wheat Board and provides for this section to have effect in relation to every quota season. Clause 19 inserts a new section 56a in the principal Act which spells out a little more clearly the rights of the Australian Wheat Board in relation to wheat delivered against a wheat delivery quota that is subsequently reduced. Adjustments made to the 1969-70 quota for the purposes of establishing a nominal quota have specifically been excluded from the operation of this section.

Clause 20 provides in effect that the decision of the review committee shall be final and without appeal. In addition, no appeal will lie from a decision of the Minister, since the only decision of consequence the Minister is required to make under this Act is to fix the amount of the contingency reserve for a quota season if the joint committees are unable to agree and it would be clearly inappropriate to have such a decision reviewable elsewhere. Finally, I should make it clear that, since the State quota has been reduced by 20 per cent (that is, from 45,000,000 bushels to 36,000,000 bushels), the wheat farmers in this State must look to an "across the board" cut in their existing quotas of the order of 20 per cent.

Although this Bill provides machinery for reducing the impact of anomalies as between individual farmers, even with the maximum use of that machinery it will be extremely unlikely that a farmer will receive a quota for this season equal in amount to his quota for last season. Such a farmer would, in fact, have had his quota for this season increased by more than 20 per cent over the quota that he would have received without

the benefit of the adjustment provisions contained in this measure. Such an increase could only be made by reducing other quotas by substantially more than the 20 per cent contemplated.

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

LOTTERY AND GAMING ACT AMENDMENT BILL (BETTING)

Second reading.

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

That this Bill be now read a second time.

It makes a number of important amendments to the Lottery and Gaming Act. The principal amendments deal with:

(*a*) betting on dog races;
(*b*) provision for jackpot totalizators;
(*c*) provision for six extra mid-week horse-racing days per annum on metropolitan racecourses;
(*d*) redistribution of totalizator deductions;
(*e*) the term of office of a member of the Totalizator Agency Board appointed to fill a casual vacancy;
(*f*) commission on "pre-post" bets;
(*g*) the repeal of sections dealing with the winning bets tax that are now obsolete;
(*h*) provision enabling bookmakers to issue doubles charts;
(*i*) power of the court to confiscate any instrument of gaming upon conviction;
(*j*) the repeal or amendment of obsolete provisions of the Act; and
(*k*) provisions consequential upon the foregoing matters.

An important provision of the Bill legalizes betting by totalizator and bookmakers at greyhound-racing meetings conducted under the control of the National Coursing Association. Greyhound-racing differs considerably from greyhound coursing and plumpton racing, which has operated in country areas in South Australia for many years. Coursing meetings are conducted with live hares in the open while plumpton coursing is also conducted with live hares which are released from races or boxes. Greyhound-racing is the running of dogs in competition against the other or others whether in pursuit of a running object or as a test of speed but using a mechanical hare or other device instead of a live hare.

The training of greyhounds for greyhound-racing is carried out with a mechanical lure and does not involve live hares, thereby eliminating any suggestion of cruelty to animals. Community standards and attitudes have changed in the past 30 years and it appears anomalous that plumpton racing is permitted with betting but that betting on mechanical lure racing is illegal.

Greyhound-racing clubs have expended considerable sums on preparing tracks and amenities for the conduct of greyhound-racing and are anxious to have the totalizator introduced as soon as possible so that some revenue may be derived from this source. This would also provide additional revenue for the Treasury. Five greyhound-racing clubs have built or have started to build race tracks:

(1) The Adelaide Greyhound Racing Club has built a sports ground at Bolivar at a cost of $45,000. More finance is needed to make this sports ground what it should be and this can be acquired only when betting is made legal for greyhound-racing. Races on Sunday afternoons average 400 people, and there were 3,000 people at the Adelaide Cup in August. The club is planning for Thursday night racing.
(2) The Southern Greyhound Raceway has built a track on the Strathalbyn Trotting Track. Saturday afternoons average at least 200 people. The raceway would race on Monday night if betting facilities were available.
(3) The South Australian Greyhound Racing Club has finance in hand to provide racing facilities at the Gawler Showgrounds when betting is permitted.
(4) The Port Pirie Racing, Trotting and Greyhound Racing Club has built a track on the trotting track at Phoenix Park, Port Pirie.
(5) The Whyalla Greyhound-Racing Club has built a race track at a great expense but does not intend racing until betting is permitted.

Each week racing is conducted at Ryan's Sports Ground, Bolivar, by the Adelaide Greyhound Racing Club. Officials take all steps and precautions to stop any illegal betting and wagering on greyhound racing at their meetings, but as they are patronized by average Australians it is very difficult to ensure that there is no wagering and betting on the dogs. Greyhound-racing in Victoria and New South Wales has had betting associated with it for 30 years on the racecourse and has been included in the T.A.B. programme since the inception of the T.A.B. in New South Wales and since 1965 in Victoria.

It is understood that the board of the T.A.B. has considered the possibility of greyhound-racing and has agreed that, if enabling legislation is passed, it would have no objection to conducting betting on suitable meetings. Betting and wagering have also been permitted in Tasmania and Queensland for over 30

years and have this year started in Darwin. It is claimed that greyhound-racing will provide a new or at least a growing industry for the State and will employ a large number of people part and/or full-time in the promotion of the sport, and in the care and training of greyhounds. It will develop a new spectator sport and entertainment and will encourage a new following and with betting will earn additional revenue for the State.

The control exercised over greyhound-racing is of an extremely high standard, which cannot be bettered by that exercised by galloping or trotting authorities. In the Eastern States the controlling body of the Greyhound Racing Control Board appoints a chief steward whose duty it is to enforce all the rules set out by the Dog Racing Control Board of Victoria, New South Wales, Tasmania and Queensland. The interests of punters and investors are so well protected in Victoria and New South Wales that T.A.B. operates on meetings of greyhound-racing clubs in both of those States. This indicates the confidence that these Governments have in the administration of greyhound-racing.

There are now enough experienced officials in South Australia to conduct greyhound-racing on the same high standard as that which has been set in the Eastern States. The South Australian clubs are very fortunate to have the benefit of the experience gained in the Eastern States. All training tracks in South Australia must be registered, and they are kept under constant supervision to see that no malpractice or cruelty occurs at any time. Indications in the Eastern States are that betting on greyhounds has had no adverse effect on the community, and there are no indications of people suffering hardship because of this. A motion was carried in the House of Assembly on August 24, 1966, relating to one moved on August 3, 1966, that in the opinion of this House a Bill should be introduced to provide for: (*a*) the repeal of the Coursing Restriction Act, 1927; (*b*) the amendment of the Lottery and Gaming Act, 1936-1966, to allow the licensing of the totalizator at greyhound race meetings; and (*c*) the control of greyhound-racing in South Australia (*Hansard* 830-1304). Subsequently a Bill was passed allowing the use of the mechanical lure at greyhound race meetings, and it is considered that steps should now be taken to permit betting on greyhound-racing. The Bill includes provision for betting by bookmakers as well as totalizator. There can be no doubt about the public demand for this type of betting. It meets a public demand in horse-racing and trotting, and bookmakers have operated for years at coursing meetings. There is no reason to distinguish greyhound-racing meetings from horse-racing and trotting meetings in this regard.

Racing clubs are considering the establishment of jackpot totalizator fixtures. The ordinary jackpot totalizator involves the selection of the winner of each of a number of nominated races (say 6). If there is no successful ticket the pool is carried forward. Another proposal under consideration is the triella totalizator. Here the bettor is required to select the successful quinella combination in each of three nominated races. If there is no successful bettor, the pool is again carried forward. The legal impediment to jackpot totalizator betting (including the triella) is that the present Act does not permit the carrying over of the pool from one meeting to another or the transfer of the pool from one club to another. This Bill enables this to be done.

The Bill provides for six extra mid-week racing dates on metropolitan racecourses. The pattern of racing has changed in recent years, and if racing is to prosper and remain a viable industry it is necessary to adjust to these changes. Nowadays most horses competing at country meetings are trained in the metropolitan area, and, with high purchase price, training and travelling costs, owners and trainers are reluctant to continue to take horses to the country to compete for limited prize money. It is apparent that country racing relies very heavily on the city racegoer, and it is evident that country clubs are not receiving worthwhile local support. It must, I think, be accepted that the success and buoyancy of country meetings is closely allied to the success of city meetings and to the welfare of racing in general. The object of this provision is not to foster city clubs at the expense of country meetings but to provide a facility for the city racegoer who is interested in attending mid-week meetings, and also to give mid-week racing a much needed boost thereby increasing the flow of money throughout the industry.

With a greater availability of money, more owners may be attracted to racing as they see an economic return on their investment. This in time may mean a greater pool of horses upon which both city and country clubs can draw for their race-day fields. In the long term, it is hoped, country racing will benefit from the general strengthening of racing. The success of the meeting at Morphettville on

August 27, 1969, and the ready acceptance of the Globe Derby Park trotting meetings indicate that there is a demand for city mid-week racing and that such meetings are appreciated and patronised by the public.

I turn to the provisions of the Bill relating to the distribution of totalizator deductions. Upon the introduction of T.A.B. the deduction from the "on-course" totalizator pools was increased from 12¾ per cent to 14 per cent, the additional 1¼ per cent being retained by the clubs for a period of three years as from March 29, 1967. In 1969 the clubs approached the then Government and sought to retain the 1¼ per cent in future. The then Government refused this request, and the Act was amended in 1969 to provide for the clubs to retain .75 per cent, the remaining .5 per cent being paid to the Hospitals Fund. The clubs must meet the operating costs out of their share and must finance capital improvements and expansion. They are faced with rising costs. It is important to Government revenue as well as to the clubs themselves that increased turnover be achieved by expenditure on modern totalizator equipment and facilities. The Government is satisfied that it is necessary and just to allow the clubs to retain the 1¼ per cent.

The Bill deals with casual vacancies on the Totalizator Agency Board. Section 31 (*c*) (6) of the Act refers to a person being "appointed to fill the vacancy". The Crown Solicitor has advised that a person so appointed is appointed for the balance of the term of the person being replaced. The board's solicitors have taken a contrary view. The Bill clears up the doubt by providing that a person appointed to fill a casual vacancy will hold office only for the balance of the term of the person replaced. The other matters dealt with in this Bill can be explained as I deal with the individual clauses.

Hitherto, throughout the Act a distinction has been drawn between a horse race and a trotting race although, in fact, a trotting race is a horse race. Clause 2 (*a*) accordingly defines a "horse race" to include a trotting race. The Act has never before catered for dog-racing, but this Bill is designed to make provision for betting on dog races and accordingly the definition of "racecourse" has to be revised to include a racecourse for dog races. Clause 2 (*b*) enacts the new definition of "racecourse" and also new definitions of "race meeting" and "racing club". These three definitions are inter-connected. Clause 2 (*c*) clarifies paragraph (*a*) of the definition of "unlawful gaming" by substituting for the expression "licensed totalizator" (which is meaningless) the expression "totalizator conducted by the Totalizator Agency Board or in respect of which a licence granted under this Act is in force".

There are a number of weaknesses in section 15 of the principle Act in its present form. The second schedule to the Act contains regulations made under section 26 and in effect the Act can be amended by regulation. This means that when the Act is amended by regulations, which are subject to disallowance by Parliament, the Act cannot be consolidated with its amendments until the period of disallowance has elapsed, and this could inhibit the consolidation programme. It is intended, therefore, that the second schedule be repealed and that provision be made for the regulations to be made in the normal way. Subsections (4), (5) and (6) of the Act also now serve no purpose.

Clause 3 accordingly repeals section 15 and enacts new sections 15 and 15a in its place. New section 15 provides for the issue of totalizator licences and other matter provided for in subsections (1), (2) and (3) of the present section. However, the present section does not provide a sanction for the unauthorized use of a totalizator. This is remedied by new section 15 (2), which provides a penalty of $500 or six months' imprisonment or both. New section 15a enables a racing club to carry over its totalizator dividend pool from one day to another and to transfer its totalizator dividend pool to another club subject to the regulations. This would enable a club to conduct a jackpot totalizator with power to carry over the jackpot.

Clause 4 restricts section 16 to racecourses at which horse races other than trotting races are conducted. This is the present intention of the section. Clause 5 and paragraphs (*a*) to (*d*) of clause 6 make consequential amendments, while clause 6 (*e*) allows the issue of totalizator licences to each of the three metropolitan racing clubs for two extra mid-week race meetings a year. Clause 6 (*b*) strikes out section 19 (5), as that subsection is now obsolete. Clause 7 amends section 20 of the principal Act by enacting two new subsections (1a) and (1b). Subsection (1a), which is to come into operation on a day to be fixed by proclamation, has much the same effect as the existing subsection (1) except that it relates to the extra mid-week meetings for which the totalizator licence is not to be issued to a club unless the Commissioner of Police is satisfied that the club will provide totalizator

facilities at the Grandstand and Flat or the Grandstand and Derby and that, where the Derby is to be opened for such meetings, admission fee to that enclosure must not be greater than the normal fee for admission to the Flat. This will permit clubs to close the Derby or Flat enclosure of the racecourse to the public on those weekdays if and whenever necessary. New subsection (1b) brings subsection (1a) into operation on a day to be fixed by proclamation.

Clause 8 amends section 20a so as to confine its application to racing clubs that normally conduct horse races other than trotting races, as is the intention of the section. Clause 9 repeals section 22b, which is now obsolete. Clause 10 amends section 23 by extending the application of the sections referred to therein to dog-race meetings. Clause 11 makes a number of consequential amendments to section 23a. Clause 12 substitutes for the reference to an inspector or sub-inspector of police in section 25 the reference to a member of the police force of or above the rank of inspector. Clause 13 amends section 26 by re-enacting in a new paragraph (*a*) the contents of the existing paragraphs (*a*) and (*b*) omitting the reference to the second schedule, which is being repealed so that new regulations may be made independently of the Act to take the place of that schedule. The clause also increases the penalty for a breach of a regulation from $20 to $50 and keeps alive the regulations presently contained in the second schedule until they are specifically revoked and replaced.

Clause 14 re-enacts the provisions of section 28 in a simplified form after omitting obsolete provisions, making consequential amendments and providing for a club to pay into the Hospitals Fund, until December 31, 1970, out of the 14 per cent deducted from moneys invested on the totalizator ½ per cent of those moneys invested and thereafter for the club to retain the balance of the amount deducted after paying the stamp duty, thus making the commission to the clubs equivalent to 8¾ per cent of the on-course investments. Clause 15 makes a number of consequential amendments to section 29.

Clause 16 enacts new sections 30a and 30b, which deal with totalizators at dog-race meetings. New section 30a provides that no licence is to be issued for the use of the totalizator at dog races without the approval of the National Coursing Association. New section 30b imposes certain restrictions on the issue of totalizator licences in respect of dog-racing. Subclause (1) restricts the use of the totalizator at dog-races within a radius of 15 miles from the General Post Office to a maximum of 52 meetings a year. Subclause (2) provides for not more than two charity dog-race meetings in addition to those provided for in subclause (1) to be held by the Adelaide Greyhound Racing Club within 15 miles of the General Post Office. Subclause (3) provides that outside a radius of 15 miles from the General Post Office there will be not more than 150 dog-race meetings a year of which (*a*) not more than 100 will be conducted at Gawler or Strathalbyn; and (*b*) not more than 50 will be conducted at Port Pirie or Whyalla.

Subclause (4) provides for charity dog-race meetings to be held by country clubs, and subclause (5) provides for an increase in the number of days in any year on which the use of the totalizator by a club is authorized on condition that there is a corresponding decrease in the number of days in that year on which the use of the totalizator by some other club is authorized. Clause 17 amends section 31a by rewording the definition of "double event bet" to catch up dog races and by making other consequential amendments to that section. Clause 18 up-dates the reference to the Public Service Act and provides for representation of the National Coursing Association on the Totalizator Agency Board. Clause 19 amends section 31c by providing that a person appointed to fill a casual vacancy on the Totalizator Agency Board is to be appointed only for the balance of the term of office of the member in whose place he is appointed. It also makes an amendment that is consequential on the amendment to section 31b.

Clause 20 makes a consequential amendment to section 31ha. Clause 21 makes consequential amendments to section 31j. Clause 22 extends the application of subsection (3) of section 31ka to dog-racing. Clauses 23 to 26 make consequential and clarifying amendments to sections 31n, 31na, 31p and 31q. Clause 27 deletes from section 31s the reference to section 44c, which is being repealed by clause 40 of this Bill. Clause 28 simplifies the definitions of "country racing club" and "metropolitan racing club" and strikes out certain other definitions that are no longer required. Clause 29 repeals section 32a, which will no longer be required in view of the new definitions of "country racing club" and "metropolitan racing club". Clause 30 clarifies paragraph (*a*) of subsection (1) of section 33.

Clause 31 substitutes the Chief Secretary for the reference to the Treasurer and up-dates the reference to the Public Service Act in section 34. Clause 32 substitutes the Chief Secretary for the reference to the Treasurer in section 34a as the Chief Secretary is the Minister responsible for the administration of the Act. Clause 33 makes a consequential amendment to section 38. Clause 34 (*a*) makes a consequential amendment to subsection (1) of section 39. Clause 34 (*b*) replaces subsections (2) and (3) of section 39 with the following new subsections:

Subsection (2) provides that a committee of a club may grant permits to licensed bookmakers subject to such conditions as the committee thinks fit.

Subsection (3) requires a bookmaker, before he carries on business as such at a coursing meeting or dog race meeting, to obtain a permit from the National Coursing Association of South Australia.

Subsection (4) requires the Betting Control Board to consent to the issue of a permit in respect of a coursing meeting or dog race meeting.

Subsection (5) provides for a limit of 65 coursing meetings in any year, of which not more than 15 are to be enclosed meetings and 50 are to be open coursing meetings.

Subsection (6) provides that bookmakers must not carry on business at a dog race meeting unless a licence has been issued to use the totalizator at that meeting.

Clause 35 re-enacts subsection (1) of section 40, which deals with the payment of commission on bets made with bookmakers, but the commission is to be calculated on bets made on events decided during the previous week. Paragraph (*b*) of the clause makes a consequential amendment. Clause 36 replaces subsection (2) of section 41, which deals with the application of the commission on bets made with bookmakers. The new subsection makes a slight alteration to the application of the commission on "pre-post" bets (that is bets made prior to the day an event decided). Pre-post bets on a few of the more important races (particularly doubles bets) are laid at various places for several weeks before those races are run. At present the commission on those bets is shared between the clubs at whose meetings the bets are made and the Government in stated proportions. Thus, a very small amount of the commission is sometimes divided amongst several clubs.

So far as pre-post bets on South Australian races are concerned, the proposed subsection provides that the clubs and the Government should continue to receive the same proportions of the commission but, instead of the clubs' share being divided between the clubs at whose meetings the various bets are made, it is provided that the commission shall be paid to the club which conducts the events upon which the bets are made. Thus, the South Australian Jockey Club would receive twenty-five thirty-sixths of the commission on all pre-post bets on the Goodwood Handicap and the Adelaide Cup, instead of perhaps 10 clubs sharing the same amount. In this regard, the clubs at whose meetings the bets are made would have little to lose and, in any case, it seems doubtful whether they should have a better right to the commission than the club that conducts the races in question.

So far as pre-post bets on events in other States are concerned, it is proposed that all of the commission on such bets should be payable to the Government. The above proposals will simplify—(*a*) the lodging of returns by bookmakers; (*b*) the keeping of records by the Betting Control Board; and (*c*) the distribution of commission; and the revised draft would have the added advantage of tidying up the subsection by omitting obsolete provisions and making the distribution of local commission consistent. Paragraph (*b*) of the clause provides that payments under the section are to be made monthly or by arrangement. Clause 37 up-dates the definition of "the metropolitan area" and strikes out subsection (4), which is now obsolete. Clause 38 makes a consequential amendment to section 42a.

Clause 39 strikes out an obsolete paragraph of subsection (1a) of section 44 and makes a consequential amendment to paragraph (*b*) of that subsection. Clause 40 repeals sections 44a, 44b and 44c, which dealt with the winning bets tax and which are now obsolete. Clause 41 makes a consequential amendment to section 54a. Clause 42 amends section 60 so as to make it consistent with the rest of the Act. Clause 43 (paragraph (*a*)) amends section 64 with the specific intention of enabling bookmakers, with the written authority of the board granted under section 67, to issue doubles charts, a right that bookmakers in other States already have. Paragraph (*b*) of the clause makes a consequential amendment. Clauses 44 and 45 make consequential amendments to sections 65 and 66.

Clause 46 clarifies subsections (1) and (2) of section 67 by re-enacting them in a clearer form. Clauses 47, 48 and 49 make a number of consequential amendments to section 67a, 69 and 70. Clause 50 up-dates a reference in section 73 to sub-inspector (which is no longer a rank in the police force) by substituting for it a reference to inspector. Clause 51 up-dates a reference in section 78 to the register book kept pursuant to the Real Property Act. Clauses 52, 53 and 54 up-date references in sections 80, 81 and 83 to various ranks in the police force. Clause 55 makes a consequential amendment to section 99. Clause 56 corrects a drafting reference to the principal Act. Clause 57 re-enacts section 106 so as to clarify its provisions.

Clause 58 enacts a new section 110a, which confers on a court a power, upon conviction of a person, to confiscate any instrument of gaming used by him in connection with any matter giving rise to or arising out of the commission of the offence. The only provision in the Act vesting power in a court to order the confiscation of money, articles, etc., used in connection with gaming offences is contained in section 71. The provision is restricted to those situations where the property has been seized pursuant to a warrant issued under that section. It frequently happens that members of the police force who are not armed with warrants under section 71 have occasion to seize as evidence in court proceedings money and other property that have been used in connection with offences against the Act.

One such example is where an illegal bookmaker is detained and large sums of money and other betting paraphernalia are found in his possession. After completion of the court proceedings and notwithstanding the conviction of the offender, the court has no power to order confiscation of the property unless the case comes within the ambit of section 71. In consequence, the police are obliged to return the property to the defendant, thus providing him with a fresh opportunity to continue his illegal enterprises. The Government feels that this state of affairs is wrong and that a court should be provided with authority to order forfeiture in appropriate cases where a conviction has been recorded, and new section 110a contains the necessary authority.

Clause 59 re-enacts section 113 so as to clarify its provisions. Clause 60 re-enacts section 114 so as to clarify its provisions, except that the use of premises by a body corporate for unlawful gaming is made an offence punishable with a penalty of $500. It would not be practicable to cancel the registration of a company (as the present section provides) without serious loss to creditors of the company. Clause 61 repeals the second schedule to the Act. In this connection, I would draw attention to my explanation of clause 13 and to new subsection (2) of section 26 inserted by that clause.

The Hon. Sir NORMAN JUDE secured the adjournment of the debate.

SUCCESSION DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 2750.)

The Hon. H. K. KEMP (Southern): I think there are some reasonable grounds for my right to protest against this legislation. Insufficient time has been allowed us to examine this extremely complex and difficult Bill. It is inconsiderate to have one's final preparation truncated as savagely as has just occurred. This important legislation has been causing me deep concern for a considerable time. The impact of all types of capital taxation has been increased as a result of inflation. Because of the runaway inflation we have experienced since the Second World War, the impact of succession duty has increased tremendously, though that applies to other forms of taxation as well.

The position is now arising where anyone who has a duty he wishes to discharge conscientiously to the public must warn everyone of reasonably thrifty habits, who has done as much as possible to provide for his family, to check the position regarding what will happen in the event of his death. I am not talking about altered provisions in the Bill but about the present state of affairs. A person who had provided adequately for his family 10 years ago, or even since then, could leave his family practically destitute today if he has not taken appropriate action.

I am not talking rubbish. This legislation affects everyone in the community. Too much has been said about the primary producer, because this legislation applies equally to a man who owns a freehold shop in a suburban area or to a small businessman who owns his house and who is providing for his family. In the case I shall cite, the succession was not a very rich one; the estate comprised a shop at a supermarket and four lock-up shops in an Adelaide suburb.

The gross value of the whole estate was $50,000, and there were liabilities (trading accounts) of about $8,000. When the succession duty of $2,600 and the Commonwealth estate duty of $2,400 had been paid, the widow had to finance the estate by lending it $5,000 of her own funds, and the balance of the deficiency is being recouped from her income.

This man thought that he was leaving his widow in a good financial position, but she had to find the $5,000 and carry on a debt, as well as preserve the assets. Another example is an old-established grocery business in the Adelaide area which has been carried on by the same family for several generations. To meet the obligations of the business over the next five or six years the whole of the profit will have to be devoted to paying off liabilities, or the business will have to be sold. These people I have referred to are not rich, but they thought that they had made adequate provision for the future. The values on which succession duty is being paid today have increased so greatly as a result of inflation that what was sufficient provision a few years ago is now insufficient to ensure anything like the necessary safeguards.

As a result of the proposed changes in the legislation under this Bill serious difficulties will arise for many people. There will be great problems where there has been a separate succession and a rapid clearing of some of the essential equipment of a husband and wife. There will be no more Form U procedure and no more separate succession as far as the house is concerned. All of the assets will be aggregated with the rest of the estate, and any life insurance that has been taken out to provide for the death duties that must be met will also be aggregated.

A man and his wife who own their house in joint tenancy and a man and his wife who have a joint bank account may leave the surviving member in desperate circumstances until the whole estate has been cleared. The winding up of a city estate takes about six to nine months, possibly longer. It is rare for a business of any complexity to be wound up in a shorter time than one year; often two years is necessary. With the aggregation of assets and the abolition of the separate succession, and if all the assets are tied up so that the survivor cannot operate on them personally, where will the widow and family get the funds with which to survive until the estate is wound up? Under the Bill this will occur not only for the small businessman and the big businessman but it will apply equally to everyone except public servants and probably members of Parliament, who are looked after very well because of the clause that enables their superannuation benefits to be free from duties.

A man on a good salary employed by a private employer is in trouble, too; he needs to look to his position immediately. Even under the old legislation that was necessary, but under this Bill he can be in serious trouble. What the Government calls loopholes are really ways in which wise provision can be made for the future. A very heavy burden is being laid on all who have any possessions at all.

Let us not accept as correct statements that this Bill is relieving the burden of succession duties on people in the lower income group and the middle income group: actually, the Bill is increasing this form of capital taxation all round. And it is increasing it tremendously when the successions are between $100,000 and $200,000, which are equivalent to successions of £50,000 and £100,000. The sum of $100,000 is not a large sum, but most of us, particularly the older ones, who are deeply concerned about what we ought to do to protect relatives who will probably survive us, think of money in terms of the old currency and do not realize where we fit into the context of taxation today.

Everyone who is conscientious and has a sense of public duty must warn people about the condition in which they will leave their wives and families. The position was bad enough under the old legislation but it is even worse under this Bill. Because we were unable to get details of many instances of the impact of this form of capital taxation in the city area, the Hon. Mr. DeGaris recently had to draw many illustrations from the rural sector. However, that sector is no different in this respect from the city sector. The only difference is perhaps that, necessarily, the farmer has most of his capital tied up in the land.

Being normally a fairly frugal person, the farmer ploughs back into his farm as much as he thinks is wise. In fact, today most farmers have gone far past what is wise in ploughing back their profits of past years. I have frequently had to warn farmers to watch carefully what they are doing in incurring outside commitments. Actually, I do not think there is much possibility of a farm in the Mallee surviving if it has obligations outside the farm of much more than 10 per cent of its value.

If the farmer has to pay mortgage rates of interest on more than a comparatively small

sum, his farm is completely doomed—probably within the lifetime of the farmer. It certainly has no chance at all of survival if there is a death in the family and the farm has to pass in succession to another person. The reason is that any farm that has any chance of survival in the Mallee will have a value that, even under present legislation, will attract duties imposed by the State and Commonwealth Governments of about $28,000. If there are not liquid assets to meet this debt the farm must be sold. If a farmer has to go to a bank to ask for finance to pay that $28,000 he is taking on a commitment that he has no possibility of supporting.

Earlier in this debate the Hon. Mr. DeGaris referred to 15 farms that he had taken at random. When we consider the capital commitments of those farms we realize that only three of them are earning enough to carry that debt. The other 12 just could not pay it. There would be no money at all to support the running of the farm. The only farm that can survive in South Australia on the data that has been put before us is the farm that already has among its assets sufficient capital to be turned into liquid assets to pay probate and estate duties. And the position is exactly the same with people in the city. The small manufacturer who has built up a business and ploughed back into it all the surpluses he has earned is laying a trap for himself that is just as serious as the trap the farmer is in.

Unless a salary earner is employed by the Government and is paying into a superannuation fund, he is also laying a trap for himself that is just as deep and cavernous. I have often called succession duties and estate duties the most iniquitous forms of taxation, because they are levied without any regard to the profitability of what is being taxed. Those forms of taxation are levies on past frugality. They are simply "gimmes" by the State—a killing of the goose that lays the golden egg. The simple fact is that in most cases of self-employed people the capital of the estate, upon which the tax is so heavy, is the means of production, and a capital levy on the means of production is killing the goose that lays the golden egg. That is true even under the old Act, but the present legislation is about the most iniquitous that could be devised.

Unfortunately, its impact comes at a time when we are just beginning to feel the deep significance of that iniquitous gift duty that was imposed last year. The Hon. Mr. DeGaris referred to an instance, but he did not emphasize it sufficiently. Members will recall that he spoke about the man who had returned from the Kokoda Trail and took up about 1,000 acres in the South-East. This man worked like a nigger for 20 years and died at the age of 60. He left a farm that should have been at the beginning of its most productive years, but that farm is now ploughed into the ground. It was not a rich farm, about one-third of the 1,000 acres having remained uncleared. However, it returned a reasonably comfortable income, and when it came up for probate it was valued at just over $100,000. To pay probate duties a bank advance was sought, and this has to be repaid, too.

After three years of trying to settle the estate, the widow, who should have been in possession of a property that would give her a reasonable chance of making a living, is now employed as a motel waitress. The son, who still hopes he can save the farm, is working as a contractor with the tractor and the remaining equipment. This farm is in fact worth about $67,000 but cannot be sold. Obligations undertaken to try to preserve the farm have left no money in it at all. The only possibility for the farmer's son, who thought he was in a safe position, is to walk off the farm without possession, because there is no equity left in it. The loan of $10,000 from the bank has to be met; there is a stock mortgage; and various sums are due to other people who have helped in the past, and there is also land tax to be paid.

This widow was sure that the farm would be able to give her what she had been left under the will, a life enjoyment of the basic wage, but by the time the tax collector had been busy the farm could not pay this. An arrangement was considered where she could draw the capital sum after the obligation to the bank had been met, but the lawyer suggested that gift duty might be involved. This is the harshness with which people who collect State taxes administer these Acts: there is no compassion in the administration and no reasonable consideration at all. I know that there is power to delay the payment of tax and to allow some of the tax to stand at a low interest rate, but these allowances do no more than encourage people to hang on in what is essentially a hopeless position.

The person concerned decides that he will hang on to his farm but, after working his guts out, he is still in a hopeless position. Perhaps the kindest thing the tax collector can do is to use the screw as hard as he can and

put this sort of person out of his misery immediately. Perhaps this is the reason for the harsh administration dealt out under these Acts. I repeat my warning to people who are not employed in the Public Service and do not enjoy the protection of the Public Service Act and the superannuation scheme: they should check immediately their financial position if they are reaching the years of maturity, and be extremely careful what they do. At present this Government is using the provisions, which have been thought wise in past years to safeguard the best possible circumstances for widows and children, as the means of screwing more taxes from the savings of people. That is the true position, and I do not think there is any possibility of its being refuted.

I could give many examples that are parallel with those I have already put before the Council. The small business is one example. On the death of the owner of that business, the widow, instead of receiving a legacy, gets a bill for $5,000, and the business thereby goes into debt for a number of years before that person can get her husband's legacy. That small business, which has been carried on for several generations, must now go to the wall or the people running it must find some other means of buying their daily bread.

The position with the farmers, because of the decreased profitability of farming on which I have addressed this Council before, is that unless a farm today has sufficient liquid assets or assets which can be realized to pay the whole of the estate duty and probate that is due, it will have to be sold on the next death in the family. There is no doubt about that. Unless about 28 per cent of the capital value of the farm is available to pay those duties today, a death in that family will involve the sale of the land.

This would automatically take from the succession all these much vaunted reliefs that are going to be given to agricultural estates, because as soon as the land is sold the probate duty goes up. As soon as a farmer takes his wife or son into partnership, he loses all the benefit of what this Government puts forward as a terribly generous rebate on agricultural estates.

If we put to the people the true position of what is happening under this Bill, I just wonder what their reaction would be. I wonder what the reaction of the people down in Elder Park would have been if the Premier had said to them truthfully what he was going to do with them in such a short time after he made those promises. I think he would have been torn limb from limb. It is just inconceivable that the public of South Australia agreed with his policy in the circumstances with which we are faced today. This policy and the policy that underlies this legislation means that there will be no more self-employment in South Australia except at a very low level of income indeed.

This Bill is the death of farming as we know it. I should like to quote the words of a very learned and expert gentleman who has been studying this subject for years. He said:

> The only way in which the two aims of equity in tax payment and of efficiency in the use of resources are reconcilable under present legislation is if it is the Government's intention to replace the family farm unity with a non-dutiable incorporated firm.

That is the studied opinion of a very able man. We have proof of this coming before us repeatedly, and anyone who has contact with the agricultural community will know that this is actually the case. Far from trying to help the farmers, this Government has adopted and is screwing home a policy that must kill the farmer as he stands today.

Although a farmer may have accumulated enough in realizable assets to pay the first estate duty that will be levied on his farm, what happens when the next death occurs in that family? Under today's picture in farming with the returns that are in front of us, even the biggest and the richest have no possibility of accumulating, over a normal term of tenure, the capital that is required to meet succession and estate duties.

Anything that we do under this legislation before us is only going to make the position worse, yet this Government calls this helping the man on the land. Any farmer who tries to join with his neighbour or to work in partnership is hoist on a petard once again. The point is, of course, that these things, which are designed to hunt the farmer out of his soft nest, are now sufficiently high and hard in their impact to reach right into the city area and into the families of people who are prepared to fit themselves to earn any great sum at all. This certainly will not affect the wage-earner so long as he is content to earn the basic wage or a little more and to spend everything that he earns as it comes in.

However, the man who is going to buy his own house with his wife as a joint tenant (as, goodness knows, he should be able to) is going to be hit. That man will want to cover his obligations while he pays off that house in the years of low salary by taking out an

insurance policy as well. He will want to furnish the house, so possibly he will take on some hire-purchase agreement, too. As soon as this man gets his feet on the ground, he will come into taxation brackets that are going up very steeply, and he will be hit hard. As the Hon. Mr. DeGaris said, after he had worked out the figures with the Under Treasurer, the taxation increase on those who have been reasonably thrifty and frugal will be 22 per cent or more. What a grand relief of taxation!

Everyone is caught by this Bill, except those who are covered by the Government superannuation scheme, the benefits of which are excluded. The man who is really in trouble is the one who has spent a lifetime working up any sort of business at all and has purchased the freehold on which to work that business. That man is going to have virtually the whole of his assets taken, and if he is not very careful now he will be leaving his wife destitute for the two years that it may take to settle his estate. These are not dreamed-up instances—they are instances of what has actually occurred here in Adelaide. Many women have had to go to the banks in order to carry on, when their husbands thought they were leaving them in comparative affluence.

There are other serious aspects to this matter, but the one we should surely be able to get through to the Labor Party is the extreme significance of this Bill. Do honourable members opposite want us to own South Australia ourselves or do they want the whole ownership of the State to go to incorporated companies working from overseas? There was some reference in the second reading explanation and in many interjections yesterday to the fact that the rates of succession duty in South Australia are lower than those in New South Wales and Victoria. A brief glance at the nature of things in those two States will indicate why this is so.

In South Australia, probably our two greatest industries are Chrysler and General Motors-Holden, both of which are controlled from overseas, with very little local capital in them. Big corporations like those attract no succession duty taxation. Great improvements have been made to the shopping facilities in and around Adelaide (a development that most of us have been glad to see and some of us have been concerned to see) but the ownership of those properties is not here in South Australia: it is overseas. Again, it is company ownership that escapes completely this form of taxation.

In South Australia today probably most of the farming land is owned privately, but that may not last much longer. A few minutes ago I gave a completely unbiased statement on taxation, made not by me but by a person with detailed knowledge of the situation. The only way in which we can reconcile taxation today with the current position is the change in ownership of land from private individuals to incorporated bodies. The question is: does the Government want us to own South Australia or is it going to allow it to be controlled from overseas, as it is now doing?

Already, capitalists are in South Australia buying up farm land in a big way. It is most unfair that the private farmer must meet these heavy costs imposed upon him. An incorporated company comes in and buys his farm after he has abandoned it. It can then work it on a large scale and it completely escapes taxation, except land tax and local rates. The people of South Australia must understand that, by this sort of legislation, they are being deprived of their own land—and much more quickly than the land was ever taken from the Aborigines. There is desperate need for action to be taken against the discrimination being perpetrated in this legislation.

The man who takes a nice job at the university or in the Public Service is protected completely against this type of taxation, while the man who takes a job at Holdens or tries to work under his own steam gets ploughed into the ground, and that is a serious matter.

The Hon. A. J. Shard: How much longer are you going to talk?

The Hon. H. K. KEMP: There are other aspects of this matter that can be dealt with. I must apologize for speaking to the Council when comparatively ill-prepared to speak. A lot of work can be done on this Bill. In the short time available to us, it is impossible to examine all the implications of this legislation. There is one last point I want to make.

The Hon. A. J. Shard: I have other second reading explanations to give this afternoon. Will you be much longer?

The Hon. H. K. KEMP: One of the really iniquitous things about our succession duties legislation is that the Salvation Army is heavily taxed whenever anybody bequeaths it some money or property. Here, we have a body that is really endeavouring to do something for the poor people of this State, people who are in great distress. I think that every honourable member would put the

Salvation Army first in this field, for the great work it does and the economical way in which it does it.

It is amazing how effectively the Salvation Army is working in South Australia, with very few resources, supporting over 800 people who are destitute, ill, old, in trouble, or alcoholics. There are so many fields in which the Salvation Army works. That organization, when a legacy is left to it, is often garnished to the extent of 25 per cent, or even to the extent of 10 per cent if consideration is shown. There is no possible excuse for this. If we could have all the welfare work in this State run as a economically and efficiently as the Salvation Army operates, it would be of great benefit to us all.

The Hon. A. J. Shard: You had better stop now because I have second reading explanations to give.

The PRESIDENT: Can the honourable member link up his remarks with the Bill?

The Hon. A. J. Shard: He has not been talking to the Bill for the last 20 minutes.

The Hon. H. K. KEMP: Perhaps it is time for me to bring my remarks to a conclusion, but this is very bad legislation.

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

PERSONAL EXPLANATION: SUCCESSION DUTIES

The Hon. R. C. DeGARIS (Leader of the Opposition): I seek the indulgence of the Council to make a brief personal explanation about the tables I used in my speech on the Succession Duties Act Amendment Bill.

Leave granted.

The Hon. A. J. Shard: The honourable member could have come in and made a statement at any time, and you all know it.

The PRESIDENT: Order!

The Hon. C. M. Hill: It would have got lost in *Hansard*.

The PRESIDENT: Order! I ask honourable members to maintain the decorum of the Council and not ignore the Chair. I do not wish to carry things to the limit but I warn the Minister that this behaviour cannot be accepted.

The Hon. A. J. Shard: Neither can the treatment we get.

The PRESIDENT: Order! I warn the Minister.

The Hon. A. J. Shard: That's all right. I know where I am going. We have had this situation all the week.

The PRESIDENT: I ask the Chief Secretary to behave or to take the consequences.

The Hon. R. C. DeGARIS: I thank the Council for its indulgence in allowing me to make a personal explanation. During my speech in the second reading debate I claimed that I had been working on complicated figures for about three days and that I had not had time to check the figures carefully. I explained the position and said that if I had made any mistake in my calculations, the corrections would only strengthen my case. I now point out that the amounts of money shown under the present Act and under the estates on which I was working and which I presented to the Council are in pounds, whereas the amounts of money under the amending Bill are in dollars; so honourable members may well understand the ease with which mistakes can be made.

In the table containing the estates on which I worked, the figures for estates Nos. 1, 2 and 3 are correct. Estate No. 4 should have the connotation "including certain non-testamentary dispositions". Estate No. 5 reads "Beneficiary, nephew, value $7,705, duty under Act, $1,918, duty under Bill, $2,168, per cent increase, 13". This should read "Beneficiary, nephew, value, $12,760, duty under Act, $1,784, duty under Bill, $2,033, per cent increase, 14". Estate No. 6 is printed in *Hansard*: "Beneficiary, widower, value, $23,856, duty under Act, $4,692, duty under Bill, $5,748, per cent increase, 22.8". It should read "Beneficiary, widower, value, $47,712, duty under Act, $5,492, duty under Bill, $7,031, per cent increase, 28".

BILLS OF SALE ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

Its object is to enable the fees payable to the Crown under the Bills of Sale Act, 1886-1940, to be prescribed by regulation. The fees currently charged are prescribed in the sixth schedule to the principal Act and have not been altered for nearly 30 years. It is obvious that, having regard to the rise in administrative expenses during that period, an increase is long overdue. This Bill will repeal the sixth schedule and make the necessary amendment providing for those fees to be prescribed by regulation by the Governor. The Registrar-General proposes that, immediately on this Act coming into effect, the existing rate of all registration fees be doubled, and search fees

be eliminated except where he directs otherwise. The latter have not been charged in the Lands Titles Office since 1962, as they are considered to be uneconomical.

Clause 1 is formal and provides for the Bill to be brought into operation on a day to be fixed by proclamation. This will enable the necessary regulations prescribing a new scale of fees to be made before the Bill becomes law. Clause 2 brings the definitions of "Registrar" and "registry" up to date. Clause 3 makes a consequential amendment. Clause 4 amends the reference to the Registrar-General and the Real Property Act contained in section 33 of the principal Act. Clause 5 repeals section 34 of the principal Act and enacts a new section which contains no reference to the sixth schedule and empowers the Registrar-General to collect the fees prescribed by regulation. Clause 6 repeals the sixth schedule to the principal Act which prescribes the present fees.

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

PRICES 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.

Its main objects are, first, to extend the life of the Prices Act by one year and, secondly, to confer on the Prices Commissioner wider powers for the protection of the consumer. In support of the first-mentioned object of the Bill, attention is drawn to the fact that the Prices Act has continued in operation since 1948 and has been of substantial benefit to the people of this State. Maximum prices are currently fixed for a number of items some of which are important to family groups and people on low incomes, and others, such as petroleum products and superphosphate, affect rural industry costs. In addition, the Prices Commissioner also examines price movements of a wide range of non-controlled goods and services, and a number of arrangements exist with industries with regard to advice and discussions before prices are increased.

The reasons why price increases should be limited to reasonable levels are only too well known. Prices of a number of commodities in this State are still below those in other States but there is continual pressure to lift local prices to levels in other States, particularly by the increasing number of organizations operating nationally, even though costs might be lower in this State. One of the attractions for new industries to become established in South Australia is its favourable cost structure as compared with other States. It is considered important that a restraining influence be exercised on unwarranted price increases to maintain this position.

With respect to the Bill's second object, there is no need to stress at this point the urgent need for legislation to combat unlawful and unfair trade and commercial practices in this State, as everyone is well aware of the Australia-wide awareness of the problem. New South Wales, Queensland, Victoria and Tasmania have either passed or are considering legislation on consumer protection. Broadly, the Bill is designed to widen the powers and functions of the Prices Commissioner so as to enable him, *inter alia*, to engage in research into all aspects of consumer protection, to inform and advise the consumer on all matters affecting consumer protection, to investigate and deal with complaints from consumers, and, subject to certain conditions, to institute or defend proceedings on behalf of a complainant. The individual powers and functions will be dealt with in detail shortly.

Several of the functions provided in the Bill are already being carried out by the Prices Commissioner and it is obvious, from the steadily increasing number of complaints received by him, that he is filling, and should continue to fill, a very real and important need of the community. For the year ended June 30, 1970, more than 750 complaints were investigated. Of the complaints that concerned excessive charges, in 367 cases reductions or refunds, amounting in total to $23,500, were obtained. In other cases, arrangements were made for work to be completed or unsatisfactory work to be redone. In addition, some hundreds of general inquiries were handled and advice given. In view of his and his department's experience in matters connected with consumer protection, the Prices Commissioner is ideally set up for the purpose of administering legislation on that subject. The Bill also contains some Statute law revision amendments.

I shall now deal with the clauses of the Bill. Clause 1 is formal. Clause 2 amends section 3 of the principal Act by adding a definition of the word "consumer" as meaning the buyer or hirer or lessee or potential buyer or hirer or lessee of goods or the borrower of money for the purchase of goods or the user or potential user of services for fee or reward, but excluding the person who buys or hires or takes on lease or borrows money for the

purchase of goods for re-sale or letting on hire and the person who uses any services for the purpose of his trade or business.

Clause 3 amends section 4 of the principal Act by up-dating the citation of the Public Service Act. Clause 4 amends section 5 of the principal Act by widening the administration of the Commissioner to cover all the provisions of the Act. This is purely a consequential amendment. Clause 5 amends section 6 of the principal Act by up-dating the citation of the Public Service Act and by altering the reference to Public Service Commissioner to the Public Service Board.

Clause 6 enacts two new sections 18a and 18b under the new heading of "Protection of the Consumer". New subsection (1) of section 18a sets out the additional functions of the Commissioner, in five paragraphs. These include the conduct of research into aspects of and matters relating to the interests of consumers generally or a particular consumer, the taking of such steps as he thinks proper for the purpose of informing the public on consumer protection, the giving of such advice to any person on the provisions of the Act relating to consumer protection as he thinks proper, the receipt and investigation of and the dealing with complaints from consumers relating to excessive charges for goods or services (that is, any goods, not only those specifically controlled by the Commissioner under the Act) and relating to unlawful or unfair trade or commercial practices or any infringement of a consumer's rights arising out of a transaction entered into by him as a consumer, and the making of reports to the Minister on any matter of importance investigated by him, and, of course, on all matters that the Minister refers to him.

New subsection (2) gives the Commissioner power, when satisfied that it is in the public interest so to do, to institute or defend legal proceedings on behalf of any consumer whose consumer rights have been infringed. It is envisaged that as many complaints as possible will be dealt with by negotiation, as in the past, and that legal proceedings will be a last resort. Indeed, by new subsection (3) of this clause, the institution or defence of legal proceedings is rendered subject not only to the written consent of the consumer himself but also to Ministerial control on such conditions as the Minister thinks fit. However, it will undoubtedly be expedient and in the interests of the public for the Commissioner to have this power to institute or defend legal proceedings in the name of the consumer, as there are frequently cases of hardship which should be dealt with quickly and by persons with experience, not only to redress the wrong but in some cases to make an example to the public.

New subsection (4) provides, in relation to such proceedings, that the Commissioner will have full control thereof, including the right to settle any action, that he may conduct an action as he thinks fit without consulting the consumer, that moneys recovered must be paid to the consumer, who must also pay any amount awarded against him, that costs in all cases will be the responsibility of the Commissioner, and that where an unrelated counter-claim arises in any action the court shall, on the application of the Commissioner, order a separate hearing for that counter-claim. New subsection (5) provides for an automatic appropriation out of general revenue of any money that the Commissioner becomes liable to pay under this section. New subsection (6) empowers the Commissioner to join with and consult any other department in this State, in any other State or the Commonwealth and all other bodies and persons who are concerned with consumer protection.

New section 18b provides that the Commissioner must make a report on his activities in the field of consumer protection. Clause 7 amends section 22f of the principal Act by up-dating the citation of the Licensing Act. Clause 8 amends section 27 of the principal Act by making a decimal currency conversion. Clause 9 enacts a new section 49a, which provides that the Commissioner, any authorized officer, and the Crown are exempted from any personal liability for acts done or defaults or statements made by any of them in good faith in the course of administering the Act. Clause 10 amends section 53 of the principal Act, which provides for the duration of the Act, by renewing the Act for another year, so that the Act applies to transactions taking place before January 1, 1972.

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

INDUSTRIAL CODE AMENDMENT BILL

Third reading.

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

That this Bill be now read a third time.

The Hon. M. B. DAWKINS (Midland): During the Committee stage I said that I opposed this Bill and that I believed it should be withdrawn and redrafted. I said, too, that there should be two separate Bills—one dealing

with the matters concerned with the Industrial Court and one dealing with trading hours. This Bill has not been withdrawn and I am implacably opposed to the restriction on trading hours in the fringe areas as provided for in the latter part of the Bill, particularly in Gawler, Elizabeth, Salisbury and Tea Tree Gully and adjacent areas. Consequently, I must oppose the third reading.

The Council divided on the third reading:

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

Noes (4)—The Hons. M. B. Dawkins (teller), L. R. Hart, H. K. Kemp, and E. K. Russack.

Pair—Aye—Hon. G. J. Gilfillan. No—Hon. C. R. Story.

Majority of 9 for the Ayes.

Third reading thus carried.

Bill passed.

HIGHWAYS ACT AMENDMENT BILL

Read a third time and passed.

COMMONWEALTH POWERS (TRADE PRACTICES) BILL

Second reading.

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

That this Bill be now read a second time.

Its object is to refer to the Parliament of the Commonwealth such matters relating to or arising out of restriction of competition in trade and commerce as would enable that Parliament, pursuant to the Constitution of the Commonwealth, to enact legislation having force and effect within the State in relation to intrastate matters, with a view to preserving competition in trade and commerce to the extent required by the public interest. A Bill in terms similar to this Bill was introduced into Parliament in 1967 but was laid aside by the Legislative Council following amendments made by that House that were unacceptable to the House of Assembly.

This Bill, like the 1967 Bill, can be regarded as a corollary of the Trade Practices Act 1965 of the Commonwealth, which was passed by the Commonwealth Parliament, after some years of consultations and discussions with Ministers and officers of the States, in order to secure a measure of control over certain agreements and practices which operated in restriction of trade. The States were kept informed of the work that was being done in the formulation of the policy governing the Commonwealth legislation, as it was recognized that the Commonwealth legislation could have effect only in the area of interstate trade and commerce, intrastate agreements and practices of a kind covered by the Commonwealth legislation being unaffected by it. At that time it was also considered that those States that were disposed to do so would enact complementary legislation extending the application of the effect of the Commonwealth legislation to such intrastate matters. The Commonwealth legislation was accordingly designed with the intention that the States could make use of Commonwealth administrative and judicial facilities.

When the question of the States' passing complementary legislation was first discussed by the Standing Committee of Attorneys-General it was assumed that there was no constitutional bar to the States conferring on the Commonwealth Industrial Court, by such legislation, jurisdiction to deal with judicial matters arising under the State law. However, in recent times doubts have arisen upon the validity of this assumption and the opinion of the then Commonwealth Solicitor-General (Mr. A. Mason, Q.C.) was obtained. After a very thorough investigation of the authorities, Mr. Mason came to the conclusion that, on the present state of the authorities, the question was an open one but, at the same time, he was not confident that the High Court would hold that Chapter III of the Constitution would permit the vesting of State jurisdiction in a Commonwealth court.

Furthermore, any complementary law passed by a State involving use of the Commonwealth adminstrative and judicial machinery can operate only if the Commonwealth declares it to be a complementary State law. A State Act that has any substantial departure from the Commonwealth scheme could not, as a matter of practical administration, be declared to be a complementary State Act, and would therefore be a dead letter. Another major difficulty with respect to complementary State legislation is that of keeping the State law in line with future amendments of the Commonwealth Act and regulations. If future amendments to the Commonwealth Act had to be adopted by further State Acts, there would be the difficulty and trouble of preparing and presenting future Bills, the uncertainty of their passage, and the certainty of a substantial time lag between amendments to the Commonwealth Act and the passage of these Bills.

This could cause serious confusion in the law. Such confusion could occur in other respects as well. If complementary State legislation were passed in this State there could possibly be two laws operative in relation to a trade agreement or practice, and difficult decisions by parties and authorities would have to be made at various stages as to which law was being relied on, or whether both were being relied on. If both laws had to be relied on, there would of necessity be duplication of documents and even of proceedings, duplication of orders and possible failure of proceedings by reason of reliance on the wrong law.

Because of these and other difficulties the Government has decided that the only safe approach to satisfactory legislation in this field is to refer to the Commonwealth Parliament the necessary power to enable it, under section 51 (xxxvii) of the Constitution, to legislate in that field. Apart from the constitutional problems involved in the idea of complementary State legislation, a reference of power as proposed by this Bill has distinct advantages over complementary State legislation. By no means the least important of these advantages are as follows:

1. The public will be subject to one law only, namely, the Commonwealth law, whereas, if there were complementary State legislation, the relevant law would be contained in Acts and regulations of both the Commonwealth and the State.
2. The public of the State and the administering authorities would not have to concern themselves with many complex and unnecessary problems and, in particular, would be able to avoid the duplication and overlapping of inquiries and procedures and the need to make difficult decisions as to whether the Commonwealth law or the State law was relevant in particular circumstances.
3. There being no scope for a complementary State Act to contain any material departures from the scheme provided for in the Commonwealth legislation, the problem whether the Commonwealth would or would not recognize the State Act as a complementary State Act would not arise.
4. There could be no possibility of any hiatus between the Commonwealth and State laws in consequence of which some agreements and practices would be covered by neither law.
5. Effective Ministerial responsibility for a complementary State Act would not be possible, all the officials associated with the administration of the legislation being employed by the Commonwealth and there being no room in the Commonwealth machinery for a State Minister to exercise control over them in regard to State matters.
6. The serious questions whether the State Parliament can vest State jurisdiction in the Commonwealth Industrial Court and how that court's orders wherever made can be enforced would not arise.
7. The need for State legislation to be constantly keeping in line with Commonwealth amendments (both to its Acts and its regulations) would not arise.
8. Uncertainties in the law and scope for litigation, both in relation to constitutional power and in relation to construction, would be reduced to a minimum.

The Bill is a short one and consists of four clauses. Clause 2 refers to the Parliament of the Commonwealth the matters mentioned in paragraphs (*a*) and (*b*) of subclause (1) of that clause. Briefly, they are (*a*) agreements and practices that restrict or tend to restrict competition in trade or commerce; and (*b*) the exercise or use by a person, or by a combination or any member of a combination, of a monopolistic power in or in relation to trade or commerce.

Clause 4 and clause 2 (2) provide that the matters referred are limited to the extent that the reference is to terminate on the day on which the Act is repealed or on any day which the Governor may fix by proclamation, and clause 3 assures that the reference is intended to confer on the Commonwealth Parliament power to enact provisions having the same operation within the State that the Trade Practices Act of the Commonwealth would have if its operation within the State were not restricted by reason of the limits of the legislative powers of the Commonwealth Parliament.

At this point I would like to assure honourable members that in the case of *The Queen v. Public Vehicles Licensing Appeal Tribunal of Tasmania* (37 Australian Law Journal Reports 503) the High Court held that the time limitation in the Tasmanian Act referring the matter of air transport for a period terminable in a similar way to that expressed in this Bill was a valid reference and that an Act which refers a matter for a time which is specified or which may depend on a future

event, even if that event involves the will of the State Governor-in-Council and consists in the fixing of a date by proclamation, was within the description of a reference in paragraph (xxxvii) of section 51 of the Constitution.

I shall now explain the main features and effect of the Trade Practices Act of the Commonwealth. The philosophy behind the Act is that only clearly defined classes of agreements and practices should be liable to control, and that agreements and practices within these classes should be looked at, each on its own merits, to ascertain whether they are contrary to the public interest, and should, on that account, be prohibited. Under the method of control applicable to all agreements and practices, other than the practices of collusive tendering and collusive bidding, no agreement or practice is to be in any way unlawful unless and until it has been examined and found to be contrary to the public interest.

The question whether an agreement or practice is contrary to the public interest is to be determined by a specially constituted administrative body called the Trade Practices Tribunal. This tribunal is to consist of a President, a number of Deputy Presidents and a number of other members. The presidential members are required by section 10 to have been barristers or solicitors of not less than five years' standing, and non-presidential members are required to have knowledge of, or experience in industry, commerce or public administration. Although the members are to be appointed for terms of years, they are not to serve on a full time, or continuous, basis. They will form a panel of members from which divisions of the tribunal will be constituted from time to time to deal with particular cases.

Normally, a division would consist of one presidential member and two other members. However, if the parties to a proposed proceeding agree, the tribunal may be constituted for that proceeding by a single presidential member. Questions of law are to be decided in accordance with the view of the presidential member, while other questions are to be decided in accordance with the view of the majority. The tribunal is able to act with less formality than a court of law; for example, it is not bound by the ordinary rules of evidence and in most matters it is free to determine its own procedure. It is required to sit in public except where it is satisfied that a private hearing is desirable because, for example, of the confidential nature of evidence to be taken. The tribunal has express power to receive, and to act upon, undertakings in the same way as a superior court of law. The function of the tribunal is to determine whether agreements and practices within the defined categories of examinable agreements and examinable practices are contrary to the public interest. Where it determines that an agreement or practice is contrary to the public interest, it is to make an appropriate order to restrain its continuance. Such orders will operate prospectively only.

The agreements that are examinable by the tribunal are defined in section 35. The definition covers an agreement only if the parties to it include two or more competitors for the supply of goods or services or persons who would be in competition if it were not for the agreement. The parties to these agreements must be at the same level of the productive or distributive process and therefore the agreements are commonly referred to as "horizontal agreements". Thus, agreements between manufacturers of the same product are included as also are agreements between wholesalers and agreements between retailers. But an agreement between a manufacturer and a wholesaler or one between a wholesaler and a retailer is not covered. In addition to the horizontal characteristic, the agreements must contain a restrictive condition of a kind specified in section 35 which must have been accepted by the parties to the agreement. The five kinds of agreement covered by the Act are those that contain restrictive conditions accepted by the parties which limit their freedom to compete with each other in relation to:

(1) agreed conditions of supply (these include price fixing, as, for example, where separate manufacturers of a product agree as to the wholesale and retail prices of their product);

(2) uniform terms of dealing, including allowances, discounts, rebates or credit (for example, manufacturers of a particular product may agree not only on the uniform price of goods bought by ordinary retail customers but also on fixed scales of discounts for specified purchases);

(3) restrictions of output, including restrictions as to quality or quantity;

(4) restrictions as to outlets, or, in other words, zoning; and

(5) selective dealings or boycotts, as, for example, where manufacturers agree to supply some resellers but not others.

Section 38 of the Commonwealth Act exempts certain agreements from examination. These include agreements relating to industrial conditions, the exploitation of a patent, copyright or trade mark, and the protection of the goodwill in the sale of a business. Agreements authorized by State Acts are also exempted except where they give rise to restrictions to be observed beyond the borders of the State which authorizes them. In addition, section 106 (2) enables regulations to be made exempting agreements or practices of a specified organization or body that performs functions in relation to the marketing of primary products. Section 36 lists the following four classes of practices that are examinable, because of the possibility that they may involve abuse of dominant economic power:

(1) Obtaining, by a threat or promise, discrimination in prices or terms of dealing where the discrimination is likely substantially to lessen the ability of a person or persons to compete with the person engaging in the practice.

(2) Forcing another person's product (for example, an oil company requiring that the licensee of one of its service stations deal in tyres supplied by a specified rubber company).

(3) Inducing a person carrying on a business to refuse to deal with a third person where the person inducing is (*a*) a trade association or is acting as a member or on behalf of such an association; or (*b*) acting in pursuance of an agreement with, or in concert with, another person carrying on a business.

(4) Monopolization. This practice is defined in section 37. The first element of the definition is the existence of a person who or a combination that is in a dominant position in the trade in goods or services of a particular description. For this purpose the section provides that a person shall be regarded as being in a dominant position if the tribunal is satisfied that he is the supplier of not less than one-third of the goods or services of the relevant description that are supplied in Australia or the part of Australia to which the dominance relates. Except in special circumstances, that part of Australia must comprise the whole of a State or Territory. The second element of the definition is that the person in the dominant position takes advantage of that position in one of three specified ways, namely, (*a*) inducing a person carrying on a business to refuse to deal with a third person; (*b*) engaging in price cutting with the object of substantially damaging the business of a competitor; and (*c*) imposing prices or other terms or conditions of dealing that would not be possible but for the dominant position.

Section 39 exempts some practices from examination. Proceedings before the tribunal for the examination of examinable agreements and examinable practices to determine whether they are contrary to the public interest may be instituted only by an officer called the Commissioner of Trade Practices. Before the Commissioner institutes such proceedings, he is required to have formed the opinion that the relevant agreement or practice is contrary to the public interest, and he must, in addition, have endeavoured, either personally or through members of his staff with adequate knowledge of, or experience in, industry or commerce, to carry on consultations with the persons concerned with a view to obtaining an undertaking or having some action taken to render the proposed proceedings unnecessary.

At this point I should like to refer honourable members to the Third Annual Report of the Commissioner of Trade Practices, a number of copies of which have been made available to honourable members. The Commissioner reports that he has taken up a number of cases with the parties concerned. In one case, involving an allegation of monopolization within the meaning of the Act, proceedings were commenced before the tribunal but were concluded upon the respondent giving certain undertakings. In some 16 other cases, the Commissioner has reported that the parties had terminated agreements that he had taken up with them, either before or after the holding of the consultations under section 48 of the Act that must precede the taking of proceedings before the tribunal.

The Act provides for a Register of Trade Agreements to be kept by the Commissioner. Examinable agreements containing restrictions relating to goods or to land are required to be registered. For the most part, agreements containing restrictions relating to services do not have to be registered. However, so far as the services are connected with the production, distribution, transportation or servicing of goods or the alteration of land, they are

registrable. This means that, where there are agreed charges for such things as professional services, banking services, newspaper advertising and passenger fares, the agreements are not registrable. The register is not open to public inspection and the officials maintaining it are prohibited from disclosing its contents except to the Attorney-General of the Commonwealth or the relevant Minister of a participating State, to a person appearing from the register to be, or to have been, a party to a registered agreement, or in proceedings under the Act.

The purpose of the register is to provide the Commissioner with information that will assist him in his task of instituting proceedings before the tribunal in respect of agreements that warrant examination by the tribunal. There is only one register for the whole of Australia, but it is possible for documents to be submitted for registration by being lodged at an office of the Commissioner in any of the State capital cities. Any party to an agreement can submit it for registration, and registration at his instance will suffice for the purposes of the other parties. Trade associations can attend to registration matters on behalf of all of their members.

Failure to comply with a registration requirement is an offence. A defence of "honest inadvertence", which is provided by section 43 (4), will protect a person whose failure was not attributable to a desire to avoid his obligations and who has submitted the necessary particulars before the institution of a prosecution. A point to be noted is that the liability of an agreement to be examined by the tribunal is in no way dependent on its having been registered. Failure to comply with the registration requirements does not affect the lawfulness of the relevant agreement. It remains lawful until the tribunal has found it to be contrary to the public interest. No practice as such has to be registered. The registration requirement is confined to agreements. The Commissioner is also empowered by section 103 to requisition, by a notice in writing, information and documents relating to examinable agreements and examinable practices. Failure to comply with such a requisition is an offence.

Section 50 of the Act sets out the method to be adopted by the tribunal in considering whether an agreement or practice is contrary to the public interest. The tribunal is not left at large to decide this matter in any way it thinks fit. It is required to take as the basis of its consideration the principle that the preservation and encouragement of competition are desirable in the public interest, but it is then required to weigh against the detriment constituted by a proved restriction of competition the beneficial effects of the agreement or practice in regard to a number of specified matters (section 50 (2)).

After weighing the detriment of an agreement or practice against its relevant benefits, the tribunal is to decide whether, on balance, the agreement or practice is contrary to the public interest. Its conclusion is made the subject of a determination. If the determination is that the agreement or practice is contrary to the public interest, the tribunal will make an appropriate order to restrain its further continuation. The consequence of the tribunal determining that an examinable agreement is contrary to the public interest is that the agreement becomes unenforceable. The same applies in the case of an examinable practice.

Orders of the tribunal remain in force until rescinded by the tribunal upon the ground that there has been a material change in circumstances. The orders are binding only on those on whom they are expressed to be binding (section 57 (2)), and they cannot be expressed to be binding on a person unless he, or a person appointed to represent him, was a party to the proceedings. Breach of an order constitutes a contempt of the tribunal and such a contempt is punishable by the Commonwealth Industrial Court as if it was a contempt of that court.

Division 3 of Part VI makes provision for the review, and, where appropriate, the reconsideration, of determinations whether agreements or practices are contrary to the public interest. Reconsideration of a mattter is undertaken only when directed by a review division of the tribunal, which is constituted by three Presidential members. Such a direction may be made on any one of the following three grounds:

(1) that the determination is based on reasons that are inconsistent with the reasons for another decision of the tribunal;

(2) that the determination is of such importance that, in the public interest, it should be reconsidered; and

(3) that a material error of law was made by the tribunal in the hearing or determining of the proceedings.

A reconsideration of a matter is materially different in nature from an appeal from one court to a higher court. The reconsideration

is undertaken by a division of the tribunal of no higher status than the division that made the determination being reconsidered. In fact, a reconsideration may be undertaken by a division constituted by the same persons as were responsible for the original determination.

Division 2 of Part VI makes provision for negative clearances and accelerated hearings at the instance of parties to examinable agreements or practices. The provisions enable the Commissioner, with the leave of the tribunal, to file a certificate to the effect that he is satisfied that an agreement or practice in regard to which he has been having consultations is not contrary to the public interest, and such a certificate then has the same effect as a determination by the tribunal. Orders for accelerated hearings can be obtained from the tribunal on the ground that the agreement or practice is necessary to the success of a new venture or an extension of an existing venture and that the venture is unlikely to be embarked upon unless there is an assurance of the legality of the agreement or practice.

Two practices are prohibited outright—that is, without prior examination by the tribunal as to their compatibility with the public interest. These are the practices of collusive tendering and collusive bidding (sections 85 and 86). The prohibition is based on the view that these practices are inexcusable in any circumstances. Subject to certain exceptions, tendering and bidding are collusive for the purposes of the Act if either is pursuant to an agreement that has the purpose or effect of preventing or restricting competition amongst the tenderers or bidders. The prohibition of those two practices is subject to an important exception in favour of standing agreements if—

(*a*) they were not made for the purpose of a particular invitation to tender or a particular auction;

(*b*) full particulars of the agreements are contained in the register; and

(*c*) the tribunal has not determined that the agreement is contrary to the public interest.

Part X confers a civil right of action to recover damages suffered in consequence of a contravention of an order of the tribunal or in consequence of contravention of the provisions of the Act relating to collusive tendering or collusive bidding.

Section 91 extends the ordinary meaning of "agreement" to cover arrangements and understandings irrespective of whether they are in writing or legally enforceable. The ordinary meaning of "practice" is extended by section 5 to include a single act or transaction. I would ask honourable members to give their most earnest consideration to what the Bill proposes. There can be no denying that agreements and practices of the kind covered by the Commonwealth legislation are current in our community. No-one could argue against the proposition that, because of their restrictive nature, these agreements and practices could be harmful to the public interest, an interest that could best be safeguarded by the element of free enterprise in business and commerce.

The philosophy of this piece of legislation is contained in a speech made by the Hon. G. Freeth on behalf of the then Attorney-General (Sir Garfield Barwick) in the Commonwealth Parliament in 1962. He said:

Before outlining the scheme of legislation which the Government has in contemplation, I ought to indicate broadly the philosophy which underlies it. In opening the second session of the twenty-third Parliament, the Governor-General indicated that the Government desired to protect and strengthen free enterprise against tendencies to monopoly and restrictive practices in commerce and industry. I have already referred to the place competition has in the maintenance of free enterprise. The Government believes that practices which reduce competition may endanger those benefits which we properly expect and mostly enjoy from a free-enterprise society. But the Government is also conscious of the fact that the lessening of competition may, in some aspects of the economy, be unavoidable, and, indeed, may be not only consistent with, but a proper ingredient of, a truly free enterprise system. This is more likely to be so in such a state of growth as we are experiencing, and particularly when we are gearing ourselves more and more for the export of secondary goods. In short, the Government does not subscribe to the view that there are no circumstances in which public interest can justify a reduction in competition, but on the contrary believes that there may well be some practices, restrictive in nature, which are in the public interest.

Later, in a lecture delivered at the University of Melbourne, Sir Garfield said:

Neither do I propose to discuss all the various kinds of practices which businesses see fit to engage in to promote their interests. Those that I propose to discuss, and indeed the Government's proposals are confined to them, all have one common denominator—a restriction, in some form or another, of competition: these are the restrictive trade practices. Without getting too far into fields which more properly belong to the economist, I think I can safely say that this common denominator puts these practices into a class which appears, on the face of it, to contradict the basic assumption of a free-enterprise economy, or at any rate to require the presence of some additional elements to accommodate them to that form of economy.

In restricting competition, these practices tend to remove what I might describe as the automatic regulator of a free-enterprise economy. What would, in the absence of the practices, be regulated by the competition that has been restricted or removed, becomes regulated and controlled instead by the practices themselves —or, to be more precise, by the parties engaging in those practices. The nature of the free-enterprise economy is thus basically changed. If there is a trend—and at lowest the practices to whose existence I have been alerted show a trend—towards such a change, then I suggest that we must ask ourselves some basic questions. In the first place, we must ask ourselves whether we really do believe in a free-enterprise economy; whether we believe that such an economy, notwithstanding all the problems that we know are inherent in it, and the perils that go with it, is nevertheless preferable to an economy in which freedom of enterprise and competition give way to regulation by controls. And then, if we conclude that we are believers in a free-enterprise economy, we must go on and ask ourselves to what extent, and in what manner, and on what principles, should it be permissible for the very basis of that form of economy to be modified by restrictions on competition. Or, putting it another way, to what extent, how and on what principles should we act to safeguard free enterprise against the trends we have identified.

In other words, free untrammelled competition is an indispensable requirement of a free enterprise economy. If it is hindered, obstructed or to a significant degree stultified we cease to have a free enterprise economy. In place of it we have an economy that is in part controlled. The control falls into the hands of organized groups in industry and commerce and is often exercised against the public interest. That control is not subject to examination by an impartial authority. It can become tyrannical. It can be exercised to the disadvantage of manufacturers and traders who are not part of the organization and it can, and in fact does, result in discrimination, high prices and a concentration of influence and power which are the negation of free competition and disadvantageous to the public interest.

It is surprising to hear some people who ought to know better referring to the Commonwealth enactment as if it vested the Commissioner and the tribunal with untrammelled autocratic powers. I have already explained in some detail the scope of the legislation and its relatively restricted area of operation. But the most important thing to realize is that the essential ingredient of it is one of consulation. The fact that most parties with whom the Commissioner has dealt to date have chosen to avoid tribunal proceedings is some indication of the success of the compulsory consultations provisions of the Act. The tribunal can exercise its powers only on a reference to it by the Commissioner. Before the Commissioner does this, he must satisfy himself that the restriction is inimical to the interests of the public. He is charged to consult and confer, first, with the parties concerned to hear their side of it, and with a view to the practice being altered if need be, so that the public interest is not adversely affected. All these consultations can take place "without prejudice," with the result that no evidence or statement of admission made during the consultation can be used as evidence before the tribunal unless all parties consent.

The Act is a fair and reasonable piece of legislation designed to ensure that the public of Australia and governmental and semi-governmental instrumentalities are not made a pawn in the machinations of big business. Let it not be thought that this is an original idea. England has had this legislation for some years and it is much more severe than ours. So has New Zealand, and all of us have heard at one time or another of what is taking place in the United States of America under similar powers.

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

UNDERGROUND WATERS PRESERVATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 18. Page 2777.)

The Hon. H. K. KEMP (Southern): I regret that it is so late in the afternoon for me to have to speak to this measure. This is important legislation to many people in the State who at present have no possibility of continuing in their present occupations. Meters may be put on bores in the Virginia district. That does not sound very important but it is disastrous for the district, and a hopeless situation faces many residents there.

When the great increase in the rate of house building occurred after the Second World War, much of the land in Lockleys and Paradise that had been used for growing fruit and vegetables was taken over for houses. Not many people realize what a tremendously rich asset those areas were; they were within five miles of the centre of Adelaide and were capable of producing a great amount of foodstuffs. They had been developed largely because of the good water supplies available.

I do not think any comparable part of Australia was as rich as the vegetable growing areas of Lockleys and Paradise, but they are

now under houses and sealed roads. These areas were easily supplied from the public water supplies and they were easily sewered. Because their costs increased sharply, it became impossible for the market gardeners there to carry on. They therefore looked elsewhere and established themselves near the Para River, the Little Para River, and farther north, in the district we are now considering—centred on Virginia.

It was obviously impossible for the Para River, the Little Para River and the other small streams to sustain the same volume of water withdrawal as had been taking place in the Lockleys and Paradise areas. So, provision was made that, when the underground water supplies ran out (as they had to), there would be an alternative supply from the Bolivar Sewage Treatment Works. At that time those works were being planned and it was suggested that they could turn out usable, suitable water for the primary industries that were being established in the northern Adelaide Plains. So, the people were encouraged to resettle north of Adelaide.

Now, something has gone wrong. Because the inevitable over-withdrawal has occurred, people must have meters on their bores and take the reduction in pumping capacity that will allow them to stay in production. It seems that they will be forced to reduce their operations or get out.

My sympathy is with the Minister of Development and Mines and the Director of Mines that this awful mess is left in their laps. Trouble has been inevitable: one cannot, without firm enforcement, tell a person who has invested all his savings and established himself there that he cannot use the water that is below his feet. Most of the people in the district will simply not be able to continue using water to sustain anything like the production that they were previously able to achieve.

There is no doubt about the need for this Bill, but the need arises not because of the exhaustion of the water-bearing beds but because what we expected to make up for the exhaustion of those beds has not yet arrived. Although water started pouring out to sea several years ago from the Bolivar treatment works, South Australia is still wasting it at the rate of about 27,000,000gall. a day. In the cooler parts of the year this wastage of valuable water increases to 35,000,000gall. a day. Such waste is unconscionable.

There has been much talk about the Dartmouth and Chowilla dams, but the outpouring from the treatment works of water that has been cleaned up is continuing. This water could be used for any purpose if chlorine was added during the treatment process. It is being pushed out through the North Arm and, because of the amount of nitrogen and phosphate it carries, it is messing up the whole area with gross growths of seaweed which are devastating the area and ruining it for fishing and recreational purposes. In addition, they are seriously clogging the withdrawal of water for the power station and the salt pans nearby.

There would be no need at all for this Bill if Bolivar water could be used without restriction, but the restrictions placed on its use make it impossible for any but a large enterprise to use it. However, two enterprises with much money have been told that they can use all the water they like. So we have a land developer cutting up a large parcel of land and selling it in 10-acre parcels to grow almonds and vines and such things. Such a person is just a nuisance. The man who has gone up there in a small way to grow tomatoes, potatoes, onions and those crops that are so valuable to us in Adelaide and can be delivered to us fresh every day here in the city, cannot use it.

If one has a tomato house in Virginia and wants to make use of this water, the Engineering and Water Supply Department says, "You can have it if you are prepared to take a pipeline right down across the main road and across the salt swamps and put it into the drain yourself." This is actually a complete prohibition, because a person would have to do this himself. Just how silly can you get!

The Hon. C. M. Hill: Is this the Government that claims it looks after the little man?

The Hon. H. K. KEMP: No, it was the Government of which the Hon. Mr. Hill was a member. It had this on its plate.

The Hon. C. M. Hill: When were these agreements signed?

The Hon. H. K. KEMP: The previous Government had this on its plate, and the then Premier promised to clean it up. However, he did nothing whatsoever about it.

The Hon. C. M. Hill: Can you tell me when they were signed?

The Hon. H. K. KEMP: They have not been signed, because it is impossible to sign the darn things.

The Hon. C. M. Hill: You said agreements had been reached with two big developers. When were those agreements signed?

The Hon. H. K. KEMP: I do not have that information. On the other hand, I do not think the present Government can retire and say that it is completely blameless.

The Hon. A. F. Kneebone: We don't intend to retire.

The Hon. H. K. KEMP: I know that, but the present Government has such a smoke-screen of bulldust around the place that no-one can get through. The District Council of Munno Para, in which district reside the majority of those residents in this horrible position of possibly having to go bankrupt because the bores that have been yielding water cannot be used again, put up a proposition to this Government that would have stopped the wastage to sea that is taking place under the Government's care and tutelage.

That council put up this scheme that would not have cost the State Government a cent. The money was available, and the council was ready to go ahead. A feasibility study had shown that the scheme was possible with an on-charge for water of as little as 4c or 5c a thousand gallons. The water that is reclaimed and is fit to be used can be taken by the council and delivered along the roadsides to everyone who needs it right up through that district at the on-charge to which I have already referred, without the South Australian Government having to put up one cent.

The Government says that this cannot be done and that the scheme is not acceptable to it. Why is the scheme not acceptable to the Government? No answer has been given to the scheme that was put forward by these people who are in such dire trouble: all that has been said is that the scheme is unacceptable to the Government. We are hearing that there might be something around the corner that will result in a charge to these people of 28c or 29c a thousand gallons. This is just another way of making money out of distress.

These water beds are in great danger and have been in danger for a long time. Therefore, the problem is acute. Unfortunately, this legislation must go through, because otherwise the little possibility that still remains of people being able to make a living in that district will be destroyed. But what a sad state of affairs it is.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Title.

The Hon. H. K. KEMP: I had a small amendment to move, but I suppose it would be out of order. This Bill should be entitled "A Bill for the power to plough the Virginia farmers into the ground".

The CHAIRMAN: Does the honourable member wish to move an amendment?

The Hon. H. K. KEMP: No.

Title passed.

Bill reported without amendment. Committee's report adopted.

ADJOURNMENT

At 5.28 p.m. the Council adjourned until Tuesday, November 24, at 2.15 p.m.